



**MONTGOMERY COUNTY**

**Disability Benefits Plan**

*Summary Plan Description*

October 2016

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**Introduction**

The purpose of this Summary Description is to provide you with an informal guide to the key provisions of the Disability Benefits Plan (Long Term Disability (LTD) Plan), as provided for in the Montgomery County Code, Chapter 33, Article VIII, Division 2 (“County Code”). Every effort has been made to accurately summarize the LTD Plan. However, in the event of a conflict between this Summary Description and the County Code, the County Code will govern.

While Montgomery County Government (the “County”) expects to continue the LTD Plan, it is the County’s position that there is no implied contract between employees and the County to do so. The County reserves the right to change or discontinue any of the terms of the LTD Plan, subject to applicable laws and collective bargaining agreements. In addition, the County may amend the LTD Plan, either prospectively or retroactively, as required by Federal or State law.

The LTD Plan is sponsored by the County. Other government agencies and quasi-government agencies elect to participate in the County’s LTD Plan. If you are an employee of one of those agencies, you participate under the same terms and conditions as a County employee.

**Eligibility**

You are eligible for the LTD Plan if you are budgeted to work for the County or a participating agency at least 20 hours a week and participate in the:

- Retirement Savings Plan,
- Guaranteed Retirement Income Plan, or
- Elected Officials’ Plan.

Your LTD coverage begins automatically on your date of retirement plan membership.

**Definition of Disability**

To qualify for LTD Plan benefits, you must meet the LTD Plan’s definition of disability. Disability is divided into two stages: initial disability and continued disability. If you qualify for an initial disability, the County will re-evaluate you before the end of 36 months (12 months for a public safety employee who has a non-service-related disability) to determine if you meet the requirements for a continuing disability.

Disability benefits are also divided into two categories: non-service-connected and service-connected, depending upon the disability.

**Initial Disability**

You are considered disabled if you cannot perform the job you held when you became disabled. Your condition must be the result of an accident, illness or injury and not

caused by your willful misconduct or willful negligence. See non-service-connected and service-connected for more information.

### **Temporary Disability**

After you qualify for an initial disability, you may be approved for a temporary disability for one or more one year periods. At the end of the period of the temporary disability, a determination will be made as to whether you will continue to receive payments under this LTD Plan.

### **Continuing Disability**

If you qualify for an initial disability, at the end of the initial period you are generally considered disabled if:

- your condition has not changed;
- you cannot perform any job for which you are reasonably suited, based on your education, training or retraining and experience; and,
- your condition is likely to be permanent. If you are a public safety employee, you also must also be unable to earn substantially similar final earnings.

If you qualify for service-connected benefits, you may be considered partially incapacitated. If you are partially incapacitated, you are considered unable to perform one or more of the essential functions of the job you held when you became disabled but you may still perform other substantial gainful employment.

See non-service-connected and service-connected for more information.

### **Application Process**

You (or your representative) may file an application for disability benefits with the Chief Administrative Officer. Applications should be filed through the Montgomery County Employee Retirement Plans (MCERP), 101 Monroe Street, 15<sup>th</sup> Floor, Rockville, MD 20850.

In applying for LTD benefits, MCERP will provide you with the proper forms and any assistance you require with the application process. In addition to completing the forms and submitting to MCERP, you will also need to provide copies of your medical records to the MCERP Disability Manager. Your application and your medical records will be forwarded to the Disability Review Panel.

In order to receive service-connected benefits for an accidental injury that does not cause mental impairment, you must report the injury as soon as practicable, but within one year of the injury or you must submit a timely claim for workers' compensation. You must also file an application for benefits within one year of separation from County service. These time periods do not begin if you have incapacitating injuries and are unable to make a report due to the injuries.

For a non-service-connected disability, the disabling condition or injury must have occurred prior to termination of employment.

## **Disability Review Panel**

The Disability Review Panel will review your application and medical records. Upon completion of the review, the Panel will recommend to the Chief Administrative Officer whether or not you are eligible to receive LTD benefits. When making its determination, the Disability Review Panel may require you to undergo an independent medical examination.

