

# Chapter 5. Short-term Disability

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## Short-term Disability

**S**hort-term disability benefits provide eligible state 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 you from performing the full duties of your job. The Virginia Sickness and Disability Program (VSDP) 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 125 workdays, he or she may be placed on long-term disability.

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

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### WAITING PERIOD

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Short-term disability benefits provide an employee who is eligible for VSDP with income protection normally after seven-calendar days of absence if he or she becomes ill or injured and cannot work. The seven calendar day

waiting period begins the first day of the injury, illness or period of maternity leave.

**Example:** An employee, whose work week is Monday through Friday, falls ill on Monday, May 4<sup>th</sup> 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 11<sup>th</sup> and is certified eligible by VSDP, she begins to receive income replacement, effective Monday, May 11<sup>th</sup>.

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

**Example:** An employee, whose work week is Monday through Friday, falls ill on Monday, May 4<sup>th</sup> 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 11<sup>th</sup> and is certified eligible by VSDP, he begins to receive income replacement, effective Monday, May 11<sup>th</sup>. 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-calendar day waiting period must be met before short-term disability benefits begin.

If the disability is work-related, the employee is covered from the date the Workers' Compensation claim is approved.

## Major Chronic or Catastrophic Conditions

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

The seven-calendar day waiting period is waived only for the period in which the disability is determined to be major chronic or catastrophic.

**Example:** An employee is diagnosed with lupus. During the first period of disability, the condition is not considered major chronic or catastrophic. A

seven-calendar day waiting period is required. Later, during a subsequent period of disability absence, the condition is determined by the VSDP administrator to be major chronic and the seven-calendar day waiting period is waived.

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## WORKERS' COMPENSATION

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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 VSDP, DHRM and the Office of Workers' Compensation.

Workers' Compensation is the primary benefit. VSDP benefits are secondary and are offset by payments received under Workers' Compensation.

If the Workers' Compensation claim is denied, then the employer is responsible for recouping all payments to the employee for short-term disability while the Workers' Compensation decision was pending.

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

See the Workers' Compensation Adjustments section to determine how the VSDP payment is offset.

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## INITIATING A CLAIM

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When an employee qualifies for short-term disability benefits under VSDP, he or she 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 was hired before July 1, 2009 and incurs a work related disability, he or she must file a claim for benefits under both VSDP and the Workers' Compensation Act to receive the full benefits. While the Workers' Compensation claim is being reviewed, Reed Group will manage the disability as non-work related.

If the employee was hired or re-hired on or after July 1, 2009 and 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 the State Employees' Workers' Compensation Services, the employee needs to file a claim under VSDP with Reed Group.

To initiate the claim process, the employee must call Reed Group at 1/877/928-7021.

### Retroactive Claim Procedure

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VSDP 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.

### Retroactive Claim Procedure Example

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An employee becomes disabled on August 3, 2011 but uses 20 days of annual leave to cover one month's absence. He doesn't report his disability until August 31, 2011 and now wants the month to count towards VSDP benefits. The employer may only look back 14 calendar days prior to the day the disability is reported. His waiting period would be August 17 through August 23, 2011 and short-term disability benefits are paid beginning on August 24, 2011. The agency adjusts his benefits retroactively for 7 days and 7 days of annual leave are restored to him.

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## Short-term Disability Introduction Packet

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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
- Short-term Disability Outside Earned Income Statement and
- Employee Work Profile.

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## REPORTING

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You must report VSDP employees. For reporting information and training materials, visit DOA's Web site at <http://www.doa.virginia.gov/> or Reed Group's secure Web site at [www.reedgroup.com/vsdp-claims](http://www.reedgroup.com/vsdp-claims).

For general VRS reporting such as error adjustments, see Chapter 3, Employer Reporting, of the VRS Employer Manual. This manual can be found in the Employer section, under Publications, at [www.varetire.org](http://www.varetire.org).

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## INCOME REPLACEMENT

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Employees hired or rehired on or after July 1, 2009 are eligible for non-work-related disability benefits when they have completed one continuous year of employment.

The hire date and number of months of career state service determines the amount of income replacement an employee may receive. 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 disability.

Income replacement normally begins on the eighth calendar day of absence, after authorization by VSDP. However, the seven day waiting period may be waived for catastrophic and major chronic conditions.

