



A New Day for the Civil Service

Disability Retirement

CHCO Academy

December 2012

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Overview

- Disability retirement is:
 - An employee benefit
 - Intended for those employees who are unable to complete a normal career due to disease or injury
 - Who meet the statutory, regulatory and/or administrative criteria

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FERS Minimum Service Requirement

- 18 months of civilian service
- Must become disabled while serving in a position covered by FERS
- Must apply for Social Security and submit proof with application to OPM

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CSRS Minimum Service Requirement

- 5 years civilian service
- Must become disabled while serving in a position covered by CSRS
- CSRS Offset – must apply for Social Security disability benefits and submit proof with application to OPM

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Criteria for Entitlement

- Employee must be unable to render useful and efficient service because of disease or injury
 - In current position, or
 - Vacant position in the same agency at the same grade or pay level for which qualified for reassignment
- Disabling condition expected to last at least one year

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Factors in Making a Decision

1. Is there a medical condition
2. Is there a deficiency in service
3. Is there a relationship between service deficiency and medical condition
4. Is the condition expected to last at least a year or more

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Factors in Making a Decision

5. Was the condition pre-existing
 - Did the condition become disabling while serving in a position covered by CSRS or FERS
6. Can the agency provide reasonable accommodation
7. Can the agency reassign the employee to a vacant position for which qualified

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Factors in Making a Decision

1. Is there a medical condition?

...a medical condition that is defined as a health impairment resulting from disease or injury, including psychiatric disease

...that occurs during federal employment

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Factors in Making a Decision

2. Is there a deficiency in service?

...performance, attendance or conduct is less than fully successful and, if uncorrected, warrants action to deny a pay increase, reduce grade or remove from position

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Factors in Making a Decision

3. Is there a relationship between service deficiency and medical condition ?

...Nexus...a showing that the medical condition caused the service deficiency

...a finding that restrictions from performing essential duties of the position are necessary

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Factors in Making a Decision

May have a service deficiency because...

- medical restriction prevents him/her from performing critical elements of job
- he/she is not at work or is not performing all essential duties of the position
- of documented instances of poor **performance** or **conduct**

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Factors in Making a Decision

4. Is the condition expected to last at least a year or more ?

...the duration of the condition is measured from the date the application is filed

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Factors in Making a Decision

5. Was the condition pre-existing?

...when did the condition occur/start

...may be times when condition is worsened by job requirements

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Factors in Making a Decision

6. Can agency provide a reasonable accommodation?

...an adjustment to the job or worksite that enables the employee to continue performing job at fully successful level

...any action the agency would have to take under the Rehabilitation Act of 1973

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Factors in Making a Decision

7. Can the agency reassign employee to a vacant position for which qualified?

...does the employee qualify for a position at the same grade, pay and tenure within the commuting area?

...the agency is not required to create a position for the employee

...refusal to accept a valid reassignment offer terminates agency's responsibility to look for other positions

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How Does an Employee Apply

- Who may file an application....
 - Employee
 - Immediate family members
 - Court-appointed guardians or personal representatives
 - Agency

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How Does an Employee Apply

- Where to File an Application...
 - On agency rolls - the application is filed through the agency to OPM
 - Separated for more than 31 days, employee applies directly to OPM (although can be accepted at agency)

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Time Limit for Filing an Application

- Application can be filed while employee is still on the agency rolls
- Application can be filed up to one year from the date of separation
- Timeliness is measured by the date of receipt of the application in OPM or at the agency
- Timeliness requirement can be waived if employee is incompetent

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Application Forms

- **FERS: SF 3107**
 - Revised May 2012, Previous edition unusable after 1/1/13
- **CSRS: SF 2801**
- **All: SF 3112 Parts A-E, Supplement**
 - 3112A – Applicant’s Statement
 - 3112B – Supervisors Statement
 - 3112C – Physician’s Statement
 - 3122D – Certification of Reassignment and Accommodation Efforts
 - 3112E - Checklist

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Responsibilities

- Employee:
 - Completes documents
 - Undergoes examinations
 - Provides proof
 - Meets timeliness deadlines
- Agency
 - Assists employee and ensure application is complete
 - Provide annuity estimate
 - Sends packages to OPM

