

§ 40.65

# DUTY DISABILITY AND SURVIVOR BENEFITS

Wisconsin Retirement System



ET-5103 (11/2013)



# Table of Contents

## **DUTY DISABILITY BENEFIT**

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|                                    |    |
|------------------------------------|----|
| What Is A Duty Disability Benefit? | 2  |
| Am I Eligible To Apply?            | 3  |
| Presumptive Disability             | 4  |
| How Do I Apply?                    | 5  |
| How Is My Claim Approved?          | 6  |
| How Much Will I Receive?           | 7  |
| Death Benefits                     | 14 |
| Termination Of Benefits            | 15 |
| Insurance                          | 16 |
| Frequently Asked Questions         | 17 |
| Definitions                        | 18 |
| Additional Information             | 18 |
| Contact Us                         | 19 |

## What Is A Duty Disability Benefit?

The Duty Disability program is an income replacement program. Duty Disability benefits may be payable to protective occupation participants\* if you have been injured while performing your duties or contracted a disease due to your occupation. The disability must be work-related, permanent, and cause a reduction in your pay or position, assignment to light duty, retirement, or adversely affect your promotional opportunities if state or local employer rules, ordinances, policies or written agreements specifically prohibit promotion because of the disability.

The Duty Disability program provides a lifetime disability benefit under Wis. Stat. § 40.65. If you die as a result of the injury or disease, your surviving spouse/domestic partner or children may be entitled to benefits.

This disability benefit is administered by the Department of Employee Trust Funds (ETF). It is similar to workers' compensation benefits administered by the Department of Workforce Development. The benefit is not based on your Wisconsin Retirement System (WRS) account. It is not a pension. This benefit is completely funded by the employer.

This booklet explains the eligibility requirements and how Duty Disability benefits are calculated. If you believe that you may be eligible for disability benefits and you decide to apply for a Duty Disability benefit, follow the instructions in the "How to Apply" section of this booklet.

**Note:** This booklet provides a brief and general description of Duty Disability benefits. It is not intended to be a complete explanation of Duty Disability benefits in all situations and circumstances and cannot be relied upon for that purpose. The Wisconsin statutes and administrative rule — not this publication — establish the details of the Duty Disability program. No error, misrepresentation or ambiguity in this booklet creates any rights or benefits not expressly granted by the statutes and administrative rule. Consult Wis. Stat. § 40.65, and the Wis. Admin. Code, Chapter ETF 52, for the actual terms of the Duty Disability plan.

\*See Definitions on Page 17.

## Am I Eligible To Apply?

I must meet all four conditions below.

1. I worked in a protective occupation position when I became disabled.
2. My disability is work-related.
3. My disability is permanent.
4. My disability has caused me to meet at least one of the following qualifying criteria:
  - Permanent reduction of base pay or position;
  - Permanent assignment to light duty;
  - Retirement; or
  - Promotion adversely affected.

Your qualifying date\* will be the earliest date that you meet one of the above qualifying criteria.

If your eligibility for Duty Disability benefits is based on a reduction of pay, position or assignment to light duty, the qualifying date is the date on which you began the permanent reduction or assignment. Only a reduction in base pay meets the criteria of reduced

pay. Loss of shift differential payment, uniform allowance or other collateral payment is not a reduction of pay. Assignment from a full-time position to a part-time position does qualify as a reduction of position. Assignment to a position that does not satisfy the protective occupation participant criteria is considered a reduction in position.

A reduction in pay, position or assignment to light duty must be permanent. **It may begin as a temporary action** by your employer while you were recovering or your permanent condition is being assessed. If you are restored to your full pay, position or full duty status, you would not qualify for Duty Disability benefits.

If your eligibility is based on retirement, your termination date is considered the qualifying date for Duty Disability benefits. If your work-related disability disqualifies you from being promoted, the qualifying date is the date on which you have become continuously subject to the prohibition.

\*See Definitions on Page 17.

## Presumptive Disability

- If you are a correctional officer, emergency medical service provider, firefighter, or a law enforcement officer whose disability is due to an infectious disease included in § 891.453, Wis. Stats., it may be presumed that your disability was caused by your employment.
- In addition, if you are a firefighter whose disability is due to heart problems or respiratory impairment as described in § 891.45, Wis. Stats., or cancer as included in § 891.455, Wis. Stats., it may be presumed to be caused by your employment. Municipal firefighters who smoke cigarettes or use tobacco products after January 1, 2001 are exempt from the cancer presumption. ETF will obtain from the employer a certification including the following:
  - If your disability is due to heart problems or respiratory impairment, that you have served at least five years as a firefighter.
  - If your disability is due to cancer, that you have served at least ten years as a firefighter.
- For all presumptive disabilities described, your employer will be required to send one of the following to ETF:
  - *A copy of the qualifying medical examination given prior to the time you entered into the covered occupation for that employer.*
  - *A certification that there is no record of a medical examination, but there is supporting documentation that shows you did not have the disability prior to employment.*
  - *A certification that there is no supporting documentation, but that you would not have been hired unless a pre-employment examination, or other supporting documentation, showed no evidence of cancer, heart or respiratory impairment, or infectious disease.*

