
VIRGINIA SICKNESS AND DISABILITY PROGRAM

APPLICATION: Classified employees participating in the Virginia Sickness and Disability Program administered by the Virginia Retirement System.

PURPOSE

Provides eligible employees supplemental replacement income during periods of partial or total disability for both non-occupational and occupational disabilities. Encourages rehabilitation with an ultimate goal to return employees back to gainful employment when medically able. Provides employees with sick and family and personal leave.

DEFINITIONS

Active Employment (for VSDP Purposes)

The employee is released to return to work (RTW) full time without restrictions for at least 20 hours or more a week. Part-time employees must work at least 20 or more hours a week.

Activities of daily living (ADL's)

Six activities necessary for individuals to function on a day-to-day basis without assistance: Bathing; Dressing; Toileting; Transferring; Bladder/Bowel control; and Eating.

Americans With Disability Act (ADA)

Federal Law that prohibits employment discrimination against qualified disabled individuals and requires covered employers to provide reasonable accommodation to those individuals unless that accommodation would impose an "undue hardship" on the employer.

Average Final Compensation

Average of highest 36 consecutive months of creditable compensation used for calculation of retirement benefit.

Average Weekly Wage

Calculated amount an employee earns based on Section 65.2-101 of the Virginia Workers' Compensation Act.

Calendar Year (Leave Year)

January 10 – January 9.

Catastrophic Condition

A condition that is so severe or debilitating that it:

- takes away the employee's ability to perform at least two of the six ADL's, or
- requires substantial medical supervision to protect the employee from threats to health and safety as a result of severe cognitive impairment.

Creditable Compensation

The full compensation payable annually to an eligible employee

working in a VRS covered position not including overtime pay, payments of a temporary nature, or payments for extra duties such as pay for teachers who provide coaching or act as an advisor for special activities.

Creditable Service for Retirement Purposes

Any prior service credits plus Virginia Retirement System (VRS) service credit that is earned in a covered position and used by VRS in the calculation of a retirement benefit. Periods of short-term disability (STD) and long-term disability (LTD) are included in the calculation of creditable VRS service.

Disability

An illness or injury or other medical condition, including pregnancy, that prevents an employee from performing the duties of his or her job. A disability can be total or partial.

Disability Benefit

Income replacement payments payable to a participating employee under the STD or LTD benefit program. Disability benefits are offset by Workers' Compensation benefits payable under the Workers' Compensation Act.

Disability Credits (DCs)

Sick Leave (SL) converted by employees who enrolled in VSDP between January 1, 1999 and March 1, 1999 or employees who did not opt out during October 1 – November 30, 2002. DCs are used in eight-hour increments and can be used to supplement periods of 80% or 60% income replacement to obtain 100% payment. Eight DCs equal one day of 100% income replacement. Employees are required to use DC when in LTD.

Eligible Employee

The following employees are eligible to participate:

- Classified state employees who are active members of VRS;
- State police officers who are active members of SPORS;
- State employees who are active members of VaLORS;

NOTE: Full-time teaching research or administrative faculty of a state institution of higher education who are active participants in VRS are eligible to participate.

Essential Job Functions

The required job duties that must be performed in order to produce the expected outcome.

Family and Medical Leave Act (FMLA)

Federal law that provides eligible employees the opportunity to balance the demands of the workplace and their families by providing up to 12 weeks of paid and/or unpaid family or medical leave in a year.

**Family/Personal Leave
(F/P)**

Family/Personal Leave (F/P) may be taken at the discretion of the employee for any purpose (family, illness, attend a funeral, or other personal needs, etc.) provided the employee gives reasonable notice and his/her supervisor approves the absence.

F/P Leave cannot be carried over to the next leave year (January 10th – January 9th) or paid out upon separation.

Accrual rates are based on total months of State service (or previous State service) and employment status (F, Q, P). Full (F & Q) and part-time (P) employees accrue the same amount of F/P Leave annually. New hires and rehires accrual rates are based on the date of employment. In subsequent years, the accrual rates for rehires are based on total months of State service (see accrual rates chart.)

**Independent Medical
Examiner (IME)**

A licensed treating professional who is of the same or similar profession as the employee's licensed treating professional and may be used if the clinical information provided does not substantiate an employee's claim for benefits. The IME is selected through an independent third-party contractor.

