

## ARTICLE 3. SHORT AND LONG TERM DISABILITY BENEFITS FOR STATE EMPLOYEES

### Rule 1. Disability Benefits

#### 31 IAC 3-1-1 Short term disability; eligibility

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15; IC 5-10-8-7; IC 22-3-2

Sec. 1. An employee who meets all the following criteria is entitled to short term disability benefits under this rule:

(1) The employee must be employed on a full-time basis and have six (6) months of continuous full-time employment.

(2) The employee must be absent due to illness, injury, or legal quarantine as evidenced by a physician's signed statement.

(3) The employee must have been absent thirty (30) consecutive calendar days due to the disability.

*(State Personnel Department; 31 IAC 3-1-1; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2211, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

#### 31 IAC 3-1-2 Short term disability; elimination period

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 2. To be eligible for short term disability benefits, the employee must be absent from work for an elimination period of thirty (30) consecutive calendar days. Authorization for absence and salary continuation during the elimination period should be sought under the rules relating to vacation, sick leave, personal leave, compensatory time, previously accrued special sick leave, leave without pay, or worker's compensation. The employee may choose the order in which vacation, sick leave, personal leave, and/or compensatory time is charged during the elimination period. On the thirty-first calendar day of absence due to disability, the employee becomes eligible for short term disability benefits. *(State Personnel Department; 31 IAC 3-1-2; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2211, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

#### 31 IAC 3-1-3 Short term disability; basic benefit

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 3. The basic short term disability benefit is sixty percent (60%) of the employee's base biweekly wage. *(State Personnel Department; 31 IAC 3-1-3; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

#### 31 IAC 3-1-4 Short term disability; augmentation of basic benefit

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 4. The basic short term disability benefit may be augmented up to eighty percent (80%) of the employee's base biweekly wage by pro rata charge against accrued leave balances. For example, an employee entitled to the short term disability benefit may receive eighty percent (80%) of his/her base biweekly wage by subtracting one (1) day each week from the accrued leave balance. *(State Personnel Department; 31 IAC 3-1-4; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-5 Short term disability; duration**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 5. Short term disability benefit payments may not exceed five (5) months. *(State Personnel Department; 31 IAC 3-1-5; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-6 Short term disability; recurrence, continued treatment**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 6. (a) An employee who returns to work from short term disability and returns to nonwork status within three (3) months will not begin a new benefit period or be subjected to a new elimination period if the second disability is the same as the first. The entire period of absence will be considered as one (1) continuous period resulting from the same disability.

(b) If the employee returns to work but periodically needs time off for ongoing medical treatment related to the disability, the sporadic absences for treatment may be compensated at the basic benefit rate or, at the employee's option, the employee may use accrued leave and receive full compensation. *(State Personnel Department; 31 IAC 3-1-6; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-7 Long term disability; contribution**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 7. After six (6) months continuous full-time employment, an employee contribution shall be collected through payroll deductions in the amount of one-fourth of one percent (.25%) of the employee's gross biweekly compensation. *(State Personnel Department; 31 IAC 3-1-7; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-8 Long term disability; eligibility**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 8. An employee who meets all the following criteria is entitled to long term disability benefits:

- (1) The employee must be employed on a full-time basis and have six (6) months of continuous full-time employment.
- (2) The employee must be absent due to illness, injury, or legal quarantine as evidenced by a physician's signed statement.
- (3) The employee must have been absent for a continuous period of six (6) months due to the disability.

*(State Personnel Department; 31 IAC 3-1-8; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-9 Long term disability; "disability" defined**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 9. (a) Except as provided in sections 20(4) and 27 of this rule, for the first and second year, the long term disability benefit

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is available if the employee is unable to perform work consistent with his/her classification.

(b) The long term disability benefit is available for a third and fourth year if the employee is unable to perform the work of any occupation for which s/he is reasonably qualified by reason of education, training, or experience. *(State Personnel Department; 31 IAC 3-1-9; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff. Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-10 Long term disability; basic benefit**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 10. (a) For the first and second year of long term disability, the basic benefit is fifty percent (50%) of the employee's base biweekly wage before disability.

(b) For the third and fourth year of long term disability, the basic benefit is forty percent (40%) of the base biweekly wage before disability. *(State Personnel Department; 31 IAC 3-1-10; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2213, eff. Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-11 Long term benefits; augmentation**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 11. (a) During the first and second year of long term disability benefits, the basic long term disability benefit may be augmented to seventy percent (70%) of the employee's base biweekly wage by pro rata charge against accrued leave balances.