## Income Replacement for Non-Work-Related Disabilities

For employees hired before July 1, 2009, use the following chart to determine the income replacement levels:

<b>Months of Career State Service</b>	<b>Workdays of Income Replacement at 100%</b>	<b>Workdays of Income Replacement at 80%</b>	<b>Workdays of Income Replacement at 60%</b>
Fewer than 60	5	20	100
60 – 119	25	25	75
120 – 179	25	50	50
180 or more	25	75	25

For employees hired or rehired on or after July 1, 2009, use the following chart to determine the income replacement levels:

<b>Months of Career State Service</b>	<b>Workdays of Income Replacement at 100%</b>	<b>Workdays of Income Replacement at 80%</b>	<b>Workdays of Income Replacement at 60%</b>
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 hired on or after July 1, 2009, who complete five years of continuous service (which includes the one year period above) will be eligible for income replacement at the higher levels.

## Income Replacement for Work-Related Disabilities

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For employees with a work-related disability hired before July 1, 2009, use the following chart to determine the income replacement levels:

<b>Months of Career State Service</b>	<b>Workdays of Income Replacement at 100%</b>	<b>Workdays of Income Replacement at 80%</b>	<b>Workdays of Income Replacement at 60%</b>
Fewer than 60	65	25	35
60 – 119	85	25	15
120 or more	85	40	0

For employees with a work-related disability hired or rehired July 1, 2009 or after, use the following chart to determine the income replacement levels:

<b>Months of Career State Service</b>	<b>Workdays of Income Replacement at 100%</b>	<b>Workdays of Income Replacement at 80%</b>	<b>Workdays of Income Replacement at 60%</b>
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 5 percent member contribution ends. Employees are eligible to purchase this period.

## Calculating Income Replacement

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To calculate the short-term disability income benefit, multiply the pre-disability income amount by the appropriate percentage of income replacement.

$$100\% \text{ income replacement} - \$3,000 \times 100\% = \$3,000$$

$$80\% \text{ income replacement} - \$3,000 \times 80\% = \$2,400$$

$$60\% \text{ income replacement} - \$3,000 \times 60\% = \$1,800$$

If the employee's Workers' Compensation claim is approved, it becomes the primary short-term disability benefit. The employee will receive 66 2/3 percent of his or her average weekly wage at the time of the disability, within limits established by the State Employees' Workers' Compensation Services. VSDP will supplement this benefit up to the applicable income replacement level. The VSDP benefit supplements the Workers' Compensation benefit if the Workers' Compensation benefit is less than the VSDP guaranteed income replacement.

## Taxes

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The benefits paid under (non-work-related) short-term disability are fully taxable. While the employee receives non-work related disability benefits, pay for the following benefits are fully taxable:

- Disability credits,
- Annual leave,
- Family and personal leave, or
- Other eligible leave used to supplement income replacement at 100 percent.

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## EFFECT OF SHORT-TERM DISABILITY ON LEAVE

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Sick leave and recognition leave may not be used to supplement the difference in pay during periods of short-term disability. However, the following may be used to supplement VSDP benefits to receive 100 percent pay during periods of 80 or 60 percent disability:

- family and personal leave
- annual leave
- compensatory overtime
- holiday, and
- disability credits in 8-hour increments for any portion of the day, if available.

An agency may develop internal policies for verification of sick leave. Such policies should be reasonable, suited to the agency's business needs and consistent with the general guidance provided by DHRM.

## Annual Leave

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Annual leave is accrued based on an employee's percentage of full-time employment and total years of career state service. Leave continues to accrue for 90 consecutive calendar days while an employee is on short-term disability. After 90 days, the accrual stops. To begin accruing leave again, the employee must complete an entire pay period with no loss of pay. Paid time off is available for personal use, as approved by agency management.

An employee who does not have sufficient leave credits to continue full pay during the seven-calendar day waiting period will be placed on leave without pay. The employee will begin accruing annual leave again only after completing an entire pay period with no loss of pay.

## Disability Credits

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An employee who elected to participate in VSDP during the 1999 and 2002 enrollments may have converted his or her sick leave to disability credits, which can be used for income replacement. The credits are used in eight hour increments; eight disability credits equal one day of 100 percent income replacement.

The use of disability credits for short-term disability income replacement is voluntary. An employee who has disability credits must notify your agency in writing to specify when the disability credits are to be applied to continue income replacement at 100 percent while on short-term disability. This notification should take place prior to the pay period in which the credits will be applied.