## How Do I Apply?

1. Contact ETF to request a Duty Disability application packet. You will receive a packet of detailed information, along with the Duty Disability Application (ET-5311).
2. Return the completed application to ETF as soon as possible after you have a permanent work-related disability. If you wait to submit your application until you are no longer in pay status with your employer, you will not have the earliest possible effective date (see definitions) and you could miss some benefits.
3. The application packet also includes two Duty Disability Medical Reports (ET-5312). Two physicians must complete and return these forms to ETF. (See “Physician Certification” on Page 6 for more information.) Any costs incurred for

the examinations and completion of the medical reports are **your** responsibility. Your application will be cancelled if you fail to submit two completed medical reports within one year after the date on which ETF received your Duty Disability application.

### **Withdrawing Your Duty Disability Application**

If you decide to withdraw your Duty Disability Application, ETF must receive your request to withdraw in writing. Upon receipt of your request, your Duty Disability application is void. Should you decide to pursue Duty Disability benefits again, you will be required to submit a new application. All benefit determinations will be based on the received date of the new application.

## How Is My Claim Approved?

### Physician Certification

- Your disability must be certified by two physicians (M.D. or D.O.) who are licensed and practice in Wisconsin.
- The physicians must certify that you are disabled due to an injury incurred while performing your job or that you have contracted a disease due to your job.
- One of the physicians must be a specialist in the area of your disability.

### Employer Certification

- ETF will contact your employer to certify you were injured on the job or that you contracted a disease due to your job. They must also indicate that your disability caused you to retire, be permanently assigned to light duty, have a permanent reduction in base pay or position, or to not be promoted.

If approved, your benefit will be effective on the date you ETF receives your completed application or on your qualifying date, whichever is later.

### Denial of Disability Benefit Application

Your Duty Disability application may be denied for the following reason(s):

- Medical evidence does not support your application for a Duty Disability benefit. You must have two medical reports that support a permanent, work-related disability.
- Your employer failed to provide a certification that your disability was work-related and the disability caused a reduction of pay or position, assignment to light duty, retirement, or affected your promotional opportunities.
- You are a municipal firefighter whose disability is cancer, and you smoked cigarettes or used tobacco products on or after January 1, 2001.
- You submitted false information regarding your application for Duty Disability benefits.

If your application is denied, you have the right to appeal the denial. (See Appeal Rights on Page 12.)

# How Much Will I Receive?

## How the Basic Benefit is Calculated

The Duty Disability benefit is computed by multiplying your monthly salary, as of your qualifying date, by a specific percentage:

**State employees** receive 80% of monthly salary (as of the qualifying date).

**Local government employees** receive 75% of monthly salary (as of the qualifying date). This may increase by 5% if you qualify for a disability benefit from the WRS or Social Security. Local government employees with more than 25 years of service may see a reduction in their benefit percentage.

## How Your Monthly Salary is Determined?

The monthly salary is determined based on the date you qualify for the Duty Disability benefit.

**Example:** You were injured on September 23, 2011, went to permanent light duty on October 13, 2011, and continued to work in light duty until May 25, 2012. You remained in full pay status throughout this time period. Your gross monthly salary would be based on the salary in effect on October 13, 2011 (the date you went to light duty is your qualifying date). This is regardless of the fact that you remained in full-pay status and your salary on May 25, 2012 may be higher due to annual raises. Overtime may be included in the gross monthly salary, if it was worked on a regular and dependable basis.

The gross monthly salary means any earnings that qualify as reportable earnings to the WRS under Wis. Stat. § 40.02 (22). In addition to the gross earnings, lump sum payments that are reported to the WRS must be included if you were in a position that was eligible to receive the payment as of your qualifying date. This includes lump sum payments made routinely (at least once a year) to all employees on a regular basis, regardless of whether the employee terminates.

The following lump sum cash payments are not included as part of the monthly salary:

- Payments made specifically because of termination for accumulated vacation, sick leave or compensatory time.
- Any payment contingent on you having terminated employment, including a bonus or any form of severance pay.

Lump sum payments included as reportable earnings will be prorated by dividing the annual amount by 12 to determine the monthly amount to be added to the gross monthly earnings.