(b) During the third and fourth year of long term disability benefits, the basic long term disability benefit may be augmented to sixty percent (60%) of the employee's base biweekly wage by pro rata charge against accrued leave balances. *(State Personnel Department; 31 IAC 3-1-11; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2213, eff. Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-12 Long term benefits; duration**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 12. (a) Except as otherwise provided in this section, long term disability benefit payments are limited to a maximum duration of four (4) years.

(b) Benefits will only be provided as long as the employee is deemed disabled.

(c) The maximum short term and long term benefit period for a mental and/or nervous disability is limited to twenty-four (24) months.

(d) The maximum short term and long term benefit period for drug and/or alcohol dependency rehabilitation is limited to twenty-four (24) months.

(e) The maximum benefit period for a disability occurring on or after attained age sixty-two (62) is limited as follows:

Age at Disability	Benefit Duration
62	3.50 years
63	3.00 years
64	2.50 years
65	2.00 years
66	1.75 years
67	1.50 years

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68                    1.25 years  
69 +                  1.00 year

*(State Personnel Department; 31 IAC 3-1-12; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2213, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-13    Long term disability; recurrence, continued treatment**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 13. (a) An employee who returns to work from a long term disability and returns to nonwork status within six (6) months will not begin a new benefit period or be subject to a new elimination period if the second disability is the same as the first. The entire period of absence will be considered as one (1) continuous period resulting from the same disability.

(b) If the employee returns to work but periodically needs time off for ongoing medical treatment related to the disability, the sporadic absences for treatment may be compensated at the basic benefit rate or, at the employee's option, the employee may use accrued leave and receive full compensation. *(State Personnel Department; 31 IAC 3-1-13; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2213, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-14    Long term disability; return to work**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 14. (a) If an employee, having recovered from the long term disability, desires to return to work and the agency, in which s/he was employed before the onset of the disability, has no vacant position in their classification, or a similar classification with the same basic qualifications and salary range, retention scoring procedures shall be instituted to determine which employee is to be laid off. The retention scoring procedure is found at 31 IAC 2-12-6.

(b) When benefits cease because the disability does not meet the standard set forth in section 9(b) of this rule, the last appointing authority, for whom the employee worked before the onset of the disability, shall offer the employee the next available position, within thirty (30) miles of his/her designated work station before the onset of the disability, at the same or a lower skill level, which s/he is legally qualified to fill and physically capable of performing. The third declination of such an offer is cause for termination of employment. *(State Personnel Department; 31 IAC 3-1-14; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2214, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-15    Exclusions**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 15. Neither short term nor long term disability benefits are payable for a disability resulting from the following:

- (1) War, declared or undeclared.
- (2) Participation in a rebellion, insurrection, or riot.
- (3) Intentionally self-inflicted injury.
- (4) Commission, or attempt to commit, a crime.
- (5) An accident caused by intoxication due to alcohol or illicit drugs.
- (6) Willful failure to follow designated safety procedures.
- (7) Willful disregard of rules.
- (8) Willful failure to perform a stated duty.

*(State Personnel Department; 31 IAC 3-1-15; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2214, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-16 Administration**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 16. (a) The application for benefits must be submitted by the employee, or some person acting on his or her behalf, to the state personnel department or, if a third party administrator is contracted by the state, to the third party administrator and must include a request for benefits and a signed physician's statement evidencing the nature, extent, and probable duration of the disability.

(b) The effective date of benefit payments shall not precede the date on which application is made by the employee, or some person acting on his or her behalf, to the state personnel department or, if a third party administrator is contracted by the state, to the third party administrator.

(c) An employee must apply for Social Security and pension benefits simultaneously with or prior to application for long term disability benefits. The employee must exercise due diligence in attempting to secure an award of Social Security and pension benefits.

(d) Applications must also be referred to the rehabilitation services bureau of the division of disability, aging, and rehabilitation services.

(e) Determination of disability and eligibility for benefits shall be made by the state personnel department in coordination with the disability determination bureau of the division of disability, aging, and rehabilitation services or by a third party administrator contracted by the state. *(State Personnel Department; 31 IAC 3-1-16; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2214, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1990; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-17 Medical examinations**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 17. The appointing authority, state personnel department, disability determination division of the bureau of the division of disability, aging, and rehabilitative services, or a third party administrator contracted by the state may require examination by designated physicians. Examinations by state designated physicians shall be paid for by the state. Failure of the employee to submit to a required examination or waive the patient/physician privilege results in a disqualification of eligibility for benefits. The employee is not required to waive the patient/physician privilege as to medical conditions unrelated to his or her claim for benefits. *(State Personnel Department; 31 IAC 3-1-17; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2214, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1990; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-18 Payroll**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 18. Benefits shall be paid using the auditor's payroll system and shall be processed through the state personnel department or third party administrator. *(State Personnel Department; 31 IAC 3-1-18; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2215, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-19 Manning table location**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 19. (a) Employees on short term disability will continue to occupy an appropriately classified manning table position of the employing agency.

