

Chapter 2. Short-term Disability

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Short-term Disability

Short-term disability benefits provide eligible employees with income protection if they become disabled and unable to work. Benefits cover absences due to most medical conditions.

A short-term disability is an illness, injury or other condition, such as surgery, pregnancy, complications from pregnancy or a major chronic or catastrophic condition, which prevents the employee from performing the full duties of his job. The Virginia Local Disability Program (VLDP) provides coverage for non-work related and work-related disabilities.

The maximum short-term disability period is 125 work days. The 125 work day period is based on a Monday-through-Friday work week. If the employee is still disabled after paid 125 workdays, he may be placed on long-term disability.

Employees receiving short-term disability are considered to be active employees. Employers should continue to report full pre-disability earnings for an employee on short-term disability to VRS.

ELIGIBILITY FOR SHORT-TERM BENEFITS

Employees are eligible for non-work related disability benefits when they have one year of continuous service with the same employer.

The number of months of continuous hybrid program participation determines the amount of income replacement an employee may receive. Continuous service with the same employer includes full-time salaried service and absences for military leave or periods of reduced hours or job restrictions while on disability.

An employee who moves from one school division or political subdivision employer to another must satisfy a new one year eligibility period for non-work related disability, as well as the five-year eligibility period for higher income replacement. This also applies if the employee leaves and then returns to a former position after a bona fide break in service. A bona fide break in service is a break of at least one full calendar month from the last day of employment over a period the employee normally would work.

ELIMINATION PERIOD

Short-term disability benefits provide an employee who is eligible for VLDP with income protection normally after seven consecutive calendar days of absence if he becomes ill or injured and cannot work. The seven consecutive calendar day elimination period begins on the date the employee is determined to be medically disabled.

Example: An employee, whose work week is Monday through Friday, falls ill on Monday, May 4th and does not report to work that day. She is out the rest of the week. If she does not return to work the following Monday, May 11th and is determined to be medically disabled as of May 4th, she begins to receive income replacement, effective Monday, May 11th.

If an employee works 20 hours or less during the seven consecutive calendar day elimination period, the elimination period is still satisfied.

Example: An employee, whose work week is Monday through Friday, falls ill on Monday, May 4th and does not report to work that day. He works eight hours on Tuesday and eight hours on Wednesday for a total of 16 hours. He is then absent the Thursday and Friday. If he does not return to work the following Monday, May 11th and is determined to be medically disabled as of May 4th, he begins to receive income replacement, effective Monday, May 11th. He did not work more than 20 hours during the waiting period.

If an employee works more than 20 hours during the waiting period, a new seven consecutive calendar day elimination period must be met before short-term disability benefits begin.

Major Chronic or Catastrophic Conditions

The seven consecutive calendar day elimination period may be waived if the employee's condition is determined by Reed Group to be major chronic or catastrophic. See the Disability Conditions section for an explanation of these conditions.

WORKERS' COMPENSATION

An employee may be eligible for workers' compensation benefits if the disability is the result of a work-related injury or illness. Work-related short-term disability benefits are coordinated through VLDP and the workers' compensation provider.

Workers' compensation is the primary benefit. VLDP benefits are secondary and are offset by payments received under workers' compensation.

If the workers' compensation claim is denied, then the employer may be responsible for recouping all payments to the employee for short-term disability while the workers' compensation decision was pending, unless the claim is approved by Reed Group.

An employee receiving workers' compensation benefits cannot retire until all Workers' Compensation benefits have been paid and offset.

See the Workers' Compensation Adjustments section of this chapter to determine how the VLDP payment is offset.

INITIATING A CLAIM

When an employee qualifies for short-term disability benefits under VLDP, he must notify Human Resources and file a claim with Reed Group within fourteen days of the first day of the disability. For illnesses or injuries that are known in advance, such as for a scheduled surgery or childbirth, the employee should notify Human Resources and Reed Group as soon as possible. This ensures the request for benefits will be evaluated with no disruption or delay. An employee may not receive benefits more than 14 days before the date the disability is reported to Reed Group.

