

Chapter 2. VSDP Benefits

Table of Contents

VSDP BENEFITS AT A GLANCE	1
ELIGIBILITY	2
Eligible Employees	
Ineligible Employees	
Dual Employment	
ENROLLMENT	4
Faculty	
PREVIOUS SERVICE	5
PROBATIONARY PERIOD	6
TAXES	7
SOCIAL SECURITY DISABILITY INSURANCE BENEFITS	7
Filing a Social Security Disability Claim	
Social Security Disability Benefits Award	
Social Security Disability Benefits Denial	
ADJUSTMENTS TO BENEFITS	9
EXCLUSIONS AND LIMITATIONS	10
CONFIDENTIALITY	11
REVIEW AND APPEAL PROCESS	12
Appeal Process	

VSDP Benefits

Full- or part-time salaried employees of the Commonwealth are automatically enrolled in VSDP. The hire date of the employee determines the level of coverage.

VSDP BENEFITS AT A GLANCE

An employee may not receive more than one disability benefit under VSDP for concurrent illnesses or injuries. The following chart contains a summary of benefits. Each benefit is covered in more detail in the corresponding chapters of this VSDP employer manual.

Benefit:	Coverage:	When Coverage Begins:
Sick Leave	Used for personal illness, pregnancy and doctor's visits	First day of employment
Family and Personal Leave	Used for personal reasons, family reasons or personal illness	First day of employment
Long-term Care Plan	Pays a daily reimbursement for medical, personal and social services provided in a nursing care facility, assisted living, home health or respite care	<i>Employees hired or re-hired before July 1, 2009:</i> First day of employment for work related and non-work related disabilities <i>Employees hired or re-hired on or after July 1, 2009:</i> First day of employment for work-related disabilities; after one year of continuous employment for non-work related disabilities

Short-term Disability	Provides short-term income protection if an employee becomes disabled and cannot work, beginning after a seven-calendar-day waiting period	<p><i>Employees hired or re-hired before July 1, 2009:</i> First day of employment for work related and non-work related disabilities</p> <p><i>Employees hired or re-hired on or after July 1, 2009:</i> First day of employment for work-related disabilities; after one year of continuous employment for non-work related disabilities</p>
Long-term Disability	Provides income replacement if an employee becomes disabled and cannot work after the expiration of the maximum period of short-term disability	<p><i>Employees hired or re-hired before July 1, 2009:</i> First day of employment for work related and non-work related disabilities</p> <p><i>Employees hired or re-hired on or after July 1, 2009:</i> First day of employment for work-related disabilities; after one year of continuous employment for non-work related disabilities</p>

ELIGIBILITY

Eligible Employees

Full-time and part-time salaried employees of the Commonwealth of Virginia are covered under VSDP. *Eligible employees* include:

- Active members of the Virginia Retirement System (VRS) defined benefit plan
- Active members of the State Police Officers' Retirement System (SPORS)
- Active members of the Virginia Law Officers' Retirement System (VaLORS)
- Full-time teaching, research or administrative faculty of a Virginia public institution of higher education who participate in VRS defined benefit plan and elect VSDP coverage
- Part-time faculty members covered under VRS defined benefit plan who elect VSDP coverage.

Newly hired faculty of state universities of higher education in teaching, research or administrative positions who elect VRS as their retirement plan may elect coverage under VSDP or any disability plan offered by the institution. If the institution does not offer an alternative disability plan, the faculty member is automatically covered under VSDP.

An employee in a grant-funded position is eligible for VSDP benefits, even though the grant may expire after the employee begins disability. The employer may ask the organization providing the money for the grant-funded position to further agree to pay for short-term disability benefits. Long-term disability benefits are paid by the VSDP trust fund.

Ineligible Employees

The following employees are not eligible for VSDP benefits:

- Members of the Judicial Retirement System (JRS)
- Employees of political subdivisions
- Employees of public school divisions
- Wage employees and adjunct faculty
- Teaching, research and administrative faculty of Virginia public institutions of higher education who participate in the Optional Retirement Plan (ORP)
- Employees participating in a non-VRS retirement plan
- Virginia Port Authority employees who are not members of VRS
- Department of Visually Handicapped employees pursuant to Section 51.5-72 of the Code of Virginia
- Former state employees of the Virginia Department of Health who have been transferred to local governments.
- Employees of the Medical College of Virginia Hospitals Authority
- Employees of the University of Virginia Medical Center
- Employees who participate in the Optional Retirement Plan for Political Appointees
- Employees who are suspended without pay for disciplinary reasons, including suspensions pending investigation or court decision, for the duration of the suspension only
- Employees on leave without pay or on unpaid Family Medical Leave; however, these employees are eligible for the VSDP Long-term Care Plan

Dual Employment

A member who is employed in more than one position which provides coverage under the program must elect, by written notice to VRS, one position under which the retirement coverage will be based.