Ineligibility Period

The period of time an employee hired, or re-hired, as of July 1, 2009 or later must satisfy before being eligible for non-occupational VSDP benefits. This period is one continuous year of state service from their date of hire or re-hire.

**Licensed Treating
Professional (LTP)**

A doctor of medicine or osteopathy who is licensed to practice medicine or surgery by the state in which the doctor practices.

Also included are podiatrist, optometrist, chiropractor, clinical psychologist, or clinical social worker licensed to practice in the state and performing within the scope of his or her practice as defined under state law, and Christian Science practitioners listed with the first Church of Christ, Scientist in Boston, MA.

If the licensed treating professional is not a doctor of medicine or osteopathy, the employee may be required by the TPA to seek treatment from a doctor or osteopathy after a reasonable period of time.

Long Term Care

Daily reimbursement for medical, personal and social services provided in a nursing care facility, assisted living, home health, or respite care. To qualify the employee must be unable to perform 2 out of the 6 ADL's or have a severe cognitive impairment. There is an once-in-a-lifetime waiting period (90 days) and a maximum

lifetime benefit.

**Long Term Disability
Benefit (LTD)**

An income replacement benefit that commences upon the expiration of the maximum period for which the employee is eligible to receive STD benefits, and provides income replacement in an amount equal to 60% of participating employee's creditable compensation or 80% income replacement if the disability has been designated catastrophic.

**Long Term Working
Disability Benefit (LTD-
W)**

An income replacement benefit that commences upon the expiration of the maximum period for which the employee is eligible to receive STD benefits, and allows employees to continue to work for their agencies from STD working status into LTD-W. In LTD-W the employee must work at least 20 hours or more per workweek in his own position. Qualified part-time employees continue to work for their agency when moving from STD into LTD-W for 20 or more hours per week.

**Major Chronic Health
Condition**

A life threatening health condition that exists over a prolonged period of time and is not expected to resolve in the foreseeable future. The determination of a life threatening health condition is made at the discretion of the TPA in accordance with, but not limited to, the following criteria. The employee:

- must be deemed disabled by a licensed treating professional (LTP);
- must have experienced a period of disability for the same condition within the last six months.
- must be under the ongoing care of a LTP.

All cases are reviewed and updated with additional medical documentation on an individual basis. There is no waiting period for illnesses/injuries designated as major chronic.

Normal Retirement Age

Age 65 for VRS members and age 60 for SPORS and VaLORS members.

Partial Disability

A partial disability exists during the first 24 months following the occurrence or commencement of an illness or injury:

- when an employee is earning less than 80 percent of his or her pre-disability earnings **and**,
- as a result of injury or illness, is able to perform one or more, but not all, of the essential job functions of his/her own job on a full or a part-time basis **or**
- is able to perform all of the essential job functions of his or

her own job only on a part-time basis.

**Re-hire (for VSDP
purposes)**

An employee who, between periods of state employment, has had a gap in the reporting of their creditable compensation to the VRS.

Note: This can only occur if the employee has had a break in service as defined by the VRS.

Return To Work Program

Assignment of employees to their pre-disability position or alternative assignments for a specified length of time with job modifications in an attempt to assist them in returning to full duty employment.

Serious Health Condition

An illness, injury or physical cognitive condition as defined by the Family and Medical Leave Act (FMLA see Policy 4.20, Family Medical Leave).

Sick Leave Credits (SL)

Sick Leave (SL) may be taken for personal illnesses, injuries, preventive care and wellness physician visits. 33% of an employee's SL can be used for qualifying family FMLA absences. SL cannot be carried over to the next year (January 10th – January 9th) or paid out upon separation.

Accrual rates are based on total years of State service and employment status (F, Q, P). New hires and rehires accrual rates are based on the date of employment (see accrual rates chart). In subsequent years, the accrual rates for rehires are based on total months of State service and employment status.

**Short-term Disability
Benefits (STD)**

Commences upon the expiration of a 7 calendar day waiting period, and provides replacement income for a maximum of 125 work days at 100%, 80% or 60% for defined periods of time based on an employee's date of hire, or re-hire, and total months of state service. If the disability/illness is deemed catastrophic, the employee would receive 100% or 80% income replacement and the waiting period would be waived.