If the employee incurs a work-related disability during the first year of employment, the employee must file a claim for benefits under the Workers' Compensation Act. Once the work-related disability has been approved by workers' compensation, the employee needs to file a claim with Reed Group.

To initiate the claim process, the employee must call Reed Group. You may provide the employee with Reed Group's telephonic brochure, available through Reed Group.

Retroactive Claim Procedure

VLDP will adjust benefits retroactively for a period up to 14 calendar days from when a claim is initiated. It is the employee's responsibility to file the claim timely.

Example: An employee becomes disabled on August 3rd but uses 20 days of annual leave to cover one month's absence. He doesn't report his disability until August 31st. Since the date of disability is August 3rd, his elimination period would be August 3 – August 9 if he reported the benefit on time. Benefits would have begun on August 10th. Because he waited to report the disability, benefits will begin on August 17th.

Short-term Disability Introduction Packet

When a short-term disability claim is initiated, Reed Group sends forms to the employee, to be returned to Reed Group or the employer, as instructed.

The documents include:

- Attending Physician Statement;
- Authorization for Release of Medical Information;
- Short-term Disability Repayment Form; and
- Short-term Disability Outside Earned Income Statement.

INCOME REPLACEMENT

Income replacement is different for non-work related disabilities and work-related disabilities. If the employer's leave policy allows it, an employee may use leave to supplement his short-term disability benefit during both non-work related and work-related disabilities.

Income Replacement for Non-Work Related Disabilities

After the one year waiting period for non-work related disability has been met, income replacement normally begins on the eighth calendar day of absence, after authorization by Reed Group. However, the seven consecutive day elimination period may be waived for catastrophic and major chronic conditions.

Use the following chart to determine the income replacement levels:

Months of Continuous Service	Workdays of Income Replacement at 100%	Workdays of Income Replacement at 80%	Workdays of Income Replacement at 60%
Less than 12	0	0	0
13 – 59	0	0	125
60 – 119	25	25	75
120 – 179	25	50	50
180 or more	25	75	25

Employees who complete five years of continuous service in the program with the same employer (which includes the one year period above) will be eligible for income replacement at the higher levels.

Employees who move to another employer that provides VLDP or to a state position covered under the Virginia Sickness and Disability Program (VSDP) are required to satisfy another five-year eligibility period for higher income replacement levels.

Income Replacement for Work-Related Disabilities

Income replacement normally begins on the eighth calendar day of absence, after authorization by Reed Group. However, the seven consecutive day elimination period may be waived for catastrophic and major chronic conditions. For employees with a work-related disability, use the following chart to determine the income replacement levels:

Months of Continuous Service	Workdays of Income Replacement at 100%	Workdays of Income Replacement at 80%	Workdays of Income Replacement at 60%
Fewer than 60	0	0	125
60 – 119	85	25	15
120 or more	85	40	0

Employees on a work-related claim who only receive a workers' compensation benefit do not continue to accrue VRS service when the member contribution ends. Employees are eligible to purchase this period.

Calculating Income Replacement

If the employee's workers' compensation claim is approved, it becomes the primary benefit. The employee will receive 66 2/3 percent of his average weekly wage at the time of the disability, within limits established by the Workers' Compensation Act. VLDP will supplement this benefit up to the applicable income replacement level. The VLDP benefit offsets the workers' compensation benefit.

Taxes

The benefits paid under non-work related short-term disability are fully taxable. Benefits for work-related short-term disability are not taxable; however, pay for the following is taxable:

- Annual leave; and
- Other eligible leave used to supplement income replacement at 100 percent.

CONTRIBUTIONS

The employee retains VRS membership while on short-term disability. The employee continues to accrue service credit and remains eligible for retirement after reaching age and service requirements. Time spent on short-term disability counts toward the five years needed to become vested for a retirement benefit.

While the employee is on short-term disability and the employer is paying the employee, the employer continues to report the employee's creditable compensation and deducts the member contribution. The reported creditable compensation should be the full amount of the employee's pre-disability earnings.

