



14

Disability Benefits

Employer Reporting Guide

How PERS disability benefits work for Tier One/Tier Two members and Oregon Public Service Retirement Plan (OPSRP) members.

**Employer
Service
Center**



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Introduction

PERS members who are unable to work because of a serious illness or injury can apply for a disability benefit from PERS. The benefit provides the employee with income until they recover, retire, or die.

For HR representatives, this guide explains how the disability benefit works for members of Tier One, Tier Two, and Oregon Public Service Retirement Plan (OPSRP); how your employee can apply for the disability benefit; and how they can return to work, if they are able.

For your employees, this guide provides information you can share with employees to help guide them through the process.

For employer reporters, this guide explains how to report the employee's status changes and wages to PERS.

Two types of disability benefits: Tier One/Tier Two and OPSRP

The disability criteria, rules, and benefits are different for members of the Tier One and Tier Two PERS plans and OPSRP.

- **For Tier One and Tier Two members**, the disability benefit is a retirement. They receive their pension and Individual Account Program (IAP) account as though they were able to work until retirement age.
- **For OPSRP members**, disability is not a retirement; rather, it is a benefit that provides monthly pay of 45% of their last full month's salary. The benefit continues until the employee becomes age-eligible for regular service retirement. At that time, they may apply for retirement and begin receiving their PERS pension and IAP, which is calculated as though they had been able to work until retirement age.

Two categories of disability: duty and non-duty

An employee may qualify for disability benefits whether they were hurt or became sick on the job or not. The two types of disability are separated into two categories that have different rules:

- **Duty disability:** The employee's disease or injury occurred while working and their job was a contributing factor. Those with a duty disability may apply for disability retirement regardless of their length of service
- **Nonduty disability:** If their PERS employment was not the primary contributing cause of their injury or illness, the employee must have 10 years of PERS service time in order to apply for a disability benefit. If an employee is close to 10 years, however, they should check with PERS to see if they have sufficient service time.

Other types of disability programs

If your sick or injured employee is receiving pay from other disability insurance programs, this does not affect their eligibility for nor payment amount from PERS disability benefits. However, your employee's other disability insurance program may offset its payments to account for what your employee is receiving from PERS. This includes:

- Short-term disability (refer to [Public Employees' Benefit Board \(PEBB\) website](#)).
- Long-term disability (refer to [PEBB website](#)).
- Paid Leave Oregon (refer to [Paid Leave Oregon Employers website](#)).

This does not include the following types of pay, which must be paid out before your employee can begin receiving disability benefits:

- Sick leave.
- Vacation.
- Personal business.
- Compensatory or flex time.

Overview of reporting pay received during leave of absence

When your employee becomes too injured or sick to work, and once they exhaust their paid leave (i.e., sick leave, vacation, compensatory time, if they choose to use them), you will report them as on a leave of absence.

Submit a Detail 1 Demographics record with a status code of 07 - Leave of Absence, as explained in [employer reporting guide 11, Reporting a Leave](#).

During the leave, the employee may receive non-PERS benefits provided by a third party (i.e., workers' compensation, PEBB insurance, or Paid Leave Oregon) or their employer.

Payments from a third party

These payments are considered “non-subject salary” (i.e., wages that are not subject to earning PERS benefits) and **are not reported** as wages to PERS. However, you should notify PERS by email or Demographic Correction Request (DCR) if your employee is receiving compensation from a third party because the employee may be able to get some service credit for some of their leave of absence.

Payments from the employer

If the employer elects to make payments to the employee to supplement other payments they are receiving, these payments **are reported** as wages to PERS.

Submit a Detail 2 wage record with wage code 08 - Contributions/No-service. The payments are subject salary, and 6% IAP contributions are due for those who are in a qualifying position. Also, PERS will charge you your contribution rate on those payments.

Requesting service credit upon return

To receive service credit for their leave of absence for purposes of calculating a service or disability retirement, the employee must return to work for a PERS-participating employer. (A service retirement is a regular retirement based on age.)