MCERP will notify you in writing of the Chief Administrative Officer's decision. The effective date of your payments would be the earlier of the date by which you have exhausted all accrued sick and compensatory leave in excess of 80 hours or the date of the Chief Administrative Officer's decision.

## **Benefits**

The monthly benefits (payments) you receive from the LTD plan replace a percentage of your final earnings. Your final earnings are your highest average annual pay earned at the County or participating agency (less shift pay differential) for any 18 consecutive-month period. The amount you receive depends on whether your disability is service-connected or non-service-connected. Employment taxes (FICA) will be withheld from your payments for the first six months.

### Service-Connected Disability

A service-connected disability is a condition due to an accident, illness, occupational disease or condition which is aggravated while performing your duties as an employee.

#### *Amount of Benefits*

- Partial Incapacity - You receive 52-1/2% of your final earnings (minus any offset) if the Disability Review Panel determines that you do not qualify for total incapacity. If you are partially incapacitated, you are considered unable to perform one or more of the essential functions of the job you held when you became disabled, but you may still perform other substantial gainful employment.
- Total Incapacity - You receive at least 70% of your final earnings (minus any offsets) if the Disability Review Panel determines that the disability meets the Social Security Administration's requirements for disability. In order to be determined to be disabled by the Social Security Administration, you must be unable to engage in any substantial gainful activity because of a medically determinable physical or mental impairment that can be expected to end in death, or last for at least 12 months.

You do not have to actually have a Social Security determination in order to be eligible for the 70% benefit.

Social Security Award – You will receive 70% of your final earnings (minus any offsets) if you meet the following conditions:

- (a) you are awarded Social Security disability benefits;
- (b) you applied for Social Security benefits within 90 days of the County's notification to you of the disability determination.;
- (c) you submit the information within 60 days of receiving the Social Security decision; and
- (d) the Social Security benefits were based on the same impairment.

*Ineligibility*

You are not eligible to receive service or non-service-connected benefits until you have been employed by the County (or participating agency) for at least 6 months and you are a member of a County retirement plan.

You are not eligible to receive service-connected disability benefits if you committed an offense that would justify termination for misconduct.

*Alternative Position*

You may receive a 5% salary increase if you accept an alternative position in the County government for which you are qualified. Your salary in the alternative position will not exceed the maximum salary of the pay grade assigned to the position. A member of the Office, Professional and Technical Bargaining Unit or the Service, Labor and Trades Bargaining Unit who accepts an alternative placement incentive is not eligible to apply for a service-connected disability benefit based on the disability for which the alternative placement was made.

Non-Service-Connected Disability

A non-service-related disability is a condition due to an accident or illness that is not the direct result of performing your duties as an employee. You will not receive any benefits for an accident or illness caused by your own willful misconduct or willful negligence. You must have worked for the County for the six months immediately preceding the disability.

If your disability is non-service-connected, you will receive 2% of your final earnings multiplied by the number of years you have been a member of one or more of the County's retirement plans, up to a maximum of 60% of your final earnings. You will receive a minimum benefit of 30% of your final earnings. In addition, see Reduction in Benefits section.

*Examples:*

1. If you have been a member of the County's retirement plan for 17 years, your monthly payment is 34% of your final earnings (2% x 17 years of service).
2. If you have been a member of the retirement plan for 10 years, your monthly payment is 30% of your final earnings. The minimum payment is 30%.

## **Public Safety Employee Cost of Living Adjustment**

If you are a public safety employee, you will receive a cost of living adjustment each year. This will equal 60% of the annual change in the cost of living index (as determined by the Baltimore-Washington Area Consumer Price Index). The cost of living adjustment is limited to 3% each year. If you receive a disability retirement benefit for a disability occurring after June 30, 2011, as determined by the Disability Review Panel, any adjustment of your benefit payment will not exceed 2.5%.