During periods of non-work related short-term disability, the employee continues to contribute 4 percent to the defined benefit component and 1 percent to the defined contribution component of the Hybrid Retirement Plan. However, he is not required to continue any voluntary contributions. The employer must contribute 1 percent to the defined contribution component of the Hybrid Retirement Plan and continue to make the required defined benefit contributions.

For employees on work-related disability, contributions depend on how the employer reports. If the employee receives only the workers' compensation benefit, the employer does not deduct the VRS member contribution. This means the member will not accrue service credit for this period of short-term disability. However, the member will be eligible to purchase this period as service credit. Contact VRS to determine the process.

DISABILITY CONDITIONS

If the employee's disability condition meets the requirements for a major chronic or a catastrophic condition outlined below, the seven day elimination period is waived.

Major Chronic Condition

A disability is determined to be major chronic if it is a life-threatening health condition that exists over a prolonged period of time and is not expected to resolve in the foreseeable future. The employee must:

- Be determined to be disabled by a licensed treating healthcare professional;
- Have an approved disability claim with the same condition within the last six months; and
- Be under the ongoing care of a licensed treating healthcare professional.

The determination of a life threatening health condition is made at the discretion of the VLDP plan administrator. All cases are reviewed and updated with additional medical information on an individual basis.

Catastrophic Condition

If it is determined that the disability is catastrophic, the 60 percent income replacement level may be increased to 80 percent for the duration of the disability. Reed Group will consult with the employee's licensed treating healthcare professional and determine if the employee's condition is catastrophic and when the 80 percent disability payments begin.

A disability is determined to be catastrophic if an employee requires substantial supervision to protect the employee from threats to health and safety as a result of severe cognitive impairment or is unable to perform at least two of the six activities of daily living (ADL). These activities are:

- Bathing;
- Dressing;
- Eating (ability to feed oneself);
- Controlling the bladder or bowel;
- Toileting (ability to get on and off the toilet and a reasonable level of personal hygiene); and
- Transferring (getting in or out of bed or chairs).

If the employee's condition improves so he no longer meets the criteria for catastrophic disability, but is still on long-term disability, the income replacement returns to 60 percent of the pre-disability income.

Partial Disability

Partial disability exists during the first 24 months following the onset of an injury or illness when an employee is earning less than 80 percent of his pre-disability income and, as a result of the illness or injury, the employee is:

- Able to perform one or more, but not all of the essential functions of his own job in an active employment status; or
- Able to perform all the essential job functions of his own job on a part-time basis only.

Total Disability

A total disability exists when an employee is not able to work any hours due to an injury or illness.

Successive Periods of Short-term Disability Due to the Same Condition

If the licensed treating healthcare professional releases the employee to return to work full-time, full-duty and he becomes disabled again due to the same or similar condition within 45 consecutive calendar days, the employee will be on the same short-term disability claim. Income replacement resumes at the level the employee was receiving during the previous disability period.

Note: If during the 45-day recurrent period an employee:

- misses a full day of work for any reason and
- seeks medical treatment on that day for the reason he was on claim, then he must satisfy a new 45-day recurrent period.

When the Condition Becomes a New Disability

A new period of short-term disability begins when the employee:

- Returns to work full-time/full-duty for 45 or more consecutive calendar days; or
- Experiences a new disability or illness during the 45 calendar day period, unrelated to the first condition.

The employee must satisfy a new seven consecutive calendar day elimination period.

ADJUSTMENTS TO DISABILITY BENEFITS

An employee is responsible for reporting any additional income to his employer. If an employee receives or is eligible to receive income and/or benefits from certain sources, the VLDP benefits will be offset. When combined with the income from these other sources, the employee cannot receive more than one hundred percent of his pre-disability income.

Short-term disability benefit payments will be reduced by the amount of income from the following sources:

- Disability payments from the Social Security Administration or other similar government program benefits that the employee or his family is entitled to as a result of the qualifying disability;
- Benefits paid under any other governmental disability program, including local government disability benefits, or federal civil service benefits that are paid for the same disabling condition;
- Benefits received from any other employer-sponsored group insurance contract for the purpose of providing income replacement for the same disabling condition (does not include any disability insurance purchased directly by the employees); or
- Benefits paid under any compulsory benefits law, such as workers' compensation, severance or unemployment compensation.