The employee may initiate a request for service credit for this time using the [PERS Workers' Compensation Certification form](#). If an employee gives you this form, complete the "Employer Certification" section, and mail or fax the form to PERS.

Tier One/Tier Two disability retirement

Qualifying for disability retirement

To qualify for disability retirement, the PERS member must be totally, not partially, disabled and unable to perform any work for which they are qualified for at least 90 days. As soon as they are on leave, if their doctor feels they need to be off work, the sick or injured employee should contact PERS Member Services to talk about whether they qualify for one of the following types of disability (888-320-7377, Monday through Friday).

Duty disability

If a Tier One or Tier Two member's PERS employment is the primary contributing cause of their disability, they can apply for disability retirement regardless of their length of service.

Non-duty disability

A Tier One or Tier Two member must have 10 years of PERS service time to apply for a non-job-caused disability. If your employee is close to 10 years, they should still apply. To equal 10 years, PERS can include the employee's six-month waiting period or a partial year if the employee worked more than half the calendar year.

Applying for disability retirement

For your employee: The employee initiates the request to begin a disability retirement. As soon as they are physically off the job, they can call PERS Member Information Center at 888-320-7377 and request an Application for Disability Retirement. They can apply even if they are still receiving pay through sick leave or other paid leave. They do not need to wait until the 90-day period is up.

While waiting for approval

For your employee: While your employee is waiting to hear if they qualify for disability benefits, they must not be working in any capacity. If they are working, they need to stop working before they apply. Learn more about the determination process on the [Disability Benefits Overview for Tier One/Tier Two Members](#) webpage.

For employer reporters: After the employee uses up (or stops using) their sick leave and other paid leave, submit a Detail 1 Demographics report to place them on a leave of absence. For more information about placing an employee on leave and the different types of leave, read [employer reporting guide 11, Reporting a Leave](#).

Starting disability retirement

If your employee is approved for disability retirement, PERS will calculate their pension benefit using the same PERS creditable service time they would have received had they worked to:

- Age 58 for General Service or age 55 for Police and Fire for Tier One.
- Age 60 for General Service or age 55 for Police and Fire for Tier Two.

When your Tier One or Tier Two employee is approved for disability, they will receive an approval packet by mail. This packet includes forms the employee must complete to initiate their disability benefits.

PERS also notifies the employer that their employee has been approved for disability retirement. You will receive requests to submit or verify information in your Work List that you must submit before benefits can be paid.

Your employee can work with PERS Member Services to choose their retirement options or fill out the forms on their own. They can select the same monthly pension, IAP, and annuity options available for a service retirement, but they may not elect a lump sum or total lump sum option.

If your Tier One or Tier Two employee is denied for disability benefits, PERS will notify the employee and employer by regular certified mail. The first notification, Intent to Deny letter, is considered a preliminary denial. The letter will cite the reasons for the determination, and the employee will have 30 days to provide PERS with additional documentation to support the claim.

Reporting the disability retirement to PERS

Employer reporter: You do not need to report a disability retirement to PERS. The disability status is initiated by your employee calling PERS Member Information Center (MIC) to receive and submit their disability benefits application.

Remaining on disability

Employer reporter and HR: While your former employee is on disability retirement, there is no action required by you, unless they are receiving workers' compensation (see next section).

For your employee: Your former employee is eligible to receive disability retirement benefits as long as the disability retiree is not able to work and continues to provide necessary documentation to PERS.

PERS is required by law to perform periodic reviews of your former employee's continued eligibility for benefits until they reach normal retirement age. If PERS discovers that they are working or their doctor has cleared them to work, PERS Disability Unit will contact them to discuss ending their disability retirement.

Receiving workers' compensation, third-party payments, or unemployment insurance while on leave

Reporting workers' compensation

According to Oregon [workers' compensation law](#), when your employee is injured on the job and eligible for workers' compensation insurance, the workers' compensation carrier compensates them in an amount equal to 2/3 of their normal salary.