**Example:** An employee received 25 workdays of short-term disability at 100 percent income replacement. The 26<sup>th</sup> through 100<sup>th</sup> workday of disability, he is to receive 80 percent income replacement. The employee has 800 disability credits. He elects to use 600 disability credits to increase his income from 80 percent to 100 percent for the 75 workdays ( $75 \times 8 = 600$  credits). He is left with 200 disability credits remaining at the end of the 100<sup>th</sup> workday period. He then elects to use the remaining 200 credits to increase his income from 60 percent to 100 percent ( $25 \times 8 = 200$  credits) for the remaining 25 days of short-term disability.

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## DISABILITY CONDITIONS

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If the employee's disability condition meets the requirements outlined below, the employee may be eligible for higher income replacement. For income replacement information, see the Income Replacement section of this chapter.

### Major Chronic Condition

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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 professional
- Have experienced a period of disability for the same condition within the last six months
- Be under the ongoing care of a licensed treating professional.

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

An employee may be approved for intermittent major chronic short-term disability. Absences may be in periods of a day, days or weeks. Each period of approved absence for the original short-term disability claim counts towards the 125 work day waiting period for long-term disability. Your agency should track the intermittent days as the 125 work day waiting period. This time may count towards FMLA as well.

### Catastrophic Condition

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A disability is determined to be catastrophic if an employee has a severe cognitive impairment requiring substantial supervision or is unable to perform at least two of the activities of daily living (ADL) without assistance. 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).

Income replacement is at 80 percent of the pre-disability income as long as the employee's condition is considered catastrophic.

### Partial Disability

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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 or her 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 or her own job in an active employment status; or
- Able to perform all the essential job functions of his or her own job on a part-time basis only.

### Total Disability

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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

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If an employee is released by the treating healthcare professional to return to his or her pre-disability position on a full-time, full-duty basis and again becomes disabled due to the same condition within 45 consecutive calendar days, it is considered a continuation of the same short-term disability claim.

### When the Condition Becomes a New Disability

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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 calendar day waiting period.

Income replacement begins again at:

- 100 percent of pre-disability income for employees hired or rehired before July 1, 2009, or
- 60 percent of pre-disability income for employees hired or rehired on or after July 1, 2009 with less than 60 months of continuous state service.

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## ADJUSTMENTS TO DISABILITY BENEFITS

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If an employee receives or is eligible to receive income and/or benefits from certain sources, the VSDP benefits will be offset. When combined with the income from these other sources, the employee cannot receive more than one hundred percent of his or her pre-disability income.

Employees are responsible for reporting any additional income to their agency. Employees who are overpaid are required to repay, with interest, any overpayment to their agency.

Short-term disability benefit payments will be adjusted by any payable income from the following sources:

- Disability payments from the Social Security Administration or other similar government program benefits that the employee or his or her family is entitled to as a result of the qualifying disability.
- Benefits paid under any other governmental disability program, including local government disability benefits, federal civil service benefits that are paid for the same disabling condition.
- Benefits received from any other state agency-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).
- Benefits paid under any compulsory benefits law, such as Workers' Compensation, severance or unemployment compensation.

If the employee applied for the benefits under some of the programs listed above and has not yet been approved, the VSDP benefit will not be reduced

until the approval has been obtained and benefits from the other program begin.

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

## Calculating Adjustments

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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.

For example, an employee's pre-disability income is \$3000 per month with \$1000 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

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If an overpayment is made, the employee is required to repay the employer. The repayment is with interest and is based on the earnings presumption rate in effect at the time.

VRS may also recover from the employee, with interest, 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.

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## Workers' Compensation Adjustments

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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 adjusted short-term disability benefit, no VSDP benefit is payable. The VSDP benefit, when combined with other income from employment, may not exceed 100 percent of the pre-disability income.

Lump-sum settlements under Workers' Compensation are prorated over the period during which the employee receives the VSDP 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.

For 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 VSDP 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 VSDP benefit would be paid at the appropriate income replacement level.

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## 9, 10 AND 11-MONTH EMPLOYEES

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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, which reduces his or her salary to 80 percent (and subsequently 60 percent), the percentage of pay reduction will be taken from both the base rate and the retained earnings.

## Reporting an Injury or Illness While in a Non-Work Period

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An employee may become injured or ill during a period while not at work. Because the employee has fulfilled the contract and employment responsibilities for the year (e.g., faculty member in the summer), the employee may report the injury or illness at the time of its occurrence or when he or she returns to work.

If the employee reports the claim to VSDP during the non-work period, no benefits will be paid during that time. However, if the disability prevents the employee from returning to work (e.g., at the beginning of a new contract year), he or she may be eligible for benefits if approved under VSDP. Additionally, if the report is made to VSDP during the non-work period, that time is applied towards the waiting period. The time is used to calculate appropriate benefit levels if the disability continues to prevent the employee from returning to work.

