

## **Answers to your questions about the OPSRP Disability Program**

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# Answers to your questions about the OPSRP Disability Program

## 1. Am I eligible for the OPSRP disability program?

You must have been an active OPSRP Pension Program member when you became disabled and you must be totally, not partially, disabled and unable to perform any work for which qualified for an extended duration to be eligible for an OPSRP disability. OPSRP has two categories of disability: non-duty and duty.

### *Non-duty criteria:*

- You must have 10 or more years of retirement credit in the OPSRP Pension Program;
- you are totally, not partially, disabled; and
- you anticipate that you will be unable to perform any work for which qualified for a minimum of 90 consecutive days.

### *Duty criteria:*

- You have established membership in the OPSRP Pension Program;
- you are totally, not partially, disabled;
- you anticipate that you will be unable to perform any work for which qualified for a minimum of 90 consecutive days; and
- your work was the material contributing cause of your injury or disease.

## 2. When and how should I apply for an OPSRP disability?

You should apply as soon as you are physically off the job, whether or not you are on paid leave. You can apply during the 90 consecutive day period; you need not wait until the 90-day period of disability has been met. You must be off **all** work at the time you submit your application.

Please contact PERS Member Services toll-free at 888-320-7377 for an OPSRP Disability Program application packet.

## 3. How can I assist in processing my claim?

You should speak to your physicians before applying for the OPSRP Disability Program and let them know PERS will contact them to confirm and document your disabling condition. Ask your providers if they require their own information release. If so, complete their required form and submit it to PERS with your application.

If your disability is duty-related, you will need to provide a copy of your workers' compensation report to PERS for review. Please note: Some workers' compensation carriers will only release records to you and will not release records directly to PERS.

PERS requires specialists for certain disabling conditions:

- **Mental and emotional disorders** require a report from a psychiatrist or a minimum of one report each from a psychologist and a medical physician.

- **Orthopedic injuries or disease** require a report from a treating or consulting orthopedic specialist or orthopedic surgeon.
- **Neurological injuries or disease** require a report from a treating or consulting neurologist or neurosurgeon.
- **Fibromyalgia** requires a report from a treating or consulting rheumatologist.
- PERS may require reports from other specialized physicians depending on your condition.

If you are not sure you have a specialist that meets PERS criteria, contact PERS Member Services for assistance.

When you complete your application for OPSRP disability, list the physicians who have treated your disabling condition. PERS will require medical documentation from the time you stopped working to the time you apply for disability benefits.

#### **4. Must I be disabled only from my current job or from any work I can perform?**

You must be unable to perform any work you are qualified to perform, not just your last or usual job.

#### **5. How does PERS make a disability determination?**

When you submit your OPSRP disability application, you will also complete a medical/non-medical release form.

Once your forms are received, PERS will:

- send requests to your doctor(s), health care provider, hospital, or clinic for medical information; and
- request documentation from your employer and, if applicable, worker's compensation carrier, and any disability insurance company.

After medical documentation is received, PERS staff and medical advisor will review your records to determine eligibility using Oregon Revised Statutes and Oregon Administrative Rules.

#### **6. I was disabled four years ago and have not been able to work since. Can I still apply?**

Yes if you became disabled *while an active member* (still employed in your PERS-covered position), you can apply within five calendar years of your last date of work for your PERS-covered employer.

- The disabling condition must have been **continuous** from your last day worked to your disability application date,
- you must not have terminated membership, and
- you must not have worked in any capacity including non-PERS employment or self-employment during this time.

**7. How long does it take to process an application for disability?**

The disability determination can take up to six months, sometimes longer, from the date PERS receives your initial application.

**8. What happens when I am approved for OPSRP disability?**

If your application for OPSRP disability is approved, you will receive an approval packet in the mail. This packet includes the required forms you will need to complete to initiate your disability payments.

Your employer must also submit mandatory information to PERS before disability payments can be paid.

**9. When will my disability benefit become effective?**

After you are approved for OPSRP disability, your effective date of disability is the first of the month following any month you received paid salary or paid leave.