Note: Cost-of-living increases received in payments from sources listed above will not be considered in the offset of the VLDP benefit.

Earned Income Adjustments

Short-term disability payments are adjusted for wages and salary reported on W-2 forms and income from self-employment. To calculate the adjusted short-term disability income benefit, reduce the pre-disability income amount by the outside income and apply the appropriate percentage of income replacement. To determine the total monthly income, add the outside income to the adjusted short-term disability benefit.

Example: An employee's pre-disability income is \$3,000 per month from the employer with an additional \$1,000 from outside income. During short-term disability, the outside income offsets the pre-disability income and the employee receives the appropriate percentage of the remaining balance:

$$100\% \text{ income replacement} - (\$3,000 - \$1,000) \times 100\% = \$2,000$$

$$80\% \text{ income replacement} - (\$3,000 - \$1,000) \times 80\% = \$1,600$$

$$60\% \text{ income replacement} - (\$3,000 - \$1,000) \times 60\% = \$1,200$$

Benefit Overpayments

Employees who are overpaid are required to repay any overpayment to their employer. The employer may also choose to collect interest on the overpayment amount.

The employee may also be responsible for repayment of payments due to:

- Falsification of statements;
- Falsification of any record knowingly made by or on behalf of the employee; or
- The employee's failure to make any report of change in disability status.

Workers' Compensation Adjustments

If the disability is work-related and the employee is receiving a workers' compensation benefit, the workers' compensation benefit is paid first. If the workers' compensation benefit is greater than the short-term disability benefit, no VLDP benefit is payable.

Lump-sum settlements under workers' compensation are prorated over the period during which the employee receives the VLDP disability benefit. Payments made under the Workers' Compensation Act for permanent partial disabilities and medical, legal or rehabilitation expenses are not included in determining the prorated amount.

Example: An employee receives \$600 a week under workers' compensation. He accepts a lump sum settlement amount of \$12,000, which includes a payment of \$6,000 to cover both medical and legal expenses. Subtracting the medical and legal expenses from the \$12,000 yields a net lump sum payment of \$6,000. This net lump sum of \$6,000 is divided by the \$600 per week payment he would have received if he had not accepted the settlement ($\$6,000 \div \$600 = 10$ weeks).

The VLDP supplemental benefit would apply as though the weekly workers' compensation benefit was being paid for a period of 10 weeks. After the 10 weeks, the full VLDP benefit would be paid at the appropriate income replacement level.

9, 10 AND 11-MONTH EMPLOYEES

Employees are only eligible for disability benefits during the contract months, even if they are being paid during the off months. If the employee becomes disabled during the contract period, he will receive benefits, but benefits end when the contract ends. If the employee's contract is renewed, the benefits start again.

Employees who work on 9, 10 and 11-month contracts and are paid over 24 pay periods are paid a base rate and retained earnings. If the employee becomes disabled, the income replacement percentage will be applied to both the base rate and the retained earnings.

Disability While in a Non-Contractual Period

An employee may become injured or ill during a non-contractual period. Because the employee has fulfilled the contract and employment responsibilities for the year (e.g., faculty member in the summer), he is not required to report their injury or illness at the time of its occurrence.

If the employee reports the claim to Reed Group during the non-contract period (e.g., faculty member in the summer), he won't receive benefits during that time. However, if the disability prevents the employee from returning to work at the beginning of a new contract year, he may be eligible for benefits under VLDP.

If the employee does not report the claim to VLDP until the beginning of the new contract period, the employee is eligible to begin receiving short-term disability at the appropriate income replacement level (based on hire date), if approved under VLDP. The employee must satisfy the seven consecutive calendar day elimination period following the date of the disability.

