

WSR 21-22-049
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed October 28, 2021, 7:02 a.m., effective November 28, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To clarify that adjustments to offset workers' compensation and Social Security disability benefits will be prospective.

Citation of Rules Affected by this Order: Amending WAC 415-104-482 How are the different LEOFF Plan 2 disability benefits calculated?

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 21-19-149 on September 22, 2021.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 27, 2021.

Tracy Guerin
Director

OTS-2883.2

AMENDATORY SECTION (Amending WSR 18-13-078, filed 6/15/18, effective 7/16/18)

WAC 415-104-482 How are the different LEOFF Plan 2 disability benefits calculated? (1) **Line of duty:** As a line of duty disability retiree, you may choose between:

(a) A nontaxable, one-time lump sum payment equal to one hundred fifty percent of your retirement contributions; except that, any payments made to restore service credit after the five-year deadline will be paid at one hundred percent; or

(b) A monthly disability benefit equal to:

(i) Ten percent of your final average salary (FAS), which is nontaxable; and

(ii) Two percent of your FAS for each year of service beyond five years.

Calculation of monthly disability benefit:

Example 1: Chris was approved for line of duty disability. The final average salary (FAS) was \$10,000. Chris had 20 years of service credit at the time of retirement. To determine the line of duty disability benefit amount:

1. $10\% \times \text{FAS} = \text{Nontaxable amount}$
 $.10 \times \$10,000 = \$1,000$
2. $2\% \times \text{FAS} \times \text{Number of Service Years beyond Five Years} = \text{Taxable amount}$
 $.02 \times \$10,000 \times 15 = \$3,000$
3. $\text{Nontaxable amount} + \text{Taxable amount} = \text{Total benefit}$
 $\$1,000 + \$3,000 = \$4,000$

Example 2: Pat was approved for line of duty disability. The final average salary (FAS) was \$10,000. Pat had 2 years of service credit at the time of retirement. To determine the line of duty disability benefit amount:

1. $10\% \times \text{FAS} = \text{Nontaxable amount}$
 $.10 \times \$10,000 = \$1,000$
2. $2\% \times \text{FAS} \times \text{Number of Service Years beyond Five Years} = \text{Taxable amount}$
 $.02 \times \$10,000 \times 0 = \0
3. $\text{Nontaxable amount} + \text{Taxable amount} = \text{Total benefit}$
 $\$1,000 + \$0 = \$1,000$

(2) **Catastrophic duty disability:** As a catastrophic duty disability retiree, you may choose between:

(a) A nontaxable, one-time lump sum payment equal to one hundred fifty percent of your retirement contributions; except that, any payments made to restore service credit after the five-year deadline will be paid at one hundred percent. Under this option you waive your right to the medical insurance premium reimbursement; or

(b) A monthly disability benefit equal to:

(i) Seventy percent of your final average salary (FAS), which is nontaxable, reduced by any temporary disability benefits provided under Title 51 RCW and federal Social Security disability benefits, if necessary to ensure that the total combined benefits do not exceed one hundred percent of the member's final average salary (FAS). Any such adjustment will be applied prospectively from the time the Title 51 RCW or Social Security determination is made, even if the Title 51 RCW or Social Security disability benefits are retroactively adjusted.

(ii) The reduced benefit cannot be less than the earned service retirement benefit.

Calculation of monthly disability benefit:

Example 1: Terry was approved for catastrophic disability. The final average salary (FAS) was \$10,000. Terry was not receiving benefits from LNI or Social Security disability insurance (SSDI). Terry had 20 years of service credit at the time of retirement. To determine the catastrophic benefit amount:

1. $70\% \text{ of FAS} = \text{Monthly disability benefit}$
 $.70 \times \$10,000 = \$7,000$
2. $2\% \times \text{FAS} \times \text{Service Years} = \text{Earned benefit}$
 $.02 \times \$10,000 \times 20 = \$4,000$

Since there is no offset and the monthly disability benefit is greater than the earned benefit, Terry's benefit will be \$7000 a month.