Workers' compensation payments

If your employee is receiving workers' compensation while on leave of absence, you **do not need to report** the individual payments to PERS.

You do, however, need to **submit a DCR** to inform PERS that the employee is receiving workers' comp. PERS needs to know the period during which the employee received workers' comp because the employee may be able to receive some service credit for that period.

Employer "gross-up" payments

Reporting: If the employer chooses to "gross up" the member's income by paying the remaining 1/3 salary, these payments **are reported** to PERS as subject salary. To report these payments, submit a Detail 2 record with a wage code of 08 - Contributions/No service.

Contributions: If the employee's position is qualifying, the employer will pay 6% IAP contributions on that 1/3 salary portion. The employer will also be charged their contribution rate on those payments.

However, if the period during which the employee is receiving workers' compensation benefits lasts for several months, a qualifying part-time position may not earn enough hours to be a qualifying position for that year. In that case, the position may need to be reclassified as non-qualifying and the employer will be reimbursed for the contribution rate they were charged on those gross-up payments.

Service credit: Hours of service for the leave of absence include hours attributable to the employer-paid gross-up compensation. PERS uses the employer's 1/3 salary payment to determine hours of service based on the employee's normal hourly compensation.

Reporting third-party payments

Third-party disability: The employer only needs to report payments to PERS that are paid by the employer. Therefore, you do not need to report short-term or long-term disability payments from a third-party insurance company.

Paid Leave Oregon: For payments from the Paid Leave Oregon program, only report the payments if they are paid by the employer. If your organization has a state-run or third-party insurance company Paid Leave Oregon program, you do not need to report the payments to PERS. To learn more, read [employer reporting guide 13, Family and Medical Leave](#).

Unemployment insurance

Once your employee is approved for disability retirement, they are ineligible for unemployment based on their inability to work and their retirement pay, which includes PERS disability retirement pay.

According to the Oregon Employment Department, to qualify for unemployment benefits, a person must attest that they are “unemployed, **physically and mentally able to work**, available for work, and actively seeking work each week that you claim.” If an employee is attesting that they are physically and mentally able to work, then they don't qualify for disability benefits.

Returning to work

Tier One/Tier Two disability benefit recipients who want to return to work have three options: returning to work part-time, doing a 90-day trial period of full-time work, and returning to work full-time.

Option 1: Return to work part-time

Tier One and Tier Two disability retirees may return to part-time work and continue receiving their disability retirement benefit as long as they comply with these limitations:

- Their physician has not medically released them for full-time work. If their physician releases them for full-time work, they no longer qualify for disability.
- They do not work in a qualifying position for a PERS-participating employer (i.e., a position that requires at least 600 hours of work per year and, thus, qualifies to earn PERS benefits).
- They work 599 or fewer hours per calendar year. If they reach or exceed 600 hours in a year, their disability retirement will be canceled, and they will have to repay any benefits they received that calendar year. If they are working part-time for a PERS-participating employer, they will become an active PERS member and will earn PERS retirement benefits.

How part-time work affects disability benefit

If the employee returns to part-time work (in a PERS non-qualifying position or in a non-PERS position), unless they have reached normal retirement age, the monthly disability retirement allowance is adjusted by any income earned during the month which, when added to the disability retirement allowance, exceeds the gross monthly salary earned at date of disability.

Option 2: Complete a 90-day full-time trial

Tier One and Tier Two members who are on a disability retirement may return to full-time work for a PERS-participating employer on a trial basis. This leaves their disability claim open while they find out if they can handle full-time work.

During this 90-day trial period, their disability benefit is suspended. If you hire them, you will pay them a regular salary and submit wage reports to PERS as explained in step 3 below.