Employees Paid During Non-Contractual Periods

Contract employees who elected to receive year round paychecks vs. only during the contract time frame will not receive short-term disability pay, even if the disability occurred prior to the end of the contract. Short-term disability payments stop at the end of the contract and will resume at the beginning of the new contract period if the employee remains disabled.

Example: An employee's contract ends May 15th and a new contract period will begin on August 15th. The employee becomes disabled on April 15th and is approved for a short-term disability claim through June 10th. The employee would only receive benefits through the contract end date of May 15th. If the employee is not able to return to work due to his disability on August 15th (the beginning of the new contract), the short-term disability benefits will resume as long as the employee is still medically supported.

Non-Renewal of Employment Contract

If an employee is receiving short-term disability benefits and his contract is not renewed, the short-term disability benefits end when the contract ends.

Example: An employee's contract ends May 15th with no contract renewal. He becomes injured March 1st. Short-term disability benefits end May 15th and the employee is terminated as of that date.

MISCELLANEOUS

Severance

VLDP benefits are offset by severance payments. Employees who are still disabled at the end of severance will continue to receive VLDP benefits, as long as the illness or disability continues to be clinically and administratively approved.

Workers' compensation benefits are not offset by severance benefits; however, the VLDP portion received by the employee is offset by severance.

Holiday Pay While on Disability

An employee on short-term disability receives 100 percent, 80 percent or 60 percent (depending on the employee's benefit income level as of the holiday) for the hours he does not work on the holiday, provided the disability absence is authorized.

Example: During the seven calendar day elimination period, count any holidays towards the seven calendar day elimination period. Once the employee begins to receive short-term disability benefits, the employer will pay the employee for the holiday based on the level of short-term disability benefit (100%, 80% or 60%).

END OF SHORT-TERM DISABILITY BENEFITS

Short-term disability benefits end when the employee does one of the following:

- Returns to work on a full-time, full duty basis;
- Takes a refund of the VRS contributions and interest from the defined benefit component of the Hybrid Retirement Plan¹;
- Is no longer medically eligible;
- Resigns from employment;
- Is terminated from employment for cause;
- Receives long-term disability benefits;
- Does not cooperate or comply with the requirements of VLDP;
- Begins to receive a VRS service retirement benefit; or
- Dies.

Note: An employee is not allowed to take service retirement while receiving workers' compensation benefits.

Employees who fail to comply with the VLDP requirements during short-term disability periods, such as return-to-work arrangements or vocational rehabilitation, may have benefits reduced to at least 50 percent and cease

¹ See the VRS Employer Manual, Chapter 7, Refunds.

entirely. The employee may also be subject to disciplinary action, up to and including termination from the program and from employment.

If the employee dies during short-term disability, his survivor may be eligible for death in service benefits. The survivor should contact your human resource office for more information about death-in-service survivor benefits.

RETURN TO WORK

Employers are responsible for establishing specific policies and procedures and creating opportunities for employees to be able to return to work. The goal is an employee's safe return to gainful employment, though the return to the same position is not guaranteed.

This section applies to employees who have met the one year waiting period requirements and have gone out on short-term disability.

Return to Work Programs

If you offer a return to work program, Reed Group, your human resource office and the employee's licensed treating healthcare professional work together to develop a transitional plan or a medical or vocational rehabilitation plan for the employee. The transitional plan will help the employee to gradually return to full duty. If the employee cannot return to work full-time, full-duty, the human resources office provides a job description to Reed Group.

The job description is reviewed and an evaluation is prepared to determine physical activities the employee can safely perform. The evaluation covers how long the employee can sit, stand, walk and how many pounds he can safely lift or carry. The Human Resources office determines whether the employer is able to accept the temporary job modifications.

Each employer should have specific policies and procedures that include the maximum length of time temporary accommodations may be offered to employees.

Employees may continue to receive VLDP disability benefits while working under a return to work program. The VLDP benefit is adjusted by any income earned while in the program.

An employee may also return to work immediately if he presents a doctor's note to you releasing the employee to return to work full-time and full duty prior to the authorized end date. Fax the note to and then call Reed Group to verify the note is from the licensed treating healthcare professional who certified the disability.