## Regular and Dependable Overtime

Regular and dependable overtime pay means payment made for hours worked beyond your normal work schedule or hours you were required to be on call or standby. Compensatory time earned in lieu of cash payment will not be considered as regular and dependable overtime. Compensatory time paid in a lump sum is not considered overtime pay.

You must be in a position that is eligible to receive overtime pay on your qualifying date. The period used to determine whether the overtime was regular and dependable is the five calendar years prior to the year of your qualifying date. If you have less than a five-year employment history, your employer will use the actual years of creditable service, prior to the qualifying date, to determine your regular and dependable overtime.

Overtime is computed by dividing the total number of overtime hours for all appropriate years by the total number of months in those years. If your employment began during the five-year period, the months for that year should be based on the months from your hire date to the end of the calendar year. The average monthly overtime hours is multiplied by the hourly overtime rate of pay in effect on your qualifying date.

## Benefit Offsets and Reductions

Duty Disability benefits will not duplicate other benefits available to you. Your Duty Disability benefit

## How Much Will I Receive? (continued)

will be offset (reduced) by income received from the following:

- Social Security benefits payable to you, your spouse or dependent(s) that are based on your work record;
- Unemployment compensation;
- Workers' compensation;
- Any WRS retirement, separation or disability benefit based on your work record; and
- Earnings, including self-employment.

You are required to notify ETF when you are approved for any of the above benefits or any time you receive earnings for work performed. You must notify ETF within 30 days of the receipt of any income from the above sources.

Offsets will be applied based on the date of the check from the income sources listed above.

**Example:** A Social Security check is dated November 1. The November Duty Disability benefit will be offset by the amount of this check.

If the amount you receive from any of these sources equals or exceeds the amount of your Duty Disability benefit, your benefit will be totally offset (reduced to zero).

### Social Security Offsets

**Any Social Security benefits you, your spouse and/or dependents receive that are based on your work record are a reduction to your Duty Disability benefit.** The offset is based on the gross monthly Social Security benefit amount, regardless of any deductions from that benefit. The Social Security offset is adjusted annually for any Social Security cost of living increases you receive.

During the Duty Disability benefit application process, your medical records will be reviewed to determine whether your disability may meet the Social Security disability criteria. If ETF determines you

may be eligible for a Social Security disability benefit, you are required to apply for the disability benefit. If you fail to apply for the disability benefit, ETF will reduce your Duty Disability benefit by an estimated Social Security disability amount.

You will be asked to provide documentation which supports your application for Social Security benefits, as well as the award notice/denial when issued.

If your disability later becomes so disabling that you meet the criteria for disability benefits from Social Security, you must apply for the benefit at that time.

If your disability is not severe enough to meet the Social Security disability criteria, ETF will request that you apply for Social Security retirement at age 62. If you choose not to apply, ETF will be required to reduce your Duty Disability benefit by an estimated Social Security benefit amount.

### Unemployment Compensation Offset

Any unemployment compensation you receive is an offset to your Duty Disability benefit, regardless of who employed you.

## How Much Will I Receive? (continued)

### Workers' Compensation Offset

Any workers' compensation benefit—excluding payment for attorney fees, medical expenses and possibly rehabilitation—will be an offset to your Duty Disability check, regardless of the nature of the disability. Lump sum or compromise agreements that are paid on or after your Duty Disability benefit effective date will reduce your Duty Disability benefit, regardless of the period the lump sum covers. Wis. Stat. § 40.65(5)(b)(3) provides a means for offsetting a lump sum workers' compensation payment or compromise settlement. If the workers' compensation check date is on or after the Duty Disability benefit effective date, the lump sum or compromise payment will reduce the Duty Disability benefits in monthly amounts equal to 4.3 times the maximum weekly workers' compensation benefit. The Duty Disability benefit is reduced until the lump sum/compromise amount is exhausted.

If you have not applied for or had a final determination made regarding your eligibility for permanent disability benefits from workers' compensation and are employed by a covered employer other than the state, ETF will withhold an amount equal to 5% of the gross monthly benefit from each monthly Duty Disability payment. The reduction remains in effect until a decision on workers' compensation benefits is made by the Department of Workforce Development. Once a decision is made, ETF will determine the amount of the 5% reduction already withheld, and only the portion of the lump sum that exceeds the accumulated total of the amounts previously deducted is offset. If the total amount withheld under the 5% provision exceeds the amount of the workers' compensation lump sum payment or compromise agreement, the difference is refunded to you.

If you are employed by the state, your Duty Disability benefit is not affected by the 5% withholding.

### Retirement, Separation or Disability Benefits

Any Wisconsin Retirement System retirement, separation or disability benefit paid based on your service and earnings record is a reduction to your Duty Disability benefit.

