Disability Retirement

Introduction

The federal government allows employees who are unable to work to retire under a disability retirement. It is in the best interest of both employees and the federal government for employees to remain gainfully employed in their current grade or pay level, as long as they can provide useful and efficient service without endangering themselves, others or government property. Disability retirement should be the very last option, and should be used only when attempts have been made to preserve an individual's employment, and those attempts have failed.

This publication discusses the rules and regulations concerning disability retirement for federal employees. Topics discussed include: (1) General statutory requirements that qualify an employee for a disability retirement annuity; (2) criteria that must be documented to establish eligibility for a disability retirement; (3) when the application must be filed; (4) the criteria OPM considers in determining whether to approve an application for disability retirement; (5) electing between a disability retirement annuity and workers' compensation benefits; (6) some general advice to employees who retire on disability; (7) miscellaneous provisions of disability retirement; (8) computation of a CSRS and CSRS Offset disability retirement annuity; (9) computation of a FERS disability retirement annuity; and (10) disability retirement annuities and taxes. Sample retirement annuity computations are also presented.
Disability Retirement

Chapter 1. General Eligibility Requirements

To be eligible for a disability retirement annuity, an employee covered by Civil Service Retirement System (CSRS), CSRS or CSRS Offset, must satisfy the following general statutory requirements:

Employment in a position covered by CSRS. The employee must have become disabled while serving in a position covered by CSRS.

At least five years of creditable civilian service. This includes:

- Service for which full CSRS employee contributions were made. This is true even if CSRS deductions were refunded and not re-deposited.
- Service in which full Social Security taxes and reduced CSRS deductions were taken. This also includes CSRS deductions that were refunded and not re-deposited.
- Non-deduction service, such as temporary or intermittent service, whether a deposit for such service was made.

Federal Employees Retirement System (FERS)

An employee will be eligible for a disability retirement annuity only if covered by FERS and disabled while serving in a position subject to FERS. The employee must also have at least 18 months of creditable civilian service. This includes service for which full FERS employee contributions were made and not refunded, non-deduction service—temporary or intermittent—that was performed prior to Jan. 1, 1989, and where a deposit for service was made. Also included as creditable civilian service is service for which full Social Security taxes and full or reduced CSRS deductions were taken and not refunded.

The 18-month requirement rule for creditable civilian service for FERS-covered individuals who are also entitled to a CSRS annuity component includes:

- Non-deduction service. This can be for temporary or intermittent service and is subject to CSRS annuity computation rules. It does not matter whether or not a deposit for such service was made.
- Service for which full CSRS deductions were taken. This can be for CSRS deductions that were refunded and not re-deposited.

The following types of service may not qualify as fulfilling the creditable civilian service rules under FERS:

- Service performed under FERS for which a refund of FERS deductions was taken.
- Former CSRS service subject to FERS annuity computation rules. This includes all CSRS deductions that were refunded based on an application filed when the employee became covered under FERS. This also includes CSRS deductions that were refunded before an employee was covered by FERS but where the employee did not make a deposit into FERS.
- Any period of non-deduction service performed before 1989 for which a deposit was not made. Service included in a CSRS component is exempt.
Disability Retirement

**Non-deduction service performed on or after Jan. 1, 1989.** This includes temporary or intermittent service, unless the service was included in a CSRS annuity component.

**Chapter 2. Disability Criteria**

Once the agency determines that an employee meets the general statutory requirements for disability criteria, the agency and employee must then document that the employee satisfied the disability criteria required by regulations. These disability criteria are as follows:

- A deficiency in service with respect to performance, attendance or conduct; or in the absence of any actual service deficiency, a showing that the medical condition is incompatible with either useful service or retention in the position;

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

- The duration of the medical condition (both past and expected), and the expectation that in all probability the disability will continue for at least one year from the date the application for disability has been filed;

- The inability of the employing agency to reasonably accommodate the employee's medical condition; and

- The agency has considered the employee for reassignment to any vacant position within the employing agency and commuting area, at the same grade or pay level, for which the employee is qualified.

The employee is responsible for furnishing sufficient medical evidence to support the application for disability retirement. The employee's medical documentation will normally be information from a personal physician. If the employee's agency conducts the examination, the result of the examination must be furnished with the application.

Whenever possible, the agency should have the medical documentation assessed by or in coordination with a physician to ensure that: (1) The diagnostic or clinical impressions are justified in accordance with established diagnostic criteria; and (2) The conclusion and recommendations are consistent with generally accepted medical principles and practice.

If this assessment concludes that the employee is suffering from a medical condition that has caused a service deficiency, the agency's next step is to identify possible alternatives to keep the employee in a productive capacity.

Affected employees should note that disability retirement will not be approved when persistence of the medical condition that has caused the employee's service deficiency results from a failure or refusal to accept non-invasive treatment. The non-invasive treatment would ordinarily be expected to support activities of daily life. This is, however, unless acceptance of treatment conflicts with the employee's religious beliefs.

The Office of Personnel Management (OPM) will not approve an application for disability retirement when there is reasonable expectation that recovery will occur within one year after the filing of application for disability.
Disability Retirement

retirement. A disability annuity is appropriate only when all the criteria have been met. A longstanding stable medical condition that predates a recently acquired service deficiency probably will not meet the criteria for disability retirement. The agency has no further obligation under the disability retirement program to support an employee's disability retirement if the agency's review of the medical documentation does not support a conclusion that: (1) the service deficiency has been caused by the medical condition; or (2) the medical condition warrants restriction from critical tasks or duties of the position.

Agency Accommodations

An employee's agency must exhaust all reasonable efforts to alleviate any service deficiencies through accommodations before it advises an employee to seek disability retirement or supports an employee's request for disability retirement. "Reasonable accommodation" is any action that the agency would be obligated to take under the Rehabilitation Act of 1973.

Reasonable accommodations may include, but are not limited to: (1) modifying the work site; (2) restricting the job; (3) acquiring or modifying equipment or devices; (4) providing interpreters, readers or personal assistants; and (5) reassigning or retraining the employee.

A job analysis prepared by the agency for accommodation purposes should be submitted to OPM, together with the application and other supporting documents. Furthermore, if the agency is successful in accommodating the employee after the disability retirement application has been forwarded to OPM, the agency must immediately notify OPM of the successful accommodations.

Reassignment

In addition to accommodations, federal policy dictates that agencies make every effort to regain the services of employees who apply for disability retirement through reassignment to other available positions. When an employee initiates an application for disability retirement, the employing agency must review all vacant positions under its jurisdiction that are at the same grade or pay level and tenure in the commuting area to determine if the employee meets the minimum qualification standards for any vacant position. Note that an agency is not obligated to create a position for a disabled employee.

For disability retirement purposes, an employee is deemed to “qualify for reassignment” when the minimum requirements are met for the grade and level of the vacant position in question. OPM prescribes no minimum time for which an employee must be given special consideration for placement in a vacant position since a reasonable attempt to place an employee depends on the facts in each individual case.

In the event the agency is successful in reassigning the employee, the application for disability retirement and supporting documents should be returned to the employee. If, despite the agency’s decision that it has successfully accommodated the employee's disability, the employee insists that the application be sent to OPM for a determination, the agency should submit the application and all supporting documents to OPM. The application should be accompanied with the agency's opposition to the application stating the accommodation efforts provided.

If the agency locates one or more vacant positions at the same grade or pay level and in the same commuting area for which the employee is qualified for reassignment, but the employee refuses reassignment, then the