

## **Intro Page**

FederalDisability.com is an information resource for federal employees who want to learn more about the benefits available to them if they can't return to their full duty job. Our goal is to inform you of your rights and options so you can make informed decisions regarding your future.

This guidebook highlights the major areas of federal disability retirement, and even some of the minor ones. It is not legal advice, but rather helpful information that you can use while you plan your next career steps.

We will walk through how to calculate an estimate for your federal disability retirement, insurance information, high 3 calculations, future earnings opportunities, TSP options, benefit requirements and much more.

## **Harris Federal**

For over ten years, Harris Federal has been helping injured federal workers with their workers compensation claims, federal disability retirement cases and various other benefits available to federal employees.

Our first federal employee case was a USPS letter carrier injured on the job. Not only did he become a close family friend, he even worked for us assisting other federal employees after we successfully represented him. Since then, our family has invested years researching and educating ourselves and others on federal employee rights. Our experience allows us to inform HR managers and claims examiners of appropriate protocol in dealing with our clients every day. We have added staff and grown to the point that we can proudly report that we have helped thousands of federal employees around the nation to get the benefits they deserve.

The laws associated with the federal government can be complex and confusing and we know it is difficult for federal employees to find experienced individuals to help. Your work as a federal employee has been important to you and your service has been valuable to our country. Because of this, we take pride in helping federal employees. Our team focuses on providing the quality service necessary to earn the trust our clients place in us every day.

*- We Fight For Federal Employees*

## **Benefit Overview**

Federal Disability Retirement benefits are a part of every career employee's retirement package. Once you have reached the minimum requirements in length of credible federal service, you become eligible to receive the benefit if you are ever unable to continue to provide useful and efficient service at your agency (We will get into more of the qualifications later).

The benefit is not designed to fully replace your salary, but to help supplement any income that you may have through other channels including work in the private sector or social security disability. The retirement program allows you to continue your insurance options through the federal government. It also ensures that your retirement will be in place on a permanent basis regardless of a separation from the employing agency.

More benefits are included in the package, but are on a more individual basis and can vary. Keep reading to find out more about *your* disability retirement.

## **Qualification**

In order to qualify for a federal disability retirement, the applicant must show that they are unable to continue to complete at least one of the major functions of their current position and that no other equivalent positions are available within the agency. The inability to perform must be caused by a medical condition, and the equivalent positions must be graded, classified and vacant. The service deficiency must be expected to last for at least 12 months and must be based on medical rationale.

## **The Difference in Retirement Systems**

The federal government uses two retirement systems to cover all of their career employees. Temporary, substitute, seasonal, and contract employees are not considered career and do not qualify for federal disability retirement benefits.

The Civil Service Retirement System (CSRS) was originally enacted in 1920 and was offered to all career federal employs until 1987. In order to be eligible for federal disability retirement benefits, an employee must serve for at least 5 years. CSRS employees do not pay social security taxes and in most cases are not eligible for benefits from that administration.

The Federal Employees Retirement System (FERS) replaced the CSRS system at the beginning of 1987. Only 18 months of service are required before an applicant is eligible for federal disability retirement benefits. FERS employees pay Social Security taxes and are therefore eligible for social security benefits.

## **Eligibility**

Federal Disability Retirement is available to every “career” employee of the federal government. It is built into both the CSRS and FERS retirement systems and administered through the Office of Personnel Management (OPM). It is your right to pursue this benefit if you develop a medical condition that prevents you from continuing your career in the federal government.

Think of it as an insurance policy that you have already paid for.

This disability annuity is a part of the retirement program that you have paid into for your entire federal career. It acts like an insurance policy that is activated if you are unable to continue to perform any of the major aspects of your job. Your illness or injury does not need to be related to your job.

If you develop any kind of medical condition that prevents you from performing useful and efficient service in any aspect of your position, you can qualify. This inability to perform the duties of your job must be expected to last for at least 12 months and must be based on medical rationale.

### **Modified Duty**

Modified duty, while potentially helpful to keep you at work, does not count as a substitute for a bid assignment. If you are working a modified duty assignment, you may lose many of the normal features of employment including job security. Modified duty is given at the discretion of the supervisor and can be taken away without notice. Just ask anyone at the USPS about the National Reassessment Program.

### **Federal Disability Retirement is **not** Social Security Disability**

Federal disability retirement is an “occupational” disability and is very different from social security disability which is a “total” disability. It is possible to qualify for federal disability retirement and not social security disability. In order to qualify, an applicant must only prove that they are unable to continue in their current bid assignment and the agency does not have another equivalent vacant bid assignment available within the medical restrictions provided by the applicant’s physician.

### **Do I have to apply for Social Security Disability?**

FERS applicants are required to file for social security disability benefits, but approval is not necessary. If an applicant is suffering from “total” disability as well, they may qualify for both disability benefits. If that occurs, the government considers that a “double dip” and the two benefits trigger an offset.

### **Multiple Benefit Interaction**

During the first year of eligibility, OPM will deduct 100% of the social security payments from the federal disability retirement. After the first year, they will deduct 60% of the social security payments from the annuity.