If the employee does not report the claim to VSDP until he or she returns to work, the employee is eligible to begin receiving short-term disability at the appropriate income replacement level (based on hire date), if approved under VSDP. The employee must satisfy the seven-calendar day waiting period following the initiation of the claim.

Even if an employee does not receive pay during periods he or she is not working (e.g., summer time), the time on disability counts toward short-term disability benefits until released by the licensed treating professional to return to active employment.

**Example:** An employee on an 18-period pay cycle is injured and initiates a VSDP claim in May. She is not expected to be able to return to work until November. Even though she does not receive pay or benefits in June, July and August, the days count towards the short-term (and long-term) disability period.

## Non-Renewal of Employment Contract

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

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

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## MISCELLANEOUS

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### Benefits

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While on short-term disability, the employee continues to accrue service towards retirement and the health insurance credit unless the employee is only receiving a Workers' Compensation benefit and there is no 5 percent member contribution. Employees may purchase this period.

The employee also continues to pay only his or her share of health insurance premiums and continues both basic group and optional life insurance coverage. 457 plan contributions are still allowed for those employees with non-work-related disabilities.

See Appendix 2, Benefits for more detailed information about the benefits available under VSDP.

### Grant Funded Positions

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Agencies must provide short-term disability benefits to an eligible employee who works in grant funded position, even if the grant expires after the employee begins short-term disability. The employer may ask the organization providing the money for the grant-funded position to agree to pay for the short-term disability benefits.

## Performance Appraisals

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Performance appraisals for classified employees should be completed according to the agency's policy for all employees on short-term disability. Employees who are not working will receive a salary increase, if awarded, based on the evaluation results. The increase is incorporated into the short-term disability benefits. After returning to work, the performance appraisal will be discussed with the employee.

Absences for short-term disability under VSDP should not be used to negatively impact the employee's overall performance rating or performance increase.

An employee is eligible for a retroactive performance increase upon completion of the performance evaluation if the evaluation is not current.

## Disciplinary Suspension/Termination

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If an employee receives a disciplinary suspension or termination while receiving short-term disability benefits, the benefits stop as of the date of suspension or termination.

An employee placed on suspension in the following circumstances is not eligible to receive VSDP benefits during the period of suspension:

- Pending investigation;
- Pending outcome of employment related court action; or
- Pending outcome of disciplinary suspension<sup>1</sup>.

Depending on the case facts, the employee may not be eligible for Workers' Compensation benefits.

If an investigation is initiated and the employee goes on short-term disability, the investigation should continue and be completed. Even if the employee is on short-term disability, he or she may still be terminated.

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<sup>1</sup> Department of Human Resource Management Policy 1.60, Standards of Conduct

If the employee is reinstated in a covered position, benefits will be retroactive from the date of disability.

## Severance

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VSDP benefits are offset by severance payments. Employees who are still disabled at the end of severance or leave without pay-layoff will continue to receive VSDP 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 VSDP portion received by the employee is offset by severance.

## Holiday Pay While on Disability

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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 or she does not work on the holiday, provided the disability absence is authorized. An employee at 80 percent or 60 percent benefit level may use annual leave and/or family and personal leave to receive 100 percent income replacement. Holidays count toward the seven day waiting period.

For example: During the 7 calendar day waiting period, count any holidays towards the 7 calendar day waiting 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%). If the employee is receiving less than 100% benefit on the holiday, the employee will have to use accrued leave to supplement to 100%.

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## END OF SHORT-TERM DISABILITY BENEFITS

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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<sup>2</sup>;
- Is no longer medically eligible;
- Receives long-term disability benefits;
- Does not cooperate or comply with the requirements of VSDP;
- 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 VSDP 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 entirely. The employee may also be subject to disciplinary action, up to and including termination from the program and from employment.<sup>3</sup>

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

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<sup>2</sup> See the VRS Employer Manual, Chapter 7, Refunds.

<sup>3</sup> Classified employees may be subject to the Department of Personnel and Training's (DPT) Standards of Conduct Policy, 1.60.

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## RETURN TO WORK

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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 agency and position is not guaranteed.

This section applies to employees who have met the 12 month eligibility requirements and have gone out on short-term disability.