Note: Employees hired, or re-hired, on 7/1/09 or later are not eligible for VSDP benefits for a non-occupational disability until they have completed one year of continuous state service.

State Service

For purposes of this policy, defined as the employee's total period of state service as an eligible employee, including all periods of salaried full-time and salaried part-time service and periods of Leave With Pay. Service does not include periods of leave without pay except for leave without pay for layoff, military leave, and temporary workforce reduction.

| | |
|---|---|
| Third Party Administrator (TPA) | The company designated by the Virginia Retirement System (VRS) to administer the daily operation of the Virginia Sickness and Disability Program. |
| Total Disability | Exists during the first 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform all of the essential functions of his or her normal job duties, on a full-time basis. Exists after 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform any job for which he or she is reasonably qualified based on his or her training or experience and is earning less than 80% of his or her pre-disability earnings. |
| Traditional Sick Leave Program | Provides employees who did not enroll in VSDP with paid leave from work for health-related reasons, or access to 33% of leave for family FMLA events (see Policy 4.55). |
| Virginia Workers' Compensation Commission (VWCC) | The state agency that administers the Virginia Workers' Compensation Act. |
| VRS Service Credit | The credit toward retirement that a member earns in a VRS-covered position. A member is credited with one month of service for each month the member (or the employer on the member's behalf) makes a contribution to VRS. A member cannot receive more than 12 service credits per year worked. |
| Waiting Period | Seven calendar days of medical absence from work that must be met before STD benefits can begin. The waiting period commences the first day of a disability. An employee who returns to work for 20 hours or less during the 7 calendar day waiting period will have satisfied the waiting period. If the absence is due to a major chronic condition or catastrophic illness diagnosed at the onset of the disability, no waiting period is required before benefits begin. Eligible part-time employees who work for 10 hours or less during the waiting period will be considered to have fulfilled the 7 calendar day waiting period. |
| Work-related Injury/ Illness | An injury or illness which occurs on the job to an eligible employee for which benefits are awarded by the VWCC and are payable under the Workers' Compensation Act. |
| Workers' Compensation (WC) Benefit | Income replacement as awarded by the Workers' Compensation Commission (VWCC) when an employee suffers a compensable work-related injury or illness. Income replacement is awarded by the VWCC and is based upon 66 2/3 percent of the average of the |

last year's earnings prior to the accident within a minimum and maximum amount as established by the VWCC (see policy 4.60).

GENERAL PROVISIONS

VRS Coverage – Dual Employment

All classified employees hired or rehired after January 1, 1999 must participate in the VSDP. An employee can be covered by only one VRS employer.

An employee who is employed in more than one position that provides coverage under VRS must elect, in writing to VRS, one position on which coverage will be based by completing an "Election of Reporting Employer for Dual Employment" Form (VRS-9 Form).

Status Upon Transfer

1. Covered employees (employees covered by the Virginia Personnel Act) who chose to stay in the Traditional Sick Leave Program (See Policy 4.55, Sick Leave) will continue in that program when transferring to another covered position.
2. Employees transferring from non-covered positions to covered positions who elected not to enroll in VSDP during the open enrollment period will be:
 - a. enrolled in the Traditional Sick Leave Program if the SL program of the transferring agency is the same as the SL Program outlined in Policy 4.55; or
 - b. enrolled in VSDP if the SL program of the transferring agency is different than the SL Program outlined in Policy 4.55.
3. Employees transferring from agencies not participating in VSDP will be considered new hires and enrolled in the VSDP.
4. Employees who move from a faculty position to a classified position are considered separated and then rehired. These employees must participate in VSDP.

Family Medical Leave Act (FMLA)

FMLA and the VSDP leave run concurrently if:

- the disability is determined by TPA to be FMLA qualified, and
- the agency determines that the employee is FMLA eligible.

Agencies must provide eligible employees with FMLA notification and they must track FMLA hours. During periods of FMLA the provisions of Policy 4.20, Family Medical Leave, also

applies and employer payment of healthcare premium continues.

Family FMLA

- Eligible employees may use 33% of their available VSDP SL for an FMLA absence for an immediate family member as defined by FMLA. (See Policy 4.20, Family and Medical Leave)

FMLA Calendar

Eligible employees have access to 12 weeks of FMLA leave each calendar year (January 10 – January 9). (See Policy 4.20, Family and Medical Leave.)