How to hire a disability retiree for a 90-day trial

HR and employer reporter: When bringing on a disability retiree for a trial period, even if they used to work for you, report them to PERS as a new hire and submit wage records as follows:

- 1** Notify the PERS Disability Unit by e-mail at DisabilityEligibilitySQ@pers.oregon.gov that you intend to hire the retiree (the retiree may complete this step instead).
- 2** Submit a Detail 1 record using status code 11 - New Hire Retiree with Hour Limit. The status date is the first day of the 90-day trial period, not the first day following the start of the 90-day period.
- 3** Submit Detail 2 records for each pay period during the trial period using wage code 07 - Retired/No Contributions. Use a **Regular Report** to submit those records.

You will not be charged your contribution rate on the employee's wages during the 90-day trial. If the trial is successful and the employee is going to continue working, however, PERS will convert the retiree wages to regular wages and the employer will owe contributions for that trial period.

After a successful trial period (full 90 days)

HR and employer reporter: At the end of the 90-day period, PERS sends you a Completion of PERS-Qualifying Trial Service Employment of Disabled Member form. Complete and return the form to PERS' Disability Unit to confirm that your employee successfully completed the trial employment.

If your employee continues to work in a qualifying position beyond 90 days, the entire period will be considered qualifying and retroactive contributions will be required back to the first day of the trial period.

PERS will re-employ the employee as an active member, reverse the retiree wages reported, and repost them with wage code 01 – Regular Wages. Your next invoice will include charges for the contributions due.

The disability claim will be closed.

After an unsuccessful trial period (less than 90 days)

For your employee: If the employee's disability prevents them from completing the 90-day trial period, they need a report from their physician to reinstate their disability retirement benefits. The physician can send the report directly to PERS Disability Unit.

HR department: Email PERS Disability Unit at DisabilityEligibilitySQ@pers.oregon.gov to notify them that the trial period is ending early.

Option 3: Return to full-time work

For your employee: If the employee is ready to return to full-time work, they can forego the trial period. Before returning to work, the retired employee notifies PERS Disability Unit by calling the Member Information Center at 888-320-7277. Once they are hired, they need to call again to inform PERS of their start date. PERS will finalize their benefits and close their disability claim.

Employer reporter:

- 1** The PERS-participating employer who hires them needs to submit a Detail 1 record with status code 01 - New Hire. The status date is their first day on the job.
- 2** Report their wages as you normally would, using wage code 01 – Regular Wages. Use a Regular report to submit those records.

Receiving service credit for the period of disability

Duty disability

For your employee: State law allows a Tier One or Tier Two member to accrue retirement credit for the period they were out of work only if the employee returns to employment with a PERS-participating public employer after the period of disability.

Sometimes, however, an employee returns to work in a limited or modified capacity before their period of disability is over. During this time, they can continue receiving workers' compensation payments indefinitely until they are able to work full-time.

In this case, the period of disability for an employee who is receiving workers' compensation payments ends either when payments end or when the employee returns to work with a participating public employer, whichever is earlier.

An employee whose workers' compensation benefits end before they return to work receives service credit only for the period they received the workers compensation benefits.

Non-duty disability

For your employee: If an employee has a non-duty disability or does not return to work for a PERS-participating employer, they can purchase the service time they missed during their disability leave. To learn more, go to the PERS [General Service Time Purchases webpage](#), "Periods of Disability Full Cost Purchase."

OPSRP disability benefits

Qualifying for disability benefits

To qualify for disability benefits, an OPSRP member must be totally, not partially, disabled and unable to perform any work for which they are qualified for at least 90 days.

If approved for a disability benefit, an OPSRP member's monthly disability benefit payment will equal 45% of their last full month's gross salary prior to their disability.

No disability payment will be made until the employee has completed 90 consecutive days of incapacity. After that period, benefits are paid retroactive to the employee's effective date of disability.

Duty disability

If an OPSRP member's PERS employment is the primary contributing cause of their disability, they can apply for disability retirement regardless of their length of service.

Non-duty disability

Your employee must have 10 years of PERS service time to apply for a non-job-caused disability. This period can include credit for the six-month waiting period to become a member; it can also include a partial year if the employee worked more than half the year.