ENROLLMENT

New hires begin VSDP coverage after 12 months.

Employees hired on or after July 1, 2009, begin VSDP coverage after one continuous year of *active employment* or re-employment. Employees hired or rehired on or after January 1, 1999 but prior to July 1, 2009 were automatically enrolled in VSDP, with coverage effective the first day of employment. Employees covered by VSDP who transfer with no break in service to another employer providing VSDP remain covered and are not considered a rehire. These transferred employees do not need to meet the requirement of a year of continuous service.

Employees who enrolled in VSDP during the 1999 and 2002 open enrollments had the option to convert accumulated sick leave to *disability credits* or purchase VRS *service credit*. Disability credits may be used to bring income replacement to 100% during periods of 80% income replacement and 60% income replacement.

Employees must use disability credits during long term disability. Employees who leave covered employment may convert unused disability credits to VRS service credit or elect to be paid for 25 percent of the balance, up to a maximum of \$5000.

Faculty

Faculty members have the option to join VRS or an ORP.

Newly hired faculty members have 60 days to choose either VRS defined benefits plan or an Optional Retirement Plan (ORP). If a state institution of higher education has an alternative employer sponsored disability program, and the employee chooses VRS, he or she may participate in either VSDP or the school's disability plan. If the employee chooses the ORP, he or she is not eligible to participate in VSDP. If the faculty member was newly hired

on or after July 1, 2009 and elects to participate in VRS retirement plan and VSDP, they will have a one year waiting period for a non-work related disability.

Employees hired by an institution of higher education in a faculty position performing teaching, research or administrative duties who elect VRS must also elect VSDP or an existing program provided by their institution within 60 calendar days of employment.

The employee must complete a College and University Faculty Opt-Out (VSDP-2) within 60 calendar days of employment.

Note: Once the decision of a disability program has been made, the election is irrevocable.

If a state institution of higher education does not offer an alternative employer sponsored disability plan, newly hired faculty on or after July 1, 2009 who elect the VRS retirement plan are automatically enrolled in VSDP, and have a one year waiting period for non-work related disability.

<i>If your employee is:</i>	<i>And changes to:</i>	<i>Then the employee is:</i>
in a faculty position with VSDP	a classified position	not a new hire
in a classified position with VSDP	a faculty position	not a new hire
in a faculty position and opted out of VSDP	a classified position	a new hire
in a classified pre-1999 position and opted out of VSDP	a classified VSDP position	a new hire

PREVIOUS SERVICE

For employees hired before July 1, 2009, the amount of VSDP *career state service* determines the amount of income replacement for short-term and long-term disability. Prior service is not considered for employees hired on

or after July 1, 2009 until the employee reaches his or her five-year anniversary date.

Local government service does not count toward VSDP career state service. Career state service includes full-time and part-time salaried state service and absences for military leave, layoffs, temporary workforce reductions or periods of reduced hours or job restrictions while on short-term or long-term disability.

Short-term disability and long-term disability working absences also count toward an employee's length of career state service in the VSDP.

PROBATIONARY PERIOD

A *probationary period*¹ is an introductory period of employment that allows the employee and agency to determine if the employee is suited for the job. Probationary periods must be extended when probationary employees are on any leave with or without pay for more than 14 consecutive days, including:

- Workers' Compensation,
- Family Medical Leave,
- Military leave with or without pay,
- VSDP short-term disability leave,
- VSDP long-term disability working status, or
- Periods of short-term disability where the employee is working in an "active employment" status with restrictions or modifications.

Extensions include the first 14 days of absence, as well as those days in excess of 14, up to the return to work date.

Any time spent on short-term disability or short-term disability working status will extend the employee's probationary date. When the employee is

¹ DHRM Policy 4.57

released for full-time duty, the probationary date should be adjusted if the period of absence was more than 14 consecutive calendar days.

Employees on short-term disability during the probationary period are at will employees. This means the employee may be terminated during any period in which he or she has been released by the *licensed treating professional* to work. Nothing in VSDP changes an employee's at will status during a probationary period. However, make sure your agency is not violating the Americans with Disabilities Act (ADA)², *Family and Medical Leave Act (FMLA)* or other provisions of law.

TAXES

The benefits paid under a non-work related short-term or long-term disability are fully taxable. The benefits paid under a work-related disability are not taxable because the benefits are deemed to be in the form of a Workers' Compensation benefit.