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Responsibilities

- OPM
 - Determines if disabled
 - Adjudicates claim and authorizes annuity payments
 - Maintains annuity payments and takes post retirement actions

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Preliminary Application Process

- ROC receives preliminary application package and creates case file
- Disability Branch reviews application to determine if applicant is disabled
 - When required, we develop for additional medical documentation, supervisor statement, etc
 - Notifies applicant and agency of decision

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Agency Actions Upon Approval

- Separate employee as soon as practical
 - Usually by the end of the PP in which approval received
 - Can elect to separate after sick leave expires
- Send final SF 2806/3107 and other supporting documents to ROC

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Approved Application Process

- Disability Branch receives final IRR and associated documents and authorizes interim pay
- Claims Group 1 reviews package for completeness
 - When required, we develop for missing or discrepant retirement and insurance information
 - When claim is complete, we authorize regular disability payments

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Disapproved Application Process

- Disability Branch notifies applicant and agency of specific basis for disallowance and provides reconsideration rights (within 30 days)
- Reconsideration Branch reviews request and affirms or reverses initial decision
- Appeal Avenues
 - MSPB (within 35 days)
 - U.S. Court of Appeals for Federal Circuit

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Tips for Submitting Applications

Make sure:

- Medical documentation is complete - must be dated, signed and on physician's letterhead
- Medical documentation contains specific information to show why the applicant is not able to perform his or her duties and how long restrictions will last
- Medical reports provide specific information
- All referenced enclosures are included in the submission
- Agency physician recommendations (if made) are well documented

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Tips for Submitting Applications

- Agency certification of accommodation and assignment efforts is complete
- Supervisory statements agree with statements regarding accommodation and reassignment efforts
- A copy of the position description is included
- For FERS, Certified Summary of Service shows dates employee was on LWOP for OWCP (under P.L. 108-92)

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Tips for Submitting Applications

- All fields on application are completed in full:
 - Must indicate disability application in Sect A
 - Workers' compensation question in Section C of 2801/ Sect F of 3107 must be answered and Schedule C attached, if applicable
 - Survivor election in Section F and D respectively, must be indicated, regardless of marital status
 - Spousal consent must be provided when married applicant elects less than full survivor annuity
 - Election on the application must agree with the spousal consent
 - Court Order question 2 in Section E and C, respectively, must be answered

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Post Retirement Actions

- Once approved, disability annuity continues unless:
 - Medical recovery finding is made
 - Medical finding prior to age 60 or by annuitant Request
 - Annuity terminates 1 year from date of examination
 - Restoration to earning capacity
 - Earn 80% of current salary of position retired in calendar year, prior to age 60
 - Annuity terminates 6 months after the year the restoration determination is made for

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Reemployed Disability Annuitants

- Disability annuitant can be reemployed in any position qualified
 - Annuity terminates upon Federal reemployment following a recovery or restoration to earning capacity finding
 - Medical recovery – finding of recovery prior to age 60, or by annuitant request
 - Restoration to earning capacity – earning 80% of current pay of position from which retired in a calendar year, prior to age 60

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Reemployed Disability Annuitants

- Administrative recovery – reemployed at the same grade or pay and tenure of position retired from
 - Annuity terminates end of month in which finding is made
 - Except employee on workers comp, terminated day prior to reemployment
 - Salary offset applies prior to termination

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Annuity Rights Upon Termination Not Due to Reemployment

- DSR if at least 50 with 20 years of service, 25 years service at any age
- FERS only, MRA+10
- Deferred at 62
- Annuity can be restored prior to age 62 upon:
 - Medical exam showing recurrence of disabling condition
 - First of year after earnings < 80%

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Annuity Rights Upon Termination Due To Reemployment

- CSRS annuity can be restored if not entitled to an annuity upon separation
 - Generally only if reemployed more than one year after prior separation and doesn't meet the "1 out of 2" rule
 - FERS annuity generally can't be
- Otherwise, entitled to a new annuity right based on the law in effect when separating
 - Immediate or deferred

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Workers' Compensation

- Annuity suspended while in receipt of workers' compensation
- Credit for service while on workers' compensation after retirement only allowed if:
 - Disability annuity terminates upon reemployment and new annuity right is earned, or
 - Works 5 continuous years or F/T equivalent and earns redetermined annuity

Questions

