

## **Answers to your questions about Tier One/Tier Two Disability Retirement**

- 1. Am I eligible for Tier One/Tier Two disability retirement?**
- 2. When and how should I apply for Tier One/Tier Two disability retirement?**
- 3. How can I assist in the processing of my claim?**
- 4. Must I be disabled only from my current job or from any work I can perform?**
- 5. How does PERS make a disability determination?**
- 6. I was disabled four years ago and have not been able to work since. Can I still apply?**
- 7. What if I separated employment and the disabling condition was NOT continuous from my separation date?**
- 8. How long does it take to process an application for disability?**
- 9. What happens when I am approved for disability retirement?**
- 10. When will my disability retirement benefit become effective?**
- 11. Do I have to use all of my vacation and sick leave before I will get a payment?**
- 12. If my disability application is approved, how much will I receive for a monthly benefit?**
- 13. Are the same payment options available for disability retirements that are available for a service retirement?**
- 14. How long will disability retirement benefits continue?**
- 15. Will my claim be reviewed periodically?**
- 16. May I cancel my disability retirement application?**
- 17. What happens if my disability retirement application is denied?**
- 18. Is health insurance available if I am approved for disability retirement?**
- 19. What happens if I am medically able to return to work?**
- 20. Can I return to any work after I start receiving PERS disability retirement benefit?  
How will this affect my PERS benefits?**
- 21. What if I have received unemployment benefits?**
- 22. If I am approved for Tier One/Tier Two disability retirement can I request a  
distribution of my IAP account?**
- 23. What if I am not regular retirement age?**
- 24. What if I am not separated from my employer?**

# **Answers to your questions about Tier One/Tier Two Disability Retirement**

## **1. Am I eligible for Tier One/Tier Two disability retirement?**

A member must be totally, not partially, disabled and unable to perform any work for which qualified for an extended duration to be eligible for a disability retirement benefit. There are two categories of disability: non-duty and duty.

### *Non-duty criteria:*

- You must have 10 or more years of qualifying service as a Tier One/Tier Two member (If you have fewer than 10 years of service, please have a PERS disability specialist review your service time);
- you must be 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 as a Tier One or Tier Two member;
- you are totally, not partially, disabled;
- you anticipate that you will be unable to perform any work for which you are 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 Tier One/Tier Two disability retirement?**

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 consecutive day period of disability has been met. You must be off **all** work at the time you submit your application.

Please contact PERS Customer Service at 503-598-7377 or toll-free at 888-320-7377 for a Tier One/Tier Two Disability application packet.

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

You should speak to your physicians before applying for a Tier One/Tier Two disability retirement 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 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 Customer Service for assistance.

When you complete your application for disability retirement, 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 retirement.

#### **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 disability retirement 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, workers' compensation carrier, and 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, you can apply within five calendar years of the date of separation from your PERS-covered employer.

- The disabling condition must have been **continuous** from your date of separation from service to your disability application date,
- you must not have received a withdrawal of your Tier One/Tier Two member account, and
- you must not have worked in any capacity including non-PERS employment or self-employment during this time.

**7. What if I separated employment and the disabling condition was NOT continuous from my separation date?**

You must apply within six months of your separation date. If you were disabled within that six-month period, have not received a withdrawal of your Tier One/Tier Two member account, and you continue to be disabled, you may be eligible for disability benefits.

**8. 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.

**9. What happens when I am approved for disability retirement?**

If your application for disability retirement 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 benefits.

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

**10. When will my disability retirement benefit become effective?**

After you are approved for disability retirement, 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.

**11. 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.

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

You will receive a Request for Disability Estimate form in your disability application packet. If you would like an estimate of your benefits, you must complete this form and send it in with your disability application. PERS will send you an estimate of your disability benefits.

The same calculation methods are used to calculate either disability or service retirement benefits.

- If you are a general service employee, the years and months of service you would have accrued had you been able to work to age 58 will be used to calculate a monthly disability benefit.
- If you are a police officer or firefighter employee, the years and months of service you would have accrued had you been able to work to age 55 will be used to calculate a monthly disability benefit.

**13. Are the same payment options available for disability retirements that are available for a service retirement?**

No, lump-sum payment options are not available under a disability retirement. All other payment options are available.

You have 60 days from the date of the first benefit payment to change your option.

The option you choose will apply to the time you are receiving disability retirement benefits and will continue for life unless you are no longer disabled and your disability payments are discontinued. If your disability retirement is discontinued you will select a new option when you apply for service retirement.

**14. How long will disability retirement benefits continue?**

Disability retirement benefits will continue as long as you meet the PERS disability criteria.

**15. Will my claim be reviewed periodically?**

Yes, law requires periodic reviews of your disability status to continue disability retirement 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.

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.

Medical reviews are normally no longer required once you reach regular retirement age (58 for general service Tier One members, 60 for general service Tier Two, 55 for police officer or firefighter members). PERS may deem it necessary to review medical or financial information after regular retirement age.

**16. May I cancel my disability retirement application?**

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

**17. What happens if my disability retirement 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 we receive 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 disability retirement.

**18. Is health insurance available if I am approved for disability retirement?**

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

If you receive notification that your disability retirement application has been approved, you will receive PERS Health Insurance Program information about purchasing PERS-sponsored health insurance plans. If you have questions, call the PERS Health Insurance Program at 503-224-7377 or outside Portland toll-free at 800-768-7377.

**19. 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 your account balance will be reinstated to the amount that was in your account when your disability retirement became effective. You will be invoiced for any payments for which you were not entitled.

**20. Can I return to any work after I start receiving PERS disability retirement benefit? How will this affect my PERS benefits?**

If you are receiving a disability retirement benefit and you return to work in any capacity, including self-employment, you must notify PERS immediately that you have returned to work.

Depending on the specific case, you may be able to return to work and still receive a disability retirement benefit.

In some cases, a member's disability retirement benefit is reduced based on the amount of earnings from his or her job. In other cases, disability benefits may be discontinued entirely.

If you return to work at a PERS-covered employer, you are limited to 599 hours per calendar year. If you work 600 or more hours in a calendar year, your disability benefit will be discontinued as of the first of the month that you return to work, and you will be invoiced for any benefits for which you were not entitled.

If you are working for a PERS-covered employer, are self-employed, or working at a non-PERS employer you must report your income monthly to PERS.

For further information regarding returning to work please contact PERS Customer Service Center for a copy of the fact sheet *Tier One/Tier Two Disability Retirement Work/Income Guidelines*.

**21. What if I have received unemployment 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.

**22. If I am approved for Tier One/Tier Two disability retirement 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.

**23. 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.

**24. 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.**