Applying for disability benefits

For your employee: The employee initiates the request for disability benefits. They must stop working before they can apply, so as soon as they are physically off the job, they should call the PERS Member Information Center at 888-320-7377 and request an OPSRP Disability Program application packet. They can apply even if they are still receiving pay through sick leave or other paid leave, and they do not need to wait until they finish the 90-day period of disability.

Employer reporter: Once the PERS Disability team receives the employee's completed application packet, they will send a request for information via your EDX Work List. If you are an education employer and close your administrative offices for summer break, please ensure that you have people listed on your EDX Contacts List who are available to complete member disability forms during summer break.

While waiting for approval

For your employee: While a PERS member is waiting to hear if they qualify for disability benefits, they can be on leave or even terminate employment. The employee must not be working in any capacity and must remain off all work during the determination process.

Employer reporter: After the employee uses all their sick leave and other paid leave (or chooses not to use it), submit a Detail 1 Demographics record with a 07 – On Leave of Absence status code to place them on leave.

Starting disability benefits

For your employee: After your employee is approved for OPSRP disability, they will receive an approval packet in the mail. This packet includes forms they need to complete and return to initiate disability payments. Disability payments are 45% of the employee's last full month's gross salary prior to their disability.

The employee is not retired, so they will not receive their Individual Account Program (IAP) account nor pension payments. If they decide to withdraw their IAP account, their OPSRP disability benefits will end, and they will forfeit their future OPSRP pension benefits.

Employer reporter: PERS will request information from you through your EDX Work List. You must supply the information before disability payments can begin.

Reporting the disability benefit to PERS

Employer reporter: Once an employee begins receiving disability benefits, there is no reporting you need to do. They will remain on the leave of absence you already reported to PERS.

Remaining on disability

Employer reporter and HR: While your employee is receiving a disability benefit, there is no action required by you. You do not report their disability payments to PERS. However, if they are receiving workers' compensation, third-party disability, or Paid Leave Oregon payments, there may be action needed. See the next section.

For your employee: OPSRP disability payments continue as long as the employee meets PERS disability criteria, until they die, or until they reach normal OPSRP Pension Program retirement age: 65 for General Service and 60 for Police and Fire. Once they reach normal retirement age, they need to file an application for OPSRP Pension Program service retirement, like they normally would if they had never become ill or injured.

OPSRP disability benefit recipients cannot do any type of work (PERS-covered, non-PERS-covered, or self-employment) while receiving an OPSRP disability benefit. If an OPSRP disability retiree returns to any type of work for a PERS-participating employer, their disability benefit will be canceled, and they will become an active PERS member. They may have to pay back any disability retirement benefits they receive after they return to work.

PERS is required by law to perform periodic reviews of your employee's disability status until they reach normal retirement age, at which time their disability benefit will stop. As part of the reviews, PERS will also contact the Oregon Employment Department to determine if your employee is working.

Receiving workers' compensation, third-party payments, or unemployment insurance while on leave

Reporting workers' compensation

When your OPSRP employee is injured on the job and eligible for workers' compensation insurance, the workers' compensation carrier compensates them in an amount equal to 2/3 of their normal salary.

Workers' compensation payments

If your employee is receiving workers' compensation while on leave of absence, you **do not report** the individual payments to PERS.

You do, however, need to **submit a DCR** to inform PERS that the employee is receiving workers' comp. PERS needs to know the period during which the employee received workers' comp because the employee may be able to receive some service credit for that period.

Employer "gross-up" payments

Reporting: If the employer chooses to "gross up" the member's income by paying the remaining 1/3 salary to equal their full salary, this payment is considered paid leave and **is reported** to PERS as subject salary.

Contributions: The employer will pay 6% IAP contributions on that 1/3 salary portion if the position is qualifying. The employer will also be charged your contribution rate on those payments.

However, if a part-time employee in a qualifying position remains on workers' comp for several months, their part-time position may not earn enough hours to be a qualifying position for that year. If this happens, you will be credited back the pension contributions you paid. The employee will need to be reclassified as in a non-qualifying position.

