

Work Group on Duty Disability and The Public Safety Officer's Benefit Account

Concepts and Possible Language Changes to Minn. Stat. §§353.031, 353.656 and 299A.465

Definitions

(A) Covered Duty Disability Claim.

“Covered Duty Disability Claim” means an application or claim for a duty disability benefit arising from a physical injury, physical illness or condition, psychological condition, or any combination thereof, and includes any claim for continued health insurance coverage arising from or dependent upon the duty disability determination.

(B) Claim Trigger Date.

“Claim Trigger Date” means the earliest documented date on which the employee:

1. reported to the employer the injury, illness, condition, or event alleged to give rise to the duty disability;
2. filed or caused to be filed a first report of injury concerning the injury, illness, condition, or event;
3. provided the employer written notice that the employee claimed to be unable to perform the duties of the employee's position because of the injury, illness, or condition;
4. filed an application for a duty disability benefit or, when applicable, an application for psychological-condition treatment preliminary to a duty disability application; or
5. exhibited signs of an injury, illness or condition related to work duties.

The date of an injury, illness, or condition asserted after commencement of a Disqualifying Disciplinary Proceeding does not establish an earlier Claim Trigger Date unless supported by contemporaneous medical, employment, or injury-reporting records created before commencement of the Disqualifying Disciplinary Proceeding.

(C) In Good Standing.

“In Good Standing” means that, as of the Claim Trigger Date, the employee was not subject to a Disqualifying Disciplinary Proceeding that commenced on or before the Claim Trigger Date.

(D) Disqualifying Disciplinary Proceeding.

“Disqualifying Disciplinary Proceeding” means a formal disciplinary investigation or proceeding commenced in good faith by the employer in which:

1. the employee has received written notice that the employee is the subject of a formal investigation or disciplinary proceeding concerning specifically identified alleged misconduct;
2. before providing the notice, the employer, appointing authority, or other authorized official has documented facts establishing a reasonable basis for the allegations and commencement of the investigation or disciplinary proceeding;
3. the alleged misconduct, if substantiated, would result in discharge or termination from the employee's covered position under applicable law, collective bargaining agreement or established disciplinary standards;
4. the investigation or disciplinary proceeding was commenced for reasons independent of any actual or anticipated application for duty disability benefits, workers' compensation benefits, psychological-condition treatment, protected medical leave, reasonable accommodation, or other disability-related benefit; and
5. the employer maintains contemporaneous documentation establishing the date on which the formal disciplinary investigation or proceeding commenced.

A complaint, allegation, preliminary inquiry, performance counseling, routine administrative review, or non-disciplinary administrative leave does not constitute a Disqualifying Disciplinary Proceeding.

Good Standing Required for Duty Disability Eligibility.

(A) General Rule.

Notwithstanding any law to the contrary, an employee must be In Good Standing to be eligible for a Covered Duty Disability Claim.

This requirement applies regardless of whether the claimed duty disability is based upon:

1. a physical injury;
2. a physical illness or medical condition;
3. a psychological or mental-health condition, including post-traumatic stress disorder;
4. an occupational disease;
5. a cumulative or repetitive injury or condition; or
6. any combination of physical and psychological conditions.

(B) Application During Pending Disciplinary Proceeding.

An employee who is subject to a Disqualifying Disciplinary Proceeding may submit an application for a Covered Duty Disability Claim to preserve any statutory or other filing deadline.

PERA may receive and administratively process the application, but eligibility shall not be finally approved and duty disability payments or continued health insurance benefits arising from the application shall not commence until final disposition of the Disqualifying Disciplinary Proceeding.

(C) Effect of Sustained Discharge-Level Discipline.

An employee is not eligible for a Covered Duty Disability Claim when:

1. a Disqualifying Disciplinary Proceeding commenced on or before the employee's Claim Trigger Date; and
2. the proceeding ultimately results in:
 - o discharge or termination for substantiated misconduct; or,
 - o a final determination that substantiated misconduct warranted discharge or termination.

The disqualification applies to a duty disability based upon a physical injury or condition, psychological condition, or combination of those conditions when the applicable Claim Trigger Date occurred on or after commencement of the Disqualifying Disciplinary Proceeding.

(D) Claims Predating the Disciplinary Proceeding.

An employee shall not be disqualified under this subdivision solely because an application for duty disability benefits is filed after commencement of a Disqualifying Disciplinary Proceeding if the employee establishes through contemporaneous and independently verifiable records that the disabling injury, illness, or condition had been reported or documented before commencement of the disciplinary proceeding.

Such documentation may include a first report of injury, employer injury report, contemporaneous medical record, workers' compensation filing, or other written record created before commencement of the Disqualifying Disciplinary Proceeding.

(E) Discipline Not Sustained.

If the disciplinary allegations are not substantiated, the employee is exonerated, or the final disciplinary disposition does not support discharge or termination from the covered position, the employee's Covered Duty Disability Claim shall proceed.

For purposes of determining compliance with a statutory filing deadline, the employee shall retain the original filing date of an application submitted while the disciplinary proceeding was pending.

(F) Final Disposition.

For purposes of this subdivision, a disciplinary proceeding reaches final disposition when:

1. the time for contesting the disciplinary action through a grievance, arbitration, administrative appeal, civil-service procedure, or other process provided by law or collective bargaining agreement has expired without a challenge; or
2. if timely challenged, the proceeding has resulted in a final decision under the applicable review procedure.

(G) No Stay of Discipline.

The filing of a Covered Duty Disability Claim, first report of injury, workers' compensation claim, psychological-condition treatment application, or other disability-related application does not stay, suspend, terminate, or delay a disciplinary investigation or disciplinary proceeding that commenced on or before the applicable Claim Trigger Date.

Nothing in this subdivision prevents an employer from completing a disciplinary investigation or imposing discipline, including discharge, based upon substantiated misconduct, subject to otherwise applicable law, collective bargaining rights or established disciplinary standards.

(H) Scope.

This subdivision determines eligibility for duty disability benefits and continued health insurance benefits arising from a duty disability determination only. It does not independently determine eligibility for workers' compensation benefits, medical treatment, reasonable accommodation, protected leave, or any other claim, right or benefit unless expressly provided by law.