(b) Employees on long term disability will be removed from the manning table of the employing agency and placed on a special manning table containing the names and occupations of all persons on long term disability. The state personnel director is the appointing authority for employees on long term disability. (*State Personnel Department; 31 IAC 3-1-19; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2215, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

**31 IAC 3-1-20 Termination**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7  
Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 20. Benefits terminate when any of the following occur:

- (1) The employee fails to submit information necessary for claim administration, including, but not limited to, the following:
  - (A) Authorizing attending physicians to release information to the state and third party administrator on the employee's condition and prognosis.
  - (B) Timely reporting income from sources specified in section 22(a) or 25 of this rule.
- (2) The employee refuses to submit to an examination by a designated physician.
- (3) The employee's medical condition no longer meets the standard set in the definition of disability.
- (4) The employee refuses to accept work assignments appropriate to the employee's medical condition.
- (5) The employee returns to regular duty.
- (6) The employee commits fraud related to his or her application for benefits.
- (7) The time specified in section 5 or 12 of this rule has expired.

(*State Personnel Department; 31 IAC 3-1-20; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2215, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

**31 IAC 3-1-21 Continuation of benefits**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 21. (a) Group health, dental, and life insurance will be continued in force for employees on short and long term disability. Employee contributions toward the premiums shall be deducted from the disability payments.

(b) An employee who qualifies for the short or long term disability program but whose benefits would be zero (0) because of the offset provisions of section 22 of this rule, shall receive a guaranteed minimum benefit sufficient to make the employee contribution to group medical, dental, and life insurance offered by the state, that the employee was enrolled in at the time the disability began.

- (c) The long term disability premium contribution shall be waived for employees receiving the long term disability benefit.
- (d) No sick, vacation, personal, or other paid leave accrues while the employee is on short or long term disability.
- (e) Time spent on short or long term disability is credited as service for retirement fund purposes.

(f) Retirement fund benefits will be calculated only once while the employee is on short or long term disability. Retirement fund benefits will not be recalculated until the short and long term disability benefits cease. However, any increases in benefits granted by the Indiana general assembly will increase the employee's pension payments. (*State Personnel Department; 31 IAC 3-1-21; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2215, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001,*

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**31 IAC 3-1-22 Offsets**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 22. (a) Short and long term disability salary continuation benefits shall be reduced, dollar for dollar, if the employee derives income, as the primary recipient, from any of the following sources:

- (1) Social Security.
- (2) Public employees' retirement fund.
- (3) Teachers' retirement fund.
- (4) Any other state supported retirement fund.
- (5) Pension disability.
- (6) Worker's compensation salary continuation benefits.
- (7) Benefits provided from another employer's group plan.
- (8) Remuneration for employment entered into after the disability was incurred.

(b) An employee receiving short or long term disability benefits shall notify the state personnel department or the third party administrator, if a third party administrator is contracted by the state, within seven (7) calendar days of receipt that income has been received from any of the sources in subsection (a).

(c) Benefits provided by an individually purchased disability insurance policy or any medical expense reimbursement will not be offset. *(State Personnel Department; 31 IAC 3-1-22; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2216, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-23 Income adjustments**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 23. (a) Short and long term disability benefits are not subject to adjustment based on increases in Social Security or pension benefits. Once the amount of Social Security and pension benefits are set, they will be treated as if they remained constant for the duration of payments under this rule, such that no further offset will be made to reduce benefits under this rule.

(b) General salary adjustments granted to all employees in the disabled employee's classification shall cause the disabled employee's base gross biweekly wage to be adjusted and will result in an increase in benefits under this rule.

(c) Performance based merit increases and bonuses will not be awarded to employees on short or long term disability. *(State Personnel Department; 31 IAC 3-1-23; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2216, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 3-1-24 Other employment**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 24. (a) An employee who accepts other employment while receiving short or long term disability payments shall give notice, within seven (7) calendar days, to the state personnel department or the third party administrator, if a third party administrator is contracted by the state.

(b) Persons receiving short or long term disability payments may be prohibited from accepting other employment outside state government which would retard their rehabilitation. *(State Personnel Department; 31 IAC 3-1-24; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2216, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991; readopted filed May 4, 2001,*

4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)

**31 IAC 3-1-25 Subrogation**

Authority: IC 4-15-1.8-6; IC 5-10-8-7  
Affected: IC 22-3-2

Sec. 25. An employee's right to recover in tort is subrogated to the state to the extent of benefits paid under this rule. If a tort claim is settled for less than the amount of benefits paid, subrogation is limited to one-half (1/2) of settlement amount. (*State Personnel Department; 31 IAC 3-1-25; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2216, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

**31 IAC 3-1-26 Tortious acts within scope of employment**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 26. (a) An employee who, in the scope of state employment, is disabled by injuries resulting from the tortious act of another person, shall receive one hundred percent (100%) of his/her base biweekly wage.