Pay for disability credits, annual leave, family and personal leave or other eligible leave used to supplement income replacement at 100 percent while the employee is receiving short-term or long-term work-related disability under VSDP is fully taxable.

SOCIAL SECURITY DISABILITY INSURANCE BENEFITS

In addition to VSDP benefits, employees may also be eligible for Social Security Disability Insurance benefits (SSDI). An employee over the age of 30 is eligible for SSDI benefits if he or she:

- has a terminal condition, or

² The Americans with Disabilities Act requires covered employers to provide reasonable accommodation to qualified disabled individuals, unless that accommodation would impose an undue hardship on the employer.

- is unable to perform any kind of work for which he or she is reasonably qualified at least a year before applying for SSDI benefits.

The employee must have been employed in five out the previous 10 years before being considered for SSDI benefits.

Note: Contact the Social Security Administration (SSA) for the special rules for individuals younger than age 30.

Filing a Social Security Disability Claim

Reed Group provides Social Security filing assistance through Allsup at no cost to the member. If the member is on long-term disability and chooses representation by a party other than Allsup, the benefit will be reduced during the Social Security application process by an estimated Social Security benefit amount. The member may avoid this reduction by using Allsup's services when they file with Social Security. Expenses incurred by private representation are the responsibility of the member and will not be reimbursed.

Allsup provides Social Security filing assistance at no cost to the member.

Qualification for SSDI benefits does not automatically qualify the employee for VSDP disability benefits. If the employee files a claim for VSDP benefits and Reed Group determines the employee may also be eligible for SSDI benefits, he or she must apply with the SSA. If the employee uses the Allsup service, Reed Group will assist with the application and any necessary appeals at no cost to the employee. However, if the employee files a Social Security claim independently, Reed Group will not assist with any appeals.

If the employee chooses not to use Allsup, he or she should have the following information ready when filing a Social Security claim:

- Social Security number
- A certified copy of the employee's birth certificate
- W-2 forms for the past two years
- Names, address and phone numbers of the licensed treating professionals, as well as any clinics or hospitals where the employee has been treated.

Social Security Disability Benefits Award

It typically takes three to five months for the SSA to process an application and notify the employee of the authorization of SSDI benefits.

If the employee has been approved for VSDP disability benefits, he or she will receive VSDP benefits while waiting for notification from Social Security. When the employee begins to receive the SSDI benefits, the VSDP benefit will be offset by the Social Security amount.

Note: If the Social Security disability benefits award is retroactive over a period the employee received VSDP benefits, the employee will be required to reimburse the employer and/or Reed Group for the overpayments.

Social Security Disability Benefits Denial

If the SSDI benefits claim is denied and the member used Allsup to file, Reed Group can assist the employee in filing an appeal at no cost. If the SSDI benefits claim is denied and the employee is still eligible for disability benefits under VSDP, the VSDP benefits will continue so long as the claim is in appeal. However, if the employee does not file an appeal, the VSDP benefit could be reduced or stopped.

ADJUSTMENTS TO BENEFITS

VSDP benefits are adjusted for any outside income earned while on short-term or long-term disability. If the employee receives income other than the VSDP benefit, he or she must complete an Outside Earned Income Reporting form that is included in the VSDP introductory packet. The employee will be required to repay, with interest, any overpayments of disability benefits received under VSDP.

The employee must report to Reed Group the following payments received as the result of the same disability from the following sources:

- Any disability payments the employee or employee's family receives from the Social Security Administration or other similar governmental disability program that the employee receives;
- Wages or salary reported on W-2 forms and income from self-employment;
- Benefits received from any other state agency-sponsored group insurance contract for the purpose of providing income replacement for the same condition, not including any disability insurance purchased directly;
- Benefits paid under any compulsory benefits law, such as Workers' Compensation, *severance* or unemployment compensation;
- Benefits paid under any other governmental disability program, including local government disability benefits and federal civil service benefits.

Note: Cost-of-living increases from any of the sources listed above are not included in the adjustment of the VSDP benefit.

EXCLUSIONS AND LIMITATION

- Short-term and long-term disability benefits are not payable if the disability results from committing a felony or during a period while the employee was incarcerated. It is the employee's responsibility to notify Reed Group within five calendar days of an incarceration to avoid an overpayment that must be repaid.
- Long-term disability benefits are not payable if the disability results from the abuse of alcohol, the misuse of any prescribed medication or the misuse of any controlled substance, unless the employee is actively receiving treatment. Reed Group must agree the employee is fully complying with the treatment plan and making substantial progress toward rehabilitation.
- Six weeks of post-partum benefits are provided in the case of normal, uncomplicated deliveries or C-section deliveries.
- Short-term and long-term disability benefits are not payable when Reed Group determines, based on medical evidence and other documentation provided by the employee, that it can no longer certify the disability.
- Short-term and long-term disability benefits are not payable if the employee does not seek ongoing treatment from a licensed treating

professional and does not participate in proper care and treatment programs.