If the doctor's note indicates restrictions, review the request and determine if you can accommodate these restrictions. If Reed Group confirms the doctor's note is from the licensed treating healthcare professional who certified the disability, the employee may return to work immediately.

Additional Services Provided by Reed Group

VLDP provides medical and vocational case management during periods of short-term disability. The employee may be required to participate in such a plan while receiving short-term disability benefits. The plan may be a medical plan prescribed by a licensed treating healthcare professional or a vocational rehabilitation plan or a return to work plan coordinated on the employee's behalf by Reed Group, you or a rehabilitation services provider. The plan must be consistent with the licensed healthcare treating professional's recommendations regarding the employee's ability to return to work.

The first priority is to return the employee to the same job. If that is not possible, Reed Group will work with the employee, your human resource office and the licensed treating healthcare professionals to attempt to return

him to another position. Placement options may include working in a new position.

The vocational rehabilitation counselor will take the following into account in working with the employee on a formal vocational rehabilitation plan:

- Physical/mental capabilities;
- Educational background;
- Work history;
- Transferable skills;
- Pre-disability wages and salary;
- Interests; and
- Aptitudes.

The purpose of return-to-work and vocational rehabilitation plans is to return the employee to work safely. If the employee does not comply with the plan, short-term disability benefits may be reduced by 50 percent or discontinued, and the employee may be subject to disciplinary action or termination from his job.

If work is arranged through a vocational, rehabilitation or return to work plan, or if an employee returns to work with job modifications or reduced hours, the days worked are not counted in determining the duration of the return to work period. For more information, see the Successive Periods of Short-term Disability Due to the Same Condition section of this chapter.

RESPONSIBILITIES

Each of the following key parties work to make the disability process as easy as possible and return the employee to work, as soon as he is medically able.

Employee

Throughout the period of short-term disability, an employee must comply with any medical or vocational rehabilitation requirements that Reed Group has established, reporting to HR any outside income received, and communicating with his supervisor. The employee:

- Initiates the short-term disability claim by contacting Reed Group and human resource representative;
- Returns the Attending Provider Statement and Medical Authorization form to Reed Group;
- Complies with any return-to-work initiatives prepared by his employer;
- Stays in regular contact with his supervisor;
- Complies with any vocational and physical rehabilitation requirements;
- Contacts the employer and Reed Group;
- Works with the licensed treating healthcare professional to ensure the timely delivery of medical information to Reed Group; and
- Reports all outside earned income while on disability by returning the Repayment Agreement and Outside Earned Income Report form to the employer.

Employer

Employers are responsible for helping employees throughout the entire short-term disability period. The employer:

- Advises the employee of the impact of FMLA on the period of disability;
- Pays the employee while he is on short-term disability;
- Communicates with the employee throughout the period of disability;
- Discusses with employee which leave type to use to cover elimination period and periods of short-term disability when income goes below 100 percent, if offered by the employer;
- Works with Reed Group to develop return-to-work plans for short-term disability participants; and
- Assists an employee in returning to work when it is medically advisable to do so.

Licensed Treating Healthcare Professional

The employee's licensed treating healthcare professional plays an important role in helping the employee return to work. The licensed treating healthcare professional:

- Receives the employee's signed medical release form;
- Provides the employee's medical information to Reed Group;
- Participates in planning for the employee's rehabilitation throughout the employee's period of disability; and
- Coordinates the employee's return to work efforts with Reed Group and the employer.

Reed Group

Reed Group, the third party administrator for VLDP, serves as the coordinator of the short-term disability process. Reed Group:

- Opens the claim and advises employees of next steps;
- Mails an information packet to the employee upon notification of a new claim;
- Receives the employee's medical information from the employee's licensed treating healthcare professional;
- Reviews the claim and approves or denies it;
- Advises both the employers and the employees of the claim status;
- Advises employers of any of the employee's additional reported income which will offset their benefit payments;
- Coordinates the return-to-work program with the employer and licensed treating healthcare professional; and
- Manages any issues of non-compliance.