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### Executive Order 109

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The Executive Order 109 (2010) ensures that all executive branch departments, agencies and institutions of higher learning follow guidelines about workplace safety and employee health. As an employer, you should:

- Evaluate and modify the agency's Workers' Compensation return-to-work policy to include non-work related periods of disability;
- Cooperate with DHRM and VRS VSDP to establish return-to-work opportunities appropriate for the individual employee and agency;
- Include goals in manager's performance expectations to reduce employee work-related and non-work related time;
- Establish strategies and practices to reduce lost time and to support the safe resumption of work for state employees;
- Evaluate annually those cases where employees were unable to return to work in a transitional and/or permanent capacity; and
- Report agency goals and strategies to reduce lost time by October 1<sup>st</sup> of each year to VRS and DHRM.

To support Executive Order 109 initiatives and goals, VRS and DHRM will:

- Review agency goals and strategies;
- Provide training, consultation and support for agency initiatives; and
- Report non-compliance with the provisions of Executive Order 109 and report annually to the Governor on progress made in improving workplace safety and returning employees to work.

More information on Executive Order 109 is available on the Workers' Compensation area of the DHRM Web site. <http://www.dhrm.virginia.gov>

## Return to Work Programs

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Reed Group, your human resource office and the employee's licensed treating professional work together to coordinate an employee's return to work. If the employee cannot return full-time, full-duty, the human resources office provides an Employee Work Profile to Reed Group.

The Employee Work Profile 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 or drive and how many pounds he or she can safely lift or carry. The Human Resources office determines whether the agency is able to accept the temporary job modifications.

Each agency should have specific policies and procedures that include the maximum length of time temporary accommodations may be offered to employees. If your agency offers a *return to work program*, notify your employee of the date he or she is expected to return and the period of time the program will be offered.

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

An employee may also return to work immediately if he or she presents a doctor's note to your agency 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 professional who certified the disability.

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

## Additional Services Provided by Reed Group

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VSDP 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 professional or a vocational rehabilitation or a return to work plan coordinated on the employee's behalf by Reed Group, your agency or a rehabilitation services provider. The plan must be consistent with the licensed 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 and agency. If that is not possible, Reed Group will work with the employee, your human resource office and the licensed treating professionals to attempt to return him or her to another position. Placement options may include working at the same agency in a different job, working at another agency or working in a non-state 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 or discontinued, and the employee may be subject to disciplinary action or termination from his or her job.

If work is arranged through a vocational, rehabilitation or return to work program, 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.

## Leave Accruals

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An employee on short-term disability does not receive sick leave or family and personal leave if receiving disability benefits on January 10<sup>th</sup>. Leave is only applied when the employee returns to active employment.

An employee in a short-term disability working status receives the yearly VSDP leave allotments (sick, family and personal leave) based on his or her full or part-time status. If the employee is now ready to return to full-time work and was working less than 100 percent, then the employee would receive the difference between what he or she would have received in a full-time status and what he or she received for part-time status. Accruals begin at the pre-disability rate.

**Example:** A full-time employee with 65 months of service receives 72 hours of sick leave and 32 hours family and personal leave. If the employee returns in a part-time status in February, he or she will receive 32 hours of sick leave and 32 hours of family and personal leave. When the employee returns to full-time duty, 40 hours of sick leave will be added ( $32 + 40 = 72$ ), but no additional family and personal leave will be added.

When an employee is working while in short-term disability status and then goes back into non-working status, he or she continues to accrue annual leave for a period of 90 consecutive work days following the return to full short-term disability. The 90 day work day provision begins any time an employee returns to short-term disability from a short-term disability working status<sup>4</sup>.

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<sup>4</sup> Department of Health Resource Management Policy 4.10, Annual Leave

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## RESPONSIBILITIES

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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 or she is medically able.

### Employee

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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 the employer any outside income received, and communicating with his or her 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 or her employer;
- Stays in regular contact with his or her supervisor;
- Complies with any vocational and physical rehabilitation requirements;
- Advises the employer if he or she wants to use disability credits;
- Contacts the employer and Reed Group;
- Works with the licensed treating 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

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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 or she is on short-term disability;
- Communicates with the employee throughout the period of disability;
- Discusses with employee which leave type to use to cover waiting period and period of short-term disability when income goes below 100 percent, including use of disability credits;
- 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 Professional

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

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Reed Group, the third party administrator for VSDP, 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 physicians;
- 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 physician; and
- Manages any issues of non-compliance.

## Department of Human Resource Management

DHRM is responsible for guiding the key parties through the policies.

DHRM:

- Provides policy guidance to VRS in administering VSDP;
- Provides policy interpretation to agencies;
- Coordinates Workers' Compensation claims with Reed Group and administer the State Employee Workers' Compensation program.