During the Duty Disability application process, your medical records will be reviewed to determine whether you may be eligible for a disability benefit from the WRS. If ETF determines you may be eligible for disability benefits, you are required to apply for the disability benefit. If you fail to apply, ETF will reduce your Duty Disability benefit by an estimated WRS disability amount.

If you are approved for a WRS disability benefit, your Duty Disability benefit will be reduced by the gross monthly WRS disability benefit, regardless of any deductions (i.e., health insurance, taxes, etc.). The WRS disability offset is adjusted annually for any adjustments you receive from the WRS.

If your medical condition does not require you to apply for a WRS disability, you may be eligible to receive a separation benefit from the WRS if you have not reached minimum retirement age. You are NOT required to take a separation benefit. If you do take a separation benefit from the WRS, your WRS account will be closed and there will not be a WRS death benefit payable upon your death.

If you take a separation benefit, your Duty Disability benefit will have a lifetime offset. The offset is determined by multiplying the lump sum separation benefit by an actuarial factor, using your age as of the date of your separation check. This offset will not change over the life of the Duty Disability benefit.

If you are approved for a Duty Disability benefit based on cancer presumptive under Wis. Stat. § 891.455, you are not allowed to take a separation benefit from the WRS while you receive Duty Disability benefits.

If you are not required to apply for a disability benefit, and you are age 50 and have terminated your covered WRS employment, you will be required to apply for a regular WRS retirement benefit. The offset is based on the gross monthly retirement annuity benefit, regardless of any deductions (i.e., health insurance, taxes, etc.) from the benefit.

## How Much Will I Receive? (continued)

### Earnings from the Employer under Whom the Duty Disability Occurred

If you work for the same employer from which you became disabled, regardless of position, the earnings you receive are a dollar-for-dollar offset to your Duty Disability benefit. The offset is based on your gross earnings. If the earnings you receive from your employer are equal to your Duty Disability monthly benefit, your Duty Disability payment for that month is totally offset.

**Note:** All state agencies are considered to be the same employer for the purposes of this section.

### Earnings from Any Other Employer or Self-Employment

If you work for an employer other than the employer under which the Duty Disability occurred or you are self-employed, the earnings paid by the employer on or after the Duty Disability effective date are an offset to the Duty Disability benefit. Earnings means the gross amount paid by any employer as salary or wage for personal service rendered, or which would have been available for payment to the employee except for the employee's election that part or all of the

amount be used for other purposes. Earnings do not include payments for reasons other than for personal services rendered.

The gross amount shall be determined prior to deductions for taxes, insurance premiums, retirement contributions, charitable contributions, etc. Self-employment and/or contractual service income is based on the net profit as reported on the federal income tax returns.

The gross monthly earnings from any other employer are offset as follows:

- For the amount of total earnings that is less than 40% of your Duty Disability monthly salary, the offset is one-third of those earnings.
- For the amount of total earnings from 40% to 80% of your Duty Disability monthly salary, the offset is one-half of those earnings.
- For the amount of total earnings that is more than 80% of your monthly salary, the offset is two-thirds of those earnings.

### Sample Benefit Calculations

1. A 30-year-old disabled firefighter is approved for Duty Disability benefits. The guaranteed Duty Disability percentage is 75%, and the monthly salary is \$3,500. The firefighter never received permanent partial disability (PPD) benefits or a determination from workers' compensation. The Duty Disability recipient is working part time for an employer other than the employer under which the disability occurred, and earning \$1,000.00 per month (gross earnings). The monthly Duty Disability benefit calculation is:

|  |                   |
|--|-------------------|
| Monthly salary basis                         | \$3,500.00        |
| Guaranteed percentage                        | <u>x .75</u>      |
| <b>Gross monthly Duty Disability benefit</b> | <b>\$2,625.00</b> |

**Less:**

|  |                  |
|--|------------------|
| <b>5% withholding for Workers' Compensation:</b> | <b>-\$131.25</b> |
| $\$2,625 \times 5\% = \$131.25$                  |                  |

|   |                  |
|---|------------------|
| <b>Offset for \$1,000 of Other Earnings</b> | <b>-\$333.33</b> |
|---|------------------|

$\$3,500$  (monthly salary basis)  $\times 40\% = \$1,400$  (Earnings up to \$1,400 offset at one-third.)  
 $\$1,000 \times 1/3 = -\$333.33$

|   |                   |
|---|-------------------|
| <b>Net monthly Duty Disability benefit:</b> | <b>\$2,160.42</b> |
|---|-------------------|