No payment can be made until the required 90 consecutive day period of incapacity has elapsed except for terminal cases.

After the 90-day period, benefits are paid retroactive to your effective date of disability retirement, which is based on information we receive from your physician and employer.

**10. Do I have to use all of my vacation and sick leave before I will get a payment?**

Disability benefits cannot be paid until you exhaust all your vacation and sick leave.

**11. If my disability application is approved, how much will I receive for a monthly benefit?**

Upon approval, your disability benefit will be calculated to equal 45 percent of your last full month's gross salary prior to your disability.

**12. Will my benefit continue after I die?**

No. The OPSRP Disability Program does not include any survivorship options.

**13. How long will OPSRP disability payments continue?**

OPSRP disability payments will continue as long as you meet PERS disability criteria, you die, or you reach normal OPSRP Pension Program retirement age. Normal OPSRP retirement age is 65 for general service and 60 for police officers and firefighters. Once you reach normal retirement age, you must file an application for OPSRP Pension Program service retirement if you want to receive your pension at that time.

PERS will notify you four months before the date you reach normal OPSRP retirement age and will then provide you with an application for OPSRP service retirement if you are ready to retire at that time.

**14. Will my case be reviewed periodically?**

Yes. The law requires periodic reviews of your disability status to continue disability payments.

Please schedule routine visits with your treating physicians so that current information (within three months of your review date) will be available for your periodic review.

Your claim will be reviewed until you reach normal retirement age, at which time your disability benefit will stop.

As part of the review PERS will also contact the Oregon Employment Department to determine if you are working and may request a copy of your annual tax returns.

**15. May I cancel my OPSRP disability application?**

Yes. You may cancel your application for OPSRP disability any time before the date your first disability payment is issued. You must complete a cancellation form provided by PERS.

**16. What happens if my OPSRP disability application is denied?**

PERS will notify you by regular and certified mail. The first notification, Intent to Deny letter, is considered a preliminary denial. The letter will cite the reasons for the determination. You will have 30 days to provide PERS with additional documentation to support your claim. You will also have the option of requesting a time extension of 30 additional days.

If PERS does not receive additional information supporting your claim or if the additional information does not change the determination, we will notify you by regular and certified mail. This is considered a formal denial. This letter will provide you with your appeal rights, and you will have 45 days to submit your appeal of the denial of your disability benefit.

**17. Is health insurance available if I am approved for OPSRP disability?**

Your employer may provide health insurance coverage. You should contact your payroll or personnel office for information.

**18. What happens if I am medically able to return to work?**

If you are medically released before you are regular retirement age, or return to work in any capacity, you are required to notify PERS immediately. Your disability benefit will be discontinued and you will be invoiced for any benefits for which you were not entitled.

**19. What happens if I return to any work after I start receiving OPSRP disability benefit payments?**

You should notify PERS immediately when you start work as you will no longer be eligible for OPSRP disability benefit payments. Your disability benefit will be discontinued as of the first of the month that you returned to work, and you will be invoiced for any benefits for which you were not entitled.

**20. What if I have received unemployment benefits during the same months I qualify for OPSRP disability benefits?**

You must report unemployment benefits received to PERS and report your disability retirement allowance received from PERS to the Employment Department.

Please note that while receiving unemployment benefits you must certify weekly that you are physically and mentally able to work, available for work and actively seeking work. If this is the case, this may affect your eligibility for continuing disability retirement benefits, which requires that a member be totally disabled and unable to perform any work for which you are qualified.

**21. If I am approved for the OPSRP Disability Program, can I request a distribution of my IAP account?**

You are eligible to request a distribution of your IAP account if you are separated from your employer and you are regular retirement age.

**22. What if I am not regular retirement age?**

You may **withdraw** your IAP; however, you should check with your tax professional to determine any possible tax implications.

**23. What if I am not separated from my employer?**

You can request a distribution of your IAP account only if you have separated from all PERS-covered employment.

**This Q&A is for general informational purposes only and is not intended to provide legal advice. If there is any conflict between this brochure and federal law; Oregon law; or administrative rules, the law and administrative rules shall prevail.**