Recording FMLA Hours

During periods of STD and LTD-W the hours not worked are recorded as FMLA Leave. Example: If an employee is in STD working status with restrictions working 5 hours a day, the non-work hours (3 hours) are recorded as FMLA.

Holiday Leave

During periods of STD employees are credited with holiday leave based on the percentage of disability benefit (100%, 80% or 60%) they are receiving. To receive 100% income replacement when STD decreases to 80% or 60% employees must use accrued leave to supplement VSDP benefits. Holidays count towards the 7 calendar day waiting period.

Employees on LTD-W receive holiday pay based on the percentage of work hours scheduled. Disability benefits for the holiday are based on the percentage of disability benefit (60%) the employee is receiving. To receive 100% income replacement employees must use accrued leave to supplement VSDP benefits.

Probationary Period

Employees receiving STD or LTD-W benefits during their probationary period are still probationary. As such, they may be terminated with or without cause while on STD or during any period in which they have been released by their LTP to return to work.

Probationary periods must be extended when probationary employees are on STD leave for more than 14 consecutive calendar days. See Policy 1.45, Probationary Period.

Probationary employees on STD or LTD-W are eligible to receive increases according to Policy 1.45, Probationary Period.

Employees in LTD-W may be eligible to receive the performance increase according to Policy 1.45; however, the increase would be applied only to the employee's salary and would not increase the LTD benefit.

STD benefits for elective medical procedures, including but not limited to surgery, shall not be payable during first 6 months of

**Performance Evaluations
and Increases**

employment or re-employment as an eligible employee without approval of the employer.

Supervisors may consider the length of time that employees perform in their jobs during the performance cycle, along with how well they perform, in arriving at employees' overall ratings.

Absences for STD or LTD-W status under the VSDP program must not be used to negatively impact the employee's overall performance rating or his performance increase.

Performance increases are applied to employees' STD benefits if the evaluation on file is current and the employee has received a performance rating of at least "Contributor." Employees are eligible for retroactive performance increases upon completion of performance evaluations in the event the evaluations are not current. Salary increases will be applied to the employee's salary while on STD and LTD-W and the VSDP benefit for employees on STD, but not LTD-W or LTD disability benefits.

Salary Increases

Creditable compensation during periods an employee receives STD shall include general salary increases awarded during the period of disability. Salaries for employees on LTD-W shall reflect the general salary increase; however, LTD benefits do not change.

Employee Compliance

Employees who fail to comply with VSDP program requirements such as contacting the TPA regarding an illness or injury, compliance with return to work arrangements, or completing and returning LTD information to the TPA may have their benefit reduced or terminated and/or may be subject to disciplinary action up to and including termination of employment. (See Policy 1.60 – Standards of Conduct.)

**Retroactive Actions- 14
Day Look Back**

VSDP will adjust benefits retroactively for only 14 calendar days from the date a claim is initiated by an employee. The employee still must serve a 7 calendar day waiting period following the initiation of a claim with the TPA; however, the disability date will be designated as the first date of illness/disability, not the date the claim is reported.

Workday

When a full-time employee is on disability leave, it is assumed that his work schedule is a standard 8-hour day. This includes those pay periods in which the employee starts STD or returns to work following STD, as well as in cases of intermittent and or major chronic disabilities where the employee works a part of a

pay period.

NOTE: VSDP requires that employees working alternate schedules must revert back to the standard 5-day/40 hour schedule when they are approved to receive STD benefits and remain in this status until released to return to work full-time/full duty without restrictions.

Workers Compensation

Workers' Compensation benefits are primary and VSDP supplements the benefit up to the income replacement level. Employees must contact both the TPA and notify their supervisor of any workers' compensation injury or illness. There are statutory timeframes within which to collect benefits for lost time. The employee may need to file a claim for benefits with the VWCC to preserve their right to benefits.

Lump Sum Settlement

In the event an employee receives a lump-sum settlement under the Workers' Compensation, the amount of the settlement allocated to indemnity in the VWCC award will be prorated over the period that LTD benefits are received. (Payments made under the Workers' Compensation Act for permanent partial disabilities and medical, legal or rehabilitation expenses are not included in determining the prorated amount.)