## How Much Will I Receive? (continued)

2. A 45-year-old disabled law enforcement officer is approved for Duty Disability benefits. The guaranteed Duty Disability percentage is 75%, and the monthly salary is \$4,000. The Duty Disability benefit effective date is January 1, 2013. The Duty Disability recipient received a permanent partial disability (PPD) workers' compensation award in the amount of \$11,411.25. The recipient received a lump sum Workers' Compensation payment in the amount of \$5,000.00, which was paid to the recipient on January 5, 2013, and began receiving monthly PPD amounts (\$770.00) effective January 2, 2013, until the remaining \$6,411.25 PPD award (\$11,411.25 – \$5,000.00 = \$6,411.25) is paid out. The monthly Duty Disability benefit calculation is:

|  |                    |
|--|--------------------|
| Monthly salary basis   | \$4,000.00         |
| Guaranteed percentage  | <u>      x .75</u> |
| <b>Gross monthly Duty Disability benefit</b>   | <b>\$3,000.00</b>  |
| <br><b>Less:</b>   |                    |
| <b>Workers' Compensation offset for lump sum payment of \$5,000:</b>                     | <b>-\$769.70</b>   |
| \$179.00 (weekly Workers' Compensation benefit) x 4.3 = \$769.70                         |                    |
| \$5,000 ÷ \$769.70 = 6.5 months (number of months the offset will be applied)            |                    |
| Offset begins 1/2013; last offset of \$381.80 in 7/2013                                  |                    |
| <b>Workers' Compensation Monthly PPD offset</b>  | <b>-\$770.00</b>   |
| Remaining \$6,411.25 ÷ \$770 = 8.33 months (number of months the offset will be applied) |                    |
| Offset begins 1/2013; last offset of \$251.25 in 9/2013                                  |                    |
| <b>Net monthly Duty Disability benefit:</b>  | <b>\$1,460.30</b>  |

3. A 50-year-old disabled law enforcement officer is approved for Duty Disability benefits. The guaranteed Duty Disability percentage is 75%, and the monthly salary is \$4,200. The Duty Disability benefit effective date is January 1, 2007. The Duty Disability recipient began working full time for an employer other than the one under which the disability occurred. The gross monthly earnings are \$3,500.00. The monthly Duty Disability benefit calculation is:

|  |                           |
|--|---------------------------|
| Monthly salary basis                               | \$4,200.00                |
| Guaranteed percentage                              | <u>      x .75</u>        |
| <b>Gross monthly Duty Disability benefit</b>       | <b>\$3,150.00</b>         |
| <br><b>Less:</b>                                   |                           |
| <b>Other Earnings Offset \$3,500:</b>              | <b>-\$1,493.33</b>        |
| \$4,200 (monthly salary basis) x 40% = \$1,680     |                           |
| \$4,200 (monthly salary basis) x 80% = \$3,360     |                           |
| Earnings up to \$1680 offset at one-third:         | \$1,680 x 1/3 = \$ 560.00 |
| Earnings between \$1680-\$3360 offset at one-half: | \$1,680 x 1/2 = \$ 840.00 |
| Earnings over \$3360 offset at two-thirds:         | \$140 x 2/3 = \$ 93.33    |
| Total Other Earnings Offset:                       | \$1,493.33                |
| <b>Net monthly Duty Disability benefit:</b>        | <b>\$1,656.67</b>         |

## How Much Will I Receive? (continued)

4. A 52-year-old totally and permanently disabled law enforcement officer is approved for Duty Disability benefits. The guaranteed Duty Disability percentage is 80%, and the monthly salary is \$3,800. Due to the fact that the law enforcement officer is totally and permanently disabled, the disabled officer receives disability benefits from Social Security Administration and the WRS. The disability benefits from the Social Security Administration include benefits that paid to the spouse and minor children that are based on the employee's earnings records. The Social Security benefit is \$895 and the WRS disability benefit is \$2,356. The monthly Duty Disability benefit calculation is:

|   |                        |
|---|------------------------|
| Monthly salary basis                            | \$3,800.00             |
| Guaranteed percentage                           | <u>          x .80</u> |
| <b>Gross monthly Duty Disability benefit</b>    | <b>\$3,040.00</b>      |
| <br><b>Less:</b>                                |                        |
| <b>Social Security Disability Benefit</b>       | <b>-\$895.00</b>       |
| <b>WRS Disability Benefit</b>                   | <b>-\$2,356.00</b>     |
| <br><b>Net monthly Duty Disability benefit:</b> | <br><b>0.00</b>        |

5. A 30-year-old State of Wisconsin law enforcement officer is approved for Duty Disability benefits. The guaranteed Duty Disability percentage is 80%, and the monthly salary is \$4,000. The Duty Disability recipient took a WRS separation benefit on January 3, 2012, in the amount of \$16,750. The monthly Duty Disability benefit calculation is:

|  |                        |
|--|------------------------|
| Monthly salary basis                               | \$4,000.00             |
| Guaranteed percentage                              | <u>          x .80</u> |
| <b>Gross monthly Duty Disability benefit</b>       | <b>\$3,200.00</b>      |
| <br><b>Less:</b>                                   |                        |
| <b>Lifetime offset for separation benefit:</b>     | <b>- 111.22</b>        |
| \$16,750.00 X .00664 (actuarial factor) = \$111.22 |                        |
| <br><b>Net monthly Duty Disability benefit:</b>    | <br><b>\$3,088.78</b>  |