Service credit: Hours of service for the leave of absence include hours attributable to the employer-paid gross-up compensation. PERS uses the employer's 1/3 salary payment to determine hours of service based on the employee's normal hourly compensation.

Reporting third-party payments

Third-party disability: The employer only needs to report payments to PERS that are paid by the employer. Therefore, you do not need to report short-term or long-term disability payments from a third-party insurance company.

Paid Leave Oregon: For payments from the Paid Leave Oregon program, only report the payments if they are paid by the employer. If your organization has a state-run or third-party insurance Paid Leave Oregon program, you do not need to report the payments to PERS. To learn more, read [employer reporting guide 13, Family and Medical Leave](#).

Unemployment insurance

Your employee cannot receive unemployment insurance if they are unable to work, so they cannot receive unemployment insurance while on leave for a disability.

According to the Oregon Employment Department, to qualify for unemployment benefits, a person must attest that they are “unemployed, **physically and mentally able to work**, available for work, and actively seeking work each week that you claim.” If an employee is attesting that they are physically and mentally able to work, then they don't qualify for disability benefits.

Returning to work – OPSRP members

For your employee: If the employee has not reached regular retirement age and is medically released to work or wishes to begin working, they must notify PERS Disability Unit by calling the Member Information Center (MIC) at 888-320-7277.

When they have a start date to return to work for any employer, they call the MIC again. Once they begin working, their disability benefit will be discontinued as of the first of the month that they return to work. If they wait to inform MIC and receive another month (or more) of disability benefits, they will be billed for those benefits.

Employer reporter: To rehire your employee who was on leave and receiving OPSRP disability benefits, follow these steps:

- 1 Submit a Detail 1 Demographics record with status code 08 – Return From Leave if you placed them on a leave of absence. The status date is their first day on the job.
- 2 After they begin working, report their wages as you normally would using wage code 01 – Regular Wages. Use a Regular report to submit those records.

Not returning to work

For your employee: If the employee is not returning to their previous position, they need to notify that employer so the employer can terminate their employment.

Employer reporter: When the employee informs you that they will not be returning to work for your organization:

- 1 Submit a termination record by creating a Demographics and Adjustment report with a Detail 1 – Member Demographics record. Use a status code of 02 – Terminated.
- 2 For more instruction, read [employer reporting guide 15, Reporting a Termination or Death](#).

Receiving service credit for a period of disability

State law allows OPSRP members to accrue retirement credit while receiving OPSRP disability benefits. They will receive retirement credit for the entire period of their disability until they are no longer disabled or until they reach normal retirement age.

Additionally, an OPSRP member may receive retirement credit for periods when they are receiving workers' compensation benefits under [Oregon Revised Statute \(ORS\) Chapter 656](#) so long as the member returns to employment with a participating public employer after the period of disability.

For members receiving retirement credit for time during which they received workers' compensation benefits under ORS Chapter 656, the period of disability ends on the date when one of the following occurs:

- The employee returns to work for a PERS-participating employer.
- The employee's worker compensation benefits end.
- The employee attains normal retirement age.

Working after retirement

A Tier One/Tier Two disability retiree, or an OPSRP disability benefit recipient who has retired, is no longer bound by the rules of disability benefits. They are welcome to return to work for any employer, including a PERS-participating employer.

For a detailed explanation of how to hire a PERS retiree, read [employer reporting guide 8, Hiring a PERS Retiree](#).

Learn more

The following resources are available to help your employee understand the rules and processes for beginning and ending the retirement.

OPSRP members

[Disability Benefits Overview for OPSRP Members webpage](#)

[Answers to your questions about the OPSRP Disability Program](#)

Tier One and Tier Two members

[Disability Benefits Overview for Tier One/Tier Two Members webpage](#)

[Answers to Your Questions About Tier One Tier Two Disability Retirement](#)

[Disability Retirement Work/Income Guidelines for Tier One/Tier Two Members](#)