

State of Wisconsin Department of Employee Trust Funds Responses to Questions from Work Group in Minnesota on Police & Fire Duty Disability

Question	Answer
What disability benefits are provided by your state's pension plan for police officers and firefighters?	There are 2 separate disability benefits available to police and firefighters: 1) Disability retirement benefits which is a retirement benefit paid early due to disability that provides assumed service up to the member's normal retirement age. 2) Duty disability benefits - See Disability Overview PowerPoint
Does whether the injury occurred on-duty or off-duty affect the benefit? If yes, how?	This was covered in the Disability Overview PowerPoint.
What are the eligibility criteria for on-the-job (or "duty") disability pension benefits?	This was covered in the Disability Overview PowerPoint.
Are there any special eligibility requirements for disability benefits when the disability is based on a psychological condition (e.g., a treatment requirement)? For example, in MN, we require up to 6 months of psychological condition treatment before a member can be approved for a disability pension. If yes, do you have any data showing that those requirements have resulted in more members returning to work rather than having to take leave for the disability?	No for disability retirement. Yes for duty disability. There are different categories of mental illness claims: <u>Mental/Mental (Non-traumatic Mental Injury (NTMI)</u> claim involves no physical injury. The employee alleges their injury is exclusively mental. For example, the employee alleges that the direct threat of a terrorist attack on their building caused extreme mental stress. (The PTSD claims typically fall into this category and require that the Wisconsin Supreme Court "Extraordinary Stress Standard" set forth in the School District #1 case must be met to have a compensable duty disability claim.) <u>Physical/Mental</u> claim involves an actual physical injury which caused a mental issue. For example, a correctional officer is assaulted by an inmate causing a broken nose and wrist. The physical injury heals, but the correctional officer is now afraid, mentally, to return to work as a correctional officer. <u>Since the duty disability program requires a permanent work-related injury/illness, members do not return to their protective work. If they return to other types of work, those sources of earnings are offset from the duty disability, either dollar for dollar or in earnings tiers, depending on whether the member has returned to work at the same employer or a different employer.</u>
Who makes the disability determination? Is there an appeal process and, if so, how frequently is that used?	ETF Disability Case Managers adjudicate the duty disability claims and make the determination as to whether the claim should be approved or denied based on the evidence received from the member, 2 physicians and the employer. In cases of non-traumatic mental illness (i.e. PTSD due to an officer shooting where no physical injury to the officer was present), once the Disability Case Manager has all of the information necessary to make a determination in a case, a panel review is completed with the Disability Case Manager, Disability Programs Supervisor and Benefit Services Policy Advisor. The case, along with previous similar court decisions and the "Extraordinary Stress Standard" set forth by the Wisconsin Supreme Court, is discussed to determine whether the standard has been met. The outcome of the panel review is then shared with ETF's Legal team, and the Legal team gives their opinion prior to the final benefit determination being made. There is an appeal process and it is handled through the State of Wisconsin Department of Workforce Development, not through The Department of Employee Trust Funds. Regarding the frequency of appeals - For applications received since 1/1/2023 approximately 33% of all denials have been appealed.

Question

Answer

Does your state's pension plan have any communication with your state's workers' compensation system as a disability case moves through each system? If yes, what does that look like?	Yes, there is email and sometimes phone conversation with Workers' Comp due to the requirement to offset for any Workers' Comp benefits payable to the member after the duty disability effective date. The Disability Case Managers reach out to Workers' Comp once an approval determination has been made in a duty disability case before proceeding with the initial calculation of benefits. Members are also required to report any Workers' Comp benefits that are received. However, WC determinations and Duty Disability determinations are made independently by each agency.
Is it common for police officers and firefighters to retain legal counsel to represent them in seeking disability benefits or appealing a determination?	For disability retirement, no. For duty disability, in general, approximately 33% will have legal counsel, but if the claim is for non-traumatic mental illness/injury, approximately 75% have legal counsel when applying. For appeals most cases have legal counsel.
What is the average normal cost to the pension plan of providing disability benefits to a police officer or firefighter?	The average normal cost for Duty Disability to the WRS Pension plan would be zero, as the duty disability program is a separate program that is not maintained within the WRS Pension program. The duty disability program is funded through employer contributions. Please see the provided 6/18/26 ETF Board Meeting Presentation reflecting the duty disability program premium structure.
What health insurance coverage, if any, is available to members receiving disability benefits?	This was covered in the Disability Overview PowerPoint.
Unrelated to disability, is health insurance coverage provided for police officers and firefighters who retire before age 65?	No
Has your state's pension plan experienced what you might consider an excessive rate of disability leaves and as a consequence greater liability for disability benefits than anticipated? If so, have you put in place any measures to address that?	No
As a follow-on to the foregoing question, has this been particularly a concern with police officers and firefighters claiming disability benefits due to PTSD? If so, have you put in place any measures to address that?	No, The School District #1 standard set forth by the Wisconsin Supreme Court and the employer's ability to contest the claim addresses those concerns. The School District #1 standard places an "Extraordinary Stress Standard" on these types of claims which requires a higher standard for approval of benefits.
As another follow-on, have you detected any incidents of what might be considered fraudulent claims for disability benefits, such as cases where a police officer was going to be terminated for cause and claimed disability based on PTSD before the termination occurred? If so, have you put in place any measures to address that?	We have had some claims filed that were for members who were terminated for cause. However, the School District #1 standard set forth by the Wisconsin Supreme Court, as well as the employer's ability to contest duty disability claims, greatly mitigate this concern.