Example 2: Pat was approved for catastrophic disability. The final average salary (FAS) was \$10,000. Pat was receiving benefits from LNI and Social Security disability insurance (SSDI) in the amounts of \$5,000 and \$2,000. Pat had 2 years of service credit at the time of retirement. To determine the catastrophic benefit amount:

1. $70\% \text{ of FAS} = \text{Monthly disability benefit}$
 $.70 \times \$10,000 = \$7,000$
2. $\text{Monthly disability benefit} + \text{LNI benefits} + \text{SSDI benefit} = \text{Total of all benefits}$
 $\$7,000 + \$5,000 + \$2,000 = \$14,000$
3. $\text{Total of all benefits} - \text{FAS} = \text{Reduction amount}$
 $\$14,000 - \$10,000 = \$4,000$
4. $\text{Monthly disability benefit} - \text{Reduction Amount} = \text{Reduced monthly benefit}$
 $\$7,000 - \$4,000 = \$3,000$
5. $2\% \times \text{FAS} \times \text{Service Years} = \text{Earned benefit}$
 $.02 \times \$10,000 \times 2 = \400

Since the reduced monthly benefit amount is greater than the earned benefit, Pat's benefit will be \$3,000 a month.

Example 3: Chris was approved for catastrophic disability. The final average salary (FAS) was \$10,000. Chris was receiving benefits from LNI (Title 51 RCW) and Social Security disability insurance (SSDI) in the amounts of \$5,000 and \$2,000 respectively. Chris had 20 years of service credit at the time of retirement. To determine the catastrophic benefit amount:

1. $70\% \text{ of FAS} = \text{Monthly disability benefit}$
 $.70 \times \$10,000 = \$7,000$
2. $\text{Monthly disability benefit} + \text{LNI benefits} + \text{SSDI benefit} = \text{Total of all benefits}$
 $\$7,000 + \$5,000 + \$2,000 = \$14,000$
3. $\text{Total of all benefits} - \text{FAS} = \text{Reduction amount (to not exceed 100\% of FAS)}$
 $\$14,000 - \$10,000 = \$4,000$
4. $\text{Monthly disability benefit} - \text{Reduction Amount} = \text{Reduced monthly benefit}$
 $\$7,000 - \$4,000 = \$3,000$
5. $2\% \times \text{FAS} \times \text{Service Years} = \text{Earned benefit}$
 $.02 \times \$10,000 \times 20 = \$4,000$

Chris is entitled to the greater of the catastrophic retirement calculation or the earned benefit. Since the earned benefit is greater than the reduced catastrophic benefit, Chris' benefit will be \$4,000 a month.

(3) **Nonduty disability:** As a nonduty disability retiree, you receive a benefit of two percent times your final average salary times your service credit years. This disability benefit will be actuarially reduced to reflect the difference in age at the time of disability retirement and age fifty-three.

Calculation of monthly disability benefit:

Example 1 – Full actuarial reduction:

Chris, age 47, was approved for a nonduty disability. The final average salary (FAS) was \$10,000. Chris had 20 years of service credit at the time of retirement. To determine the nonduty disability benefit amount:

$$\begin{aligned} 2\% \times \text{FAS} \times \text{Service Years} \times \text{early} &= \text{Benefit} \\ \text{retirement factor (2018 table)} &= \text{amount} \\ .02 \times \$10,000 \times 20 \times 0.5980 &= \$2,392 \end{aligned}$$

[Statutory Authority: RCW 41.50.050. WSR 18-13-078, § 415-104-482, filed 6/15/18, effective 7/16/18. Statutory Authority: RCW 41.50.050(5). WSR 16-06-069, § 415-104-482, filed 2/25/16, effective 3/27/16. Statutory Authority: RCW 41.50.050(5) and 41.26.470. WSR 09-17-035, § 415-104-482, filed 8/10/09, effective 9/10/09.]