OPM benefits do not interfere or offset with veterans administration disability benefits.

You cannot receive payments from OWCP for lost wages at the same time you are receiving benefits from the OPM for federal disability retirement. You can have both of these claims approved at the same time, but you cannot receive both payments concurrently.

In other words, you can get your federal disability retirement claim approved and secure the long term stability of federal disability retirement and choose to place the benefit into a “hold” status until you are no longer receiving OWCP wage loss. This would allow you to maximize your OWCP claim without putting their long term benefits in jeopardy.

You can however receive an OWCP schedule award while receiving your federal disability retirement. This can be a good way to maximize your income from an on the job injury claim that results in disability.

### **Work Status**

A federal employee may apply for federal disability retirement at any time during employment or within one calendar year of the date of a separation from the government agency. If an applicant currently has an accepted OWCP claim, they can still apply even if they are drawing lost wage compensation.

### **Insurance Benefits**

The federal disability retirement benefit will allow the applicant to continue any health and life insurance benefits that they already carry through their job. The annuitant is still required to pay a portion of the benefits, just like they filed for a regular retirement.

### **Earning Additional Income**

Any approved annuitant can also find employment anywhere in the private sector as long as that employment does not exceed their medical restrictions. They are allowed to earn up to 80% of the current salary of their retired position while they continue to draw their federal disability retirement payments.

The fact that an annuitant can earn additional income opens up the options for a federal employee. Since all disability retirements carry a minimum payment of 40% of the annuitant's High 3, there is potential for the retiree to actually earn more money once they are retired.

### **Benefit Payments**

All annuity payments are based on an employee's High 3 average. A High 3 is the three consecutive years that your salary is the highest, averaged together. For instance, if an individual who's three highest consecutive years of earnings were \$49,000, \$51,000 and \$52,500 respectively would have a High 3 of \$50,833.33 and their annuity percentages would be based on that figure.

If an employee has had to use an extensive amount of leave or has been out on OWCP lost wage benefits, the High 3 average is not affected. The employee's salary will be used regardless of whether the employee is actually working except in the case of flexible schedule employees like Part-Time Flexible postal workers. Their High 3 is based on actual earning to give them credit for extended hours worked. Overtime is not calculated for full time regular employees.

### **FERS payments:**

FERS applicants are eligible as long as they have at least 18 months of credible service with the federal government. The federal disability retirement will pay them 60% of their High 3 average earnings the first year and 40% of their High 3 every year after until they reach the age of 62.

A regular earned annuity for FERS employees is calculated at 1% per year of service. You can see how federal disability retirement can seriously bolster an annuitant's income. For instance if a federal employee is 45 years old and has 20 years of service and a High 3 average of \$50,000, their earned annuity would pay them 20% of the High 3, equaling \$10,000 per year. The same employee would be paid \$30,000 the first year and \$20,000 every subsequent year on a federal disability retirement.

If an applicant is under the age of 62, they will continue to earn additional years of credible service until their 62<sup>nd</sup> birthday. Once they turn 62, the benefit will recalculate as if they had continued to work at their position and filed for a regular retirement when they turned 62 years old. If you are older than 62, any disability benefit will be calculated the same as a regular, earned annuity.

FERS employees will have Cost of Living Adjustments (COLA) added into their High 3 average when their annuity is recalculated upon reaching age 62. FERS employees will have COLA added into their High 3 average when their annuity is recalculated upon reaching age 62.

### **CSRS Payments:**

CSRS applicants are eligible as long as they have at least 5 years of credible service with the federal government. If a CSRS employee has at least 30 years of service and is at least 55 years old, the federal disability retirement benefit is calculated the same as a regular, earned annuity.

All CSRS disability annuities are calculated at the earned rate with a minimum of 40% of the High 3. The CSRS earned annuity calculation is:

1<sup>st</sup> 5 years = 7.5%  
2<sup>nd</sup> 5 years = 8.75%  
Every year after is 2%

Using that formula, a CSRS annuitant with 30 years of service would be entitled 56.25% of their High 3 for the rest of their life.

### **Levels of Consideration**

The OPM application process has a number of levels of consideration. An application is first looked at in the initial consideration. A decision is made by a Legal Administrative Specialist (LAS) in Washington, D.C. If that decision is an approval, the claim is moved to the retirement branch and payments begin. If the claim is initially denied, the applicant has the right to appeal the decision.

When an initial decision to deny a claim is appealed, reconsideration can be requested. The claimant has 30 to appeal the initial decision and can request an additional 30 days to submit new evidence to solidify their claim. The claim is then reassigned to a new LAS. A new decision is issued based a fresh review of

the evidence and the applicant may be approved, or denied. An approval will begin the annuity payments, while a denial will give the applicant more appeal rights.

After a second denial, the applicant may appeal the OPM decision to the Merit Systems Protection Board (MSPB). The claim is assigned to a judge in the MSPB regional office and OPM appoints an agency representative to oppose the appellant before the judge. This is the third stage of consideration. If the judge decides in favor of the appellant, the benefits will be initiated, but if the claim is denied again, there are very few options left to the applicant. A denied MSPB case can be reheard by another MSPB judge, or taken to US District Court.