Workers' Compensation and VSDP supplements are non-taxable.

TYPES OF VSDP LEAVE

Current employees enrolled in VSDP receive SL and F/P leave on January 10 each year, based on their total months of State service excluding periods of leave without pay, except for Temporary Work Force Reduction, Layoff, and Military Leave.

Exception

Employees receiving a STD or LTD disability benefit on January 10 will not receive SL or F/P leave credits until they are released by their LTP and return to "active employment."

VSDP Leave for Current Employees**Current Full-Time Employee (F & Q)**

| <u>Months of Service</u> | <u>Sick Leave Hours/Days</u> | <u>Family & Personal Leave Hours/Days</u> |
|--------------------------|------------------------------|---|
| Less than 60 | 64 (8 days) | 32 (4 days) |
| 60 to 119 | 72 (9 days) | 32 (4 days) |
| 120 or more | 80 (10 days) | 40 (5 days) |

Current Part-Time Employee (P)

| <u>Months of Service</u> | <u>Sick Leave Hours/Days</u> | <u>Family & Personal Leave Hours/Days</u> |
|--------------------------|------------------------------|---|
|--------------------------|------------------------------|---|

VIRGINIA SICKNESS AND DISABILITY PROGRAM

POLICY NO.: 4.57
EFFT. DATE: 1/1/99
REV. DATE: 11/25/05
REV. DATE: 11/25/13

| | | |
|---------------|-------------|-------------|
| Less than 120 | 32 (4 days) | 32 (4 days) |
| 120 or more | 40 (5 days) | 40 (5 days) |

VSDP Leave for New Hires and Re-Hires

New hires or re-hires will be credited with hours of sick (SL) and family and personal (F/P) leave according to their date of employment or re-employment (VSDP Service Date) and employment status (F, Q, P) (see chart below). In subsequent years, leave will be credited on January 10 according to the chart for current employees based on total months of state service employment status as of January 1.

New or Re-Hire Full-Time Employee (F & Q)

| <u>Employment Begin Date</u> | <u>Sick Leave Hours/Days</u> | <u>Family & Personal Leave Hours/Days</u> |
|------------------------------|------------------------------|---|
| 1/10 – 7/9 | 64 (8 days) | 32 (4 days) |
| 7/10 – 1/9 | 40 (5 days) | 16 (2 days) |

New or Re-Hire Part-Time Employee (P)

| <u>Employment Begin Date</u> | <u>Sick Leave Hours/Days</u> | <u>Family & Personal Leave Hours/Days</u> |
|------------------------------|------------------------------|---|
| 1/10 – 7/9 | 32 (4 days) | 32 (4 days) |
| 7/10 – 1/9 | 20 (2/12 days) | 16 (2 days) |

Use of VSDP Leave

Sick Leave

SL may be used by employees to continue their pay during absences for personal illness and they may use up to 33% of their available SL for FMLA family reasons as described below.

An agency may develop internal policies to meet its own needs for verification of employees' SL. Such policies should be reasonable, suited to the agency's business needs, and consistent with the general guidance provided herein.

Verification

An employee who uses SL must comply with management's request for verification of the appropriateness of using SL.

An employee's use of SL may be denied if the employee fails to comply with a reasonable management request for verification of

the need for SL, or if the verification provided is inadequate.

Personal Reasons Employees may use SL for absences due to personal illnesses or injuries, pregnancy and preventive or wellness physician visits, and to cover the 7 calendar day waiting period.

Except for the initial 7 calendar day waiting period, SL cannot be used to supplement periods of STD or LTD-W. However, SL can be used to cover absences during scheduled work hours when the employee is working in STD or LTD-W status.

FMLA Family Reasons Eligible employees may use 33% of available (unused) SL for family purposes in accordance with Family and Medical Leave Policy, No. 4.20.

Prior Approval Employees should request SL, when feasible, prior to its use in accordance with agency procedures.

Abuse of Sick Leave Employees who misrepresent or misuse SL are subject to disciplinary action under Standards of Conduct Policy 1.60.

No Carry-over SL cannot be carried from one year (January 10th – January 9th) to the next or paid upon the employee's separation from state service.