## How Much Will I Receive? (continued)

### Annual Adjustments

Each January, your Duty Disability benefit amount will be adjusted. Your adjustment will be based on the National Average Wage Index determined annually by the Social Security Administration if you are one of the following:

- Under age 60; or
- Age 60 or older and receiving Regular Disability Retirement or Regular Long-Term Disability Insurance (LTDI).

Your adjustment will be based on last year's WRS core annuity dividend if you are one of the following:

- Age 60 or older and receiving Special Disability Retirement or Special LTDI;
- Age 60 or older and not receiving Disability Retirement or LTDI; or
- Receiving a Duty Disability death benefit.

If your Duty Disability benefit is being offset for disability or retirement benefits from Social Security, your Social Security offset is adjusted and reflected in your February 1 Duty Disability benefit check. This adjustment is based on the annual adjustment granted to your Social Security benefit in January of each year.

Benefit offsets based on monthly WRS retirement and/or disability benefits will be adjusted and reflected in your Duty Disability check dated June 1. This adjustment is based on the annual adjustment granted to your monthly WRS benefit each May.

### Annual Income Review Requirements

You are required to submit financial information to ETF on an annual basis. A completed annual income statement must be returned along with a copy of your prior year's federal income tax return.

Your account will be reviewed to determine whether all offsets for benefits and earnings have been applied. If you did not notify ETF of an offset, an adjust-

ment to your Duty Disability account will be made at the time your annual income statement and tax return are reviewed. If an overpayment occurs, you are required to pay back the overpayment and any applicable interest.

### Appeal Rights

#### *Application Denied*

If your Duty Disability application is denied, and if either you or your employer wishes to contest ETF's determination, a written notice of appeal must be filed with the Department of Workforce Development, Workers' Compensation Division. The appeal will follow the procedures outlined in Wis. Stat. §§ 102.16 to 102.26.

#### *Disputing Benefit Calculations*

ETF is responsible for all benefit calculations. If you have any questions about the calculation of Duty Disability benefits, you should contact the person who is responsible for processing your claim. The name and telephone number will be provided on the Monthly Payment and Offsets (ET-5507) form.

If, after contacting the person who processed your claim, you believe the calculation of your Duty Disability benefits, termination of Duty Disability benefits, benefit offsets or the qualifying date is based upon a factual error or that ETF has misinterpreted the applicable law, you have the right to appeal ETF's determination to the Wisconsin Retirement Board. An appeal to the board must be in writing and identify the specific facts or legal interpretations in ETF's determination that you believe are in error. The written appeal request must be received at the board's address within 90 days of the date on the determination notice. If the written request is not received within 90 days, the appeal will be rejected as untimely. The board's address is:

Wisconsin Retirement Board  
ATTN: Appeals Coordinator  
P.O. Box 7931  
Madison, WI 53707-7931

## Death Benefits

Duty Disability death benefits may be payable if you die as a result of the injury or disease for which a benefit is paid or would be payable (if not already receiving Duty Disability benefits), and you are survived by a spouse, domestic partner or unmarried child(ren) younger than age 18. The spouse/domestic partner has to be the same person you were married to or in a domestic partnership with on your qualifying date. The benefit is payable until the surviving spouse/domestic partner dies, remarries or enters into a new domestic partnership. An additional death benefit to the guardian of minor children may also be payable.

Normally, the amount paid as a death benefit will be determined by the applicable Duty Disability law that was in effect at the time the application for Duty Disability benefits was approved, and whether you are a state or local employee.

### **Death Benefits for Local Employees who Submitted Applications Prior to May 3, 1988, and for all State Employees under Wis. Stat. ss 40.65(7)(a)**

1. The surviving spouse receives one-third of the participant's monthly salary as reflected at the time of death.
2. The guardian of any unmarried surviving children under age 18 receives \$15 per month for each child until the child marries, dies or reaches age 18, whichever occurs first.
3. The total benefit cannot exceed 65% of the participant's monthly salary.

The death benefit is a fixed amount and does not receive annual adjustments. The amount payable under the Duty Disability program is reduced by the death benefit payable from Wis. Stat. § 102.