(b) A seven (7) calendar day elimination (waiting) period applies to this benefit. During the elimination period the employee may use accrued leave benefits.

(c) The maximum duration of benefits under this section is one (1) calendar year from the date of the job related injury.

(d) After exhaustion of this benefit, the employee is eligible for salary continuation under worker's compensation and/or long term disability. In this situation, long term disability benefits may be provided for the maximum duration allowed by section 12 of this rule, subject to the termination and other provisions of this rule.

(e) The employee cannot receive both this benefit and salary continuation under worker's compensation simultaneously.

(f) The period of time an employee is eligible for temporary total disability payments or total permanent disability payments is reduced by the amount of time s/he received benefits under this section. (*State Personnel Department; 31 IAC 3-1-26; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2216, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

**31 IAC 3-1-27 Partial disability**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 27. (a) Short and long term disability benefits will be paid only if the disability would not permit the employee to perform any other job assignment and an appointing authority does not assign duties the employee is physically capable of performing, according to the determinations made in sections 16 through 17 of this rule.

(b) An employee unable to do his/her regular job, but who returns to work and performs any job assignment will receive eighty percent (80%) of his/her base biweekly wage or the minimum hourly rate for services performed, whichever is greater.

(c) An employee who refuses an appropriate temporary assignment shall be terminated from employment, and benefits under this rule shall cease. (*State Personnel Department; 31 IAC 3-1-27; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2217, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

**31 IAC 3-1-28 Other accrued leave; option**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7  
Affected: IC 4-15-1.8-7; IC 22-3-2

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SHORT AND LONG TERM DISABILITY BENEFITS FOR STATE EMPLOYEES

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Sec. 28. After the elimination period and prior to application for short and long term disability, an employee may request and the appointing authority may allow use of accrued compensatory time off, sick, vacation, personal, or special sick leave. One (1) day of accrued leave shall be charged for each day of absence. (*State Personnel Department; 31 IAC 3-1-28; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2217, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

**31 IAC 3-1-29 Retention of previously accrued benefits**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 29. (a) Special sick leave benefits accrued by employees prior to July 1, 1989, in accordance with 31 IAC 1-9-5 [31 IAC 1-9-5 was repealed filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218.] or 31 IAC 2-11-6 [31 IAC 2-11-6 was repealed filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218.], that are unused as of June 30, 1989, remain on account for use by the employee.

(b) An employee with more than one (1) year but less than five (5) years of continuous full-time employment as of June 30, 1989, is entitled to credit with special sick leave equal to one (1) calendar week for each calendar year of continuous full-time state employment completed prior to July 1, 1989. A proportionate amount of special sick leave will be allowed for that period of continuous service in excess of complete years.

(c) After exhaustion of accumulated vacation leave, sick leave, personal leave, and compensatory time off, the special sick leave account may be used by the employee in the following circumstances:

(1) During the elimination period, prior to the beginning of disability benefits, as provided in section 2 or 26(b) of this rule.

(2) To augment short or long term disability benefits as provided in sections 4 and 11 of this rule.

(3) In lieu of short and long term disability benefits as provided in section 28 of this rule.

(*State Personnel Department; 31 IAC 3-1-29; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2217, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

**31 IAC 3-1-30 Active work requirement excluding preexisting disabilities**

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 30. This rule provides benefits for employees whose period of absence, due to disability, begins on or after July 1, 1989. An employee on sick leave, special sick leave, worker's compensation salary continuation, leave without pay, or receiving benefits under 31 IAC 2-11-5 [31 IAC 2-11-5 was repealed filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218.] on June 30, 1989, is not entitled to benefits under this rule until s/he has returned to work, but may continue to receive benefits under the plans that existed at the time the disability occurred. (*State Personnel Department; 31 IAC 3-1-30; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2217, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

**31 IAC 3-1-31 Agency election**

Authority: IC 4-15-1.8-6; IC 5-10-8-6; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 5-10-8-4; IC 5-10-8-6

Sec. 31. On or before July 1, 1989, the administrative heads of the state police, conservation officers, and state excise police shall notify the state personnel director whether the provisions of this rule will apply to their employees or whether they will establish separate plans providing equal benefits under IC 5-10-8-6 and IC 5-10-8-4. (*State Personnel Department; 31 IAC 3-1-31; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

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