## **Reduction in Benefits**

Your benefits will be reduced for the following:

### 1. Other LTD Benefits

Your benefits will be reduced one dollar for each one dollar you receive from:

- Social Security disability benefits (including benefits paid to your dependents because of your disability)
- any other government group income maintenance insurance coverage
- any government disability plan
- the Employees' Retirement System
- the GRIP or RSP – any amount you are entitled to receive (i.e., your plan account) for a public safety employee

A. If you receive any of these payments as a lump sum, your LTD benefit will be adjusted as if the lump sum were being paid as an annuity.

B. You are required to apply for Social Security disability benefits. If you receive retroactive benefits covering the period of time you received benefits from the LTD Plan, you must reimburse the County.

C. The benefit calculated under this formula may be adjusted by benefits from other sources and you may receive less than 30% of your final earnings.

### 2. Employment

Your County disability benefit will be reduced one dollar for each three dollars of your earnings or income you receive because of employment, including net earnings from self-employment.

### 3. Workers' Compensation

The LTD payment you receive from the County is subject to a reduction by any workers' compensation award for which you may be eligible. If you are eligible for both and your disability benefit is greater than what you are entitled to receive from workers' compensation, you will receive only the disability benefit. (Your

LTD payment satisfies the County’s workers’ compensation obligation.) You must report any changes in your income to the MCERP.

**Payment Period**

If you are a non public safety employee, your continued disability benefits will generally last until:

- you recover from your disability (before age 65)
- you fail to provide the Chief Administrative Officer with any necessary information (such as any earnings or tax information), or if you refuse to see a doctor)
- you reach age 65 (unless you became disabled after age 62), or
- your death.

If you are disabled at age 62 or older your benefits will last as follows:

| Age   | Length of benefits    |
|-------|-----------------------|
| 62-64 | 3 years (36 payments) |
| 65-67 | 2 years (24 payments) |
| 68+   | 1 year (12 payments)  |

If you are a public safety employee and your disability is service-connected, your benefit will last for your lifetime (as long as you remain disabled and provide requested information). Your benefits will not automatically end when you turn 65.

**Employer Contributions to the Retirement Savings Plan and Guaranteed Income Retirement Plan**

If you are a non-public safety employee and you become disabled, you may receive employer contributions to your retirement plan until you reach age 62. To qualify for these employer contributions, your disability must be determined by the Disability Review Panel to make you unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. You may not receive a distribution of your account balance in the RSP or GRIP while you are receiving these contributions.

**Re-Evaluation of Continuation of Payments**

After the initial disability period, you must undergo a medical examination to determine if you are entitled to receive continued disability benefits. If you are found to be ineligible, the disability benefits under this LTD Plan will end.

**Re-Employment Program**

The Chief Administrative Officer may offer you a job through a program for employees who are on disability. The re-employment program would assign you a job you could perform with your disability, and which is suited for you based on your training, education, experience and physical and mental capabilities. You will be notified if you



qualify for this program. If you are selected for the program, you must participate or you will forfeit your benefits.

### **Appeals**

The Chief Administrator has the full discretion to interpret the Plan. If you disagree with any decisions regarding your eligibility for disability benefits, including a decision to discontinue your benefits, you may appeal the decision within 20 days of your receipt of written claim denial. The appeal should be sent to the Office of Human Resources at 101 Monroe Street, 7<sup>th</sup> Floor, Rockville, Maryland 20850. The Disability Arbitration Board will review your appeal and should issue a decision within 30 days after a hearing.

### **Errors**

If you receive any monetary amount due to an error, you must return it to the County.

### **Resources**

#### **MCERP**

*Mail:* 101 Monroe Street, 15<sup>th</sup> Floor  
Rockville, MD 20850

*Email:* [Retirement@montgomerycountymd.gov](mailto:Retirement@montgomerycountymd.gov)

*Phone:* 240-777-8230

*Fax:* 301-279-1424

*Web:* [www.montgomerycountymd.gov/retirement](http://www.montgomerycountymd.gov/retirement)

#### **Disability Manager**

*Mail:* 101 Monroe Street, 15<sup>th</sup> Floor  
Rockville, MD 20850

*Phone:* 240-777-8238