### **Death Benefits for Local Employees who Submitted Applications on or after May 3, 1988 under Wis. Stat. ss 40.65(7)(am)**

1. The surviving spouse/domestic partner receives 50% of the participant's monthly salary at the time of death, reduced by other income sources that are based on the participant's earnings records (i.e., Social Security benefits, WRS benefits, etc.).
2. The guardian of unmarried surviving children younger than age 18 receives 10% of the participant's monthly salary at the time of death for each child. This is payable until the child marries, dies, or reaches age 18, whichever occurs first.
3. The total amount payable to the spouse or domestic partner and children cannot exceed 70% of the participant's monthly salary at the time of death, less the offsets for other income.

The death benefit is adjusted annually based on the salary indexing percentage determined for the previous year.

The amount payable under the Duty Disability program is reduced by the workers' compensation death benefit payable from Wis. Stat. § 102.

### **Death Benefit under the Cancer Presumptive Law under Wis. Stat. § 40.65 (7)(ar)**

1. The surviving spouse or domestic partner receives 70% of the participant's monthly salary at the time of death.
2. The spouse's or domestic partner's benefits are reduced by any other income sources that are based on the participant's earnings records (i.e., Social Security benefits, WRS benefits, etc.).
3. If there is no surviving spouse/domestic partner or the surviving spouse/domestic partner subsequently dies, the guardian of any unmarried surviving children under age 18 receives 10%

## Death Benefits (continued)

of the participant's monthly salary at the time of death for each child. The death benefit is payable until the child marries, dies or reaches the age of 18, whichever occurs first.

The death benefit is adjusted annually based on the salary indexing percentage determined for the previous year.

The amount payable under the Duty Disability program is also reduced by the workers' compensation death benefit payable from Wis. Stat. § 102.

## Termination Of Benefits

Your Duty Disability benefit may be terminated if you refuse to submit or fail to timely submit information requested by ETF. Your benefit may also be terminated if you submit false information. Information that may be requested by ETF includes but is not limited to: income or benefit information, information concerning a person's marital status, and information on spouse or dependent benefits.

If your Duty Disability benefit is terminated, you may not apply for Duty Disability benefits based on the same disability for which your previous benefit was terminated.

# Insurance

## Group Life Insurance

If you are presently insured under the Wisconsin Public Employers Group Life Insurance Program, you may be eligible to continue coverage without further premium payments. Premium payments are waived for a participant who is totally and permanently disabled from employment in any occupation and whose employer submits a request for a disability premium waiver to ETF. If the waiver is approved, you will be notified of your amount of coverage. You should, however, continue to pay premiums until notified that they are no longer due. Contact ETF within 30 days after termination of employment for special instructions for keeping your life insurance coverage in force while your Duty Disability benefit application is pending.

If you are not covered by a waiver of premiums when your employment terminates, you can continue your group life insurance provided you meet the following requirements:

1. Your WRS coverage began before January 1, 1990, or you have been covered by the group life insurance plan in five calendar years beginning January 1, 1990.
2. You qualify under one of the following situations:
  - You are receiving an immediate WRS annuity or meet all of the requirements for receiving an immediate WRS annuity, except the filing of an application.
  - The sum of the years of your credible service in the WRS on January 1, 1990, plus your years of group life insurance coverage after 1989 equals 20 years.
  - You have 20 years of service on payroll with your last employer.

If you are not eligible to continue your group life insurance under one of the provisions above, you can apply for a conversion policy upon termination of employment. Your application for continuation or conversion coverage must be received within 31

days after your group life insurance coverage as an active employee ends.

## Group Health Insurance

If you are on a leave of absence from your employer and you are covered under the group health insurance program administered by ETF, you must continue to pay your monthly premiums through your employer while your Duty Disability application is being processed. Once your application for a Duty Disability benefit has been approved, you will receive information on continuing your health insurance coverage. The insurance carrier will bill you directly for your health insurance premiums. Participating employees whose compensation plan or contract provides for unused sick leave conversion to pay group health insurance premiums have the option of using unused sick leave or converting it for credits to pay group health insurance premiums.

If you do not continue to pay the premiums while on a leave of absence, your coverage will lapse. Coverage may be reinstated if you have an immediate annuity and file a health insurance application within 30 days of our notice to you that you are eligible to apply.

- If you terminated employment and your Duty Disability application is denied, and you are:
  - Younger than age 50 (protective occupations only): You will be eligible to continue your group coverage for up to 18 months (or up to 36 months in certain situations) and then purchase a conversion policy (non-group) from the insurance carrier without providing medical evidence of insurability. Your employer must provide you with a form to continue coverage within 14 days of termination of employment. You then have 60 days in which to return the form to our office; or
  - Older than age 50 (protective occupations only): You will be eligible to continue your group coverage if you submit

your application for a regular retirement annuity from the WRS within 60 days after notification of denial of your Duty Disability application. There is no minimum service requirement under the group health plan. Premiums for your group health insurance coverage may be deducted from your regular WRS retirement annuity.