### **After Approval**

The OPM will initiate the payment process. OPM will notify the employing agency to retrieve last date of pay information. Upon receipt, they will begin making interim payments to the annuitant. Interim payments are generally about 80% of what they expect the full payments to be. The purpose of these payments is to immediately get some money into the hands of the annuitant while they calculate the exact payments and set up the retirement for the rest of their life.

Once the full payments are calculated, they will replace the interim payments and make up any back pay that is owed to the annuitant. The effective date the payments will begin is the day following the last time the applicant was paid, either by their agency, or the OWCP.

### **Federal Workers Compensation**

Federal workers compensation is NOT related to federal disability retirement. When a federal employee is injured while performing job duties at work or develops an occupational illness or disease they have the right to file a federal workers compensation claim. Workers compensation claims are adjudicated by the Office of Workers Compensation Programs (OWCP).

The main benefits provided are lost wages, medical care pertaining to the at-work injury and potentially a schedule award in the loss of use is permanent. You may not receive lost wages from OWCP and OPM disability at the same time; however the other OWCP benefits may be paid while drawing federal disability retirement payments.

Acceptance of either type of claim does not automatically qualify you for the other benefit as the agencies make their own decisions under their own criterion.

### **What benefits come with an accepted Federal Workers Compensation claim?**

There are many benefits that the claimant may be entitled to but these three are the most significant.

*Lost Wages:* This benefit is simply compensation for time off work due to the accepted work related conditions. This is also referred to as "Total Temporary Disability" or "Periodic Roll". This benefit is generally 75% of your pay if you have dependants and 66.6% if you do not have any dependants.

*Payment for Medical Expenses:* This benefit is fairly self explanatory. The OWCP should always be responsible for medical expenses connected to the claimant's accepted work related conditions.

*Schedule Award:* This benefit is a potential payment (separate from lost wages) if the injury is established to have created a permanent loss of some function of the body. These payments can vary greatly depending on percentage of loss, the body part affected and the amount of money that an employee earns.

## **Federal Disability Retirement VS Federal Workers Compensation**

Choosing between these two benefits can be confusing and nerve racking. Both programs offer unique benefits that can be better for injured employee in different ways.

OWCP payments are usually higher than federal disability retirement payments. However, while on OWCP, the employee may be subjected to Vocational Rehabilitation efforts or work hardening and are sometimes forced to return to work before they are truly able to continue. While out on OWCP benefits, the employee may be followed or videotaped in antifraud efforts by the government. The employee may also be sent to a Second Opinion doctor who will never provide any treatment, but rather write a report about his opinion of their work abilities.

All of these tactics are designed to return a fraudulent employee to their job, but are often counterproductive when the injury is legitimate. OWCP does not allow employees to work anywhere else while on the total temporary disability benefits.

Conversely, OPM payments, while a little lower, are designed specifically to supplement income in the annuitant's new job. Work in the private sector is encouraged as long as it is within the restrictions of the treating physician. Total earnings may exceed the previous earnings of the annuitants and far exceed that of workers comp payments.

Periodically, OPM may ask for a medical update on the condition to have the treating doctor verify that the former employee is still unable to perform their old job in the government. This can happen as often as every two years until the annuitant reaches the age of 60. The OPM is not obligated to ask for these updates, and it may never happen at all.

Both benefits allow you to keep your insurance benefits as long as you continue to pay for them.

## **Summary of Federal Disability Retirement**

As you can see, federal disability retirement offers an array of benefits designed to supplement a disabled employee's new career, while not jeopardizing their long term security. An annuitant can build their retirement, keep their insurance and ensure income even if they are no longer able to work in their old job.

Federal disability retirement may be the solution you are looking for. We hope that this guidebook has explained many of the rules and benefits offered from the program. If you have further questions about federal disability retirement you can refer to the OPM official website or call a professional for help.

## **Glossary**

OWCP – Office of Workers Compensation Programs  
OPM – Office of Personnel Management  
MDR – Medical Disability Retirement  
FERS – Federal Employee Retirement System  
CSRS – Civil Service Retirement System  
TSP – Thrift Savings Plan  
High 3 – Three highest consecutive years of earning or salary averaged together  
FDR – Federal Disability Retirement  
SSA – Social Security Administration  
VA – Veterans Administration  
CSA – Civil Service Account  
MSPB – Merit Systems Protection Board  
HR – Human Resources  
LAS – Legal Administrative Specialist  
COLA – Cost of Living Adjustments

## **We're Here to Help**

We are honored to represent you with your claim for federal disability retirement. We successfully help hundreds of federal employees every year in securing their OPM disability retirement benefits and we can help you too. If you have any questions about our office, our fees, our values or our mission, we welcome you to contact us anytime. We look forward to working for you.

## **Disclaimer**

Please keep in mind that this information was created to provide only basic information about OPM disability retirement benefits. It does not take into consideration your specific circumstances and does not cover all areas and scopes of this benefit and is not legal advice.