- The third-party administrator may base the decision to pay or not pay the disability benefit solely on objective medical evidence, notwithstanding a licensed treating professional's request.
- Short-term and long-term disability benefits are reduced 50 percent if the employee fails to cooperate with the prescribed rehabilitation program.
- The VSDP may require copies of year-end tax statements and/or state and federal tax filings annually to certify income from gainful employment as part of the administration of statutory offsets under the program.
- Short-term and long-term disability benefits are not payable if the employee ceases to be a member of the VRS, due to withdrawal of member contributions or termination of employment.
- Long-term disability benefits are not payable if the employee is able to perform the full duties of the pre-disability position on a full-time basis, within the first 24 months of disability. Long-term disability benefits are not payable if the employee is able to perform the full duties of any job for which he or she is reasonably qualified based on training and experience, without restrictions, after 24 months of disability or earning 80 percent or more of the pre-disability income.
- The employee's return to the pre-disability position or any other VRS-covered position is not guaranteed after the transition into long-term disability.
- If the employee's payments under the Workers' Compensation Act are adjusted or terminated for refusal to work or to comply with the requirements of Section 65.2-603 of the Code of Virginia, the VSDP disability benefits will be calculated as if the employee were receiving the payments. The employee must meet the VSDP eligibility requirements.
- If the employee fails to comply or cooperate with VSDP requirements, benefits under the program may cease.

CONFIDENTIALITY

Medical records and other information relating to the employee's disability claim are maintained and stored by Reed Group, in compliance with state and federal privacy laws and regulations governing such information.

For quality assurance purposes, VRS does audit and monitor periodically Reed Group's interaction with VSDP participants and employer contacts.

To maintain confidentiality, the employer receives only the following information:

- date the disability is initiated;
- whether short-term or long-term disability is requested;
- authorized start and end dates of the disability;
- estimated return-to-work date;
- type of claim, such as work-related or non-work-related;
- number of hours a day the employee is able to work;
- dates to begin paying the employee at 100 percent, 80 percent and 60 percent income; and
- case closure dates.

REVIEW AND APPEAL PROCESS

Reed Group evaluates claims and monitors continued eligibility for disability benefits. The evaluation includes a thorough review of all available clinical, medical, vocational and employer information. Reed Group may also contact the employee's licensed treating professional to discuss the disability claim.

The employee will be notified in writing of any Reed Group claim decision. If the claim is denied or terminated, the employee will be given the reasons as well as the steps to appeal the decision, should the employee wish to pursue an appeal. The employee must notify Reed Group of the decision to appeal within 180 calendar days from the date of the decision letter.

Appeal Process

The appeal process is outlined below:

1. The employee receives a decision letter from Reed Group explaining the benefits have been denied or terminated.
2. The employee submits a written appeal letter to Reed Group, including any additional medical information related to the denial or other reason for disputing the disability claim decision. The employee should include any additional information supporting the disability, including payroll or occupational information.

3. The employee receives an acknowledgement letter from Reed Group, with the name and phone number of the appeals specialist handling the appeal.
4. Reed Group has an initial review period of 45 days. If there are circumstances beyond the control of Reed Group, the appeals specialist will notify the employee that it may take up to 45 additional days to reach a determination. The employee may be asked to provide additional information for review, though the time required to provide this information is not included in the 45-day limit.
5. The appeals specialist sends the employee an appeal decision letter. If the benefits are still denied or terminated after this appeal, the employee may appeal the decision again if additional information is provided within the period of time specified in the denial letter.
6. The appeals specialist sends the employee an acknowledgment letter that Reed Group received the re-appeal by the employee. The claim will go through a second appeal process.
7. The appeals specialist sends the employee a re-appeal decision letter. If the benefits are still denied or terminated after this re-appeal, the employee may request a circuit court judge to review Reed Group's re-appeal decision. The employee should file a notice of appeal with VRS, along with a copy to Reed Group within 30 days after the date of the re-appeal decision letter denying or terminating benefits. The letter informs the employee that the rules of the Supreme Court of Virginia govern all circuit court appeals, and the employee may wish to consult an attorney.

Note: At any time during the appeal process the appeals specialist may reverse the denial or termination of benefits. The employee will receive a written letter stating the approval and any applicable past due benefits.