### Special Program Available to Retirees of Local Government Employers

All local government employees who receive a monthly retirement or disability annuity are eligible for health insurance coverage under the Local Annuity Health Program. To qualify for open enrollment, ETF must receive your application no later than 60 days after the date you terminate employment.

### Medicare Supplement Insurance for Disability Retirees

To keep your WRS group health insurance, **you must enroll for both portions of Medicare (Hospital Part A and Medical Part B) when first eligible.** This is required by state law to integrate with, not duplicate Medicare benefits. Medicare is available before age 65 to a person who is receiving Social Security benefits because they have permanent kidney disease or amyotrophic lateral sclerosis (Lou Gehrig's disease), or has been receiving Social Security disability for two years.

It is your responsibility to notify us when you and other family members are enrolled in Medicare. We adjust your group health insurance premium to the appropriate Medicare supplement amount after we know the effective date(s) of Medicare coverage. You can notify us by sending in a photocopy of your Medicare card.

## Frequently Asked Questions

### Q: Is the Duty Disability benefit taxable?

A: No, this is a non-taxable benefit.

### Q: How does Long Term Disability Insurance (LTDI) or Disability Retirement affect my Duty Disability benefit?

A: The gross amount you receive from LTDI or Disability Retirement will be an offset to your Duty Disability benefit.

### Q: How will my Duty Disability benefit affect my Income Continuation Insurance (ICI)?

A: If you receive Income Continuation Insurance (ICI) benefits, approval of your Duty Disability benefit will have a direct effect on your ICI benefit. Your ICI benefit will be offset (reduced) by your original gross monthly Duty Disability benefit amount, prior to offsets, on the effective date of your Duty Disability benefit. Your first Duty Disability check may include retroactive payments, therefore, creating an overpayment of ICI benefits. **You will be required to repay**

**the duplicate benefits to the ICI program.** The ICI program will notify you of the overpayment. Arrangements will be made to withhold the ICI overpayment out of your first Duty Disability check.

### Q: If my application is approved, how long will it take until I start receiving Duty Disability benefits?

A: Before a benefit can be paid, additional information will need to be gathered in order to calculate your benefit. This will include information on your salary, workers compensation benefits paid or payable, and income you are receiving from other sources. The amount of time it takes to receive this information and to complete the calculation will determine when you will receive your first payment. Duty Disability payments are issued on the first of each month.

## Definitions

**Effective Date** — the date your application form was received by ETF or your qualifying date, whichever is later.

**Light Duty** — your employer or your physician limits your job duties because of medically imposed restrictions associated with your disability, or assigns you to another position, the duties of which you are capable of performing with your disability, and which does not cause you to be reclassified to a category other than protective occupation participant.

**Protective Occupation Participants** — law enforcement officer, firefighter, state probation and parole officers, members of the state traffic patrol, state motor vehicle inspectors, forest rangers, conservation workers, fire marshals, and state correctional-psychiatric officers. Additional protective occupations are listed in § 40.02 (48)(am), Wis. Stats.

**Qualifying Date** — the date on which your work-related disability is so severe it causes you to retire, have a permanent reduction in base pay or position, be assigned to light duty or to not be promoted.

## Additional Information

Booklets and forms are periodically revised. Please contact your employer or ETF to determine if an updated version of the form or booklet you are interested in is available.

ETF has made every effort to ensure that this brochure is current and accurate. However, changes in the law or processes since the last revision to this brochure may mean that some details are not current. Please contact ETF if you have any questions about a particular topic in this brochure.

ETF does not discriminate on the basis of disability in the provision of programs, services or employment. If you are speech, hearing or visually impaired and need assistance, call toll free at 1-877-533-5020 or 608-266-3285 (local Madison). We will try to find another way to get the information to you in a usable form.

# Contact Us

## Call ETF

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Toll Free: 1-877-533-5020

Local Madison: 608-266-3285

Fax: 608-267-4549

Wisconsin Relay Service (for hearing & speech impaired)

7-1-1 or

1-800-947-3529 (English)

1-800-833-7813 (Spanish)

## Write Us

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Department of Employee Trust Funds

P.O. Box 7931

Madison, WI 53707-7931

## Send Us an E-Mail

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Go to [etf.wi.gov](http://etf.wi.gov)

Click on “contact ETF,” then click on a category.

## Visit Our Internet Site/View Our Online Videos

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[etf.wi.gov](http://etf.wi.gov) (Look for the red envelope to sign up for ETF E-mail Updates)

or [etf.wi.gov/webcasts.htm](http://etf.wi.gov/webcasts.htm)





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