Family and Personal (F/P) Leave

Employees may use available F/P leave for absences due to family reasons, personal illnesses or injuries, or other personal reasons.

F/P leave can be used to supplement STD and LTD-W disability benefits to receive 100% pay during periods of 80% and 60% disability.

Prior Approval Employees should request the use of F/P leave in accordance with agency procedures prior to its use. Supervisors should approve the leave unless agency work demands require the employee to work during the requested time.

No Carry-over F/P leave cannot be carried from one year (January 10th – January 9th) to the next or paid upon the employee's separation from state service.

Disability Credits (DC)

Employees who previously had SL hours that were converted to DCs may use these to supplement periods of 80% and 60% STD to receive 100% predisability income. Eight DCs are required for any portion of a day. Eight DCs equal one day of 100% income replacement when receiving 80% or 60% STD or LTD-W disability benefit. Use of DCs during STD is voluntary, use in

Carry-over/Payment LTD is mandatory.
Unused DCs are carried over from one year to the next. If eligible, 25% of any unused DCs will be paid, up to a maximum of \$5,000, when the employee retires or separates from state service, provided the employee has 5 consecutive years of state service; or

DCs may be converted to retirement credits (173 hours = 1 month of service) upon termination or retirement.

LTD Unused DCs are transferred to the TPA in 8-hour increments when the employee transitions to LTD. The TPA uses DC's in 8-hour increments to supplement the 60% LTD disability benefit in order to provide the employee with 100% of his pre-disability salary (80% for catastrophic). The remaining fractional (less than 8 hours) DCs are not transferred to TPA but are paid out according to policy (25% up to \$5,000.).

STATUS CHANGES

When an employee's status changes from full-time (F & Q) to part-time (P) or part-time to full-time, the amount of SL may change.

F/P Leave is not impacted when employees' status changes because the accrual rate is the same for both.

Part-time to Full-time
(P → F or Q)

An employee changing from part-time (P) to full-time (F & Q) status will have his or her SL balance credited with the difference between what the employee should have received on January 10th as full time with what he or she actually received on January 10th as part time.

Example: A part-time employee with 65 months of state service goes to full-time status on May 1st. On January 10th of the calendar year, he was credited with 32 hours of SL. With 65 months of state service, he is entitled to 72 hours of SL as a full-time employee. The agency must credit him with an additional 40 hours of SL on May 1st.

Full-time to Part-time
(F or Q → P)

Current leave balances will be retained when an employee reduces work hours and retains classified status.

DISABILITY BENEFITS

**Short Term Disability
(STD)**

VSDP provides eligible employees with STD income for up to 125 workdays when the employee is unable to work due to an illness or injury that has been qualified by the TPA. STD benefits

also cover medical absences due to pregnancy.

STD payments shall be made during periods of absences approved by the TPA for total disability, partial disability, maternity leave or periodic absences due to a major chronic condition at 100%, 80%, or 60%. Employees will receive a minimum of 80% income replacement for illnesses/injuries designated as catastrophic by the TPA.

Note: A 7 calendar day waiting period must be served unless the condition has been deemed to be a major chronic or catastrophic illness/injury by the TPA, and then no waiting period is required. Employees may use SL, annual leave, compensatory leave, overtime leave, or family and personal leave during the waiting period. The waiting period does not count towards the 125 workdays of STD but does count towards the LTD waiting period.

9, 10 & 11 Month Employees

Classified employees who become injured or ill during periods when they are not working are not eligible to receive STD benefits until they are scheduled to return to work. Employees must serve a 7 calendar day waiting period upon return to work if the condition still exists and is clinically substantiated by the TPA.

Employees receiving an STD benefit when the work period ends will not be entitled to STD benefits until the work cycle begins if the employee is still considered disabled by the TPA. The non-work hours continue to count towards the employee's transition into LTD.

Compensation for VSDP - Non-Work Related (employees hired prior to 7/1/09)

Employees' days of income replacement are based on months of service at the time of disability.

| Months of Service | Days of Income Replacement | | |
|-------------------|----------------------------|----------------------|----------------------|
| | Work Days <u>100%</u> | Work Days <u>80%</u> | Work Days <u>60%</u> |
| Less than 60 | 5 | 20 | 100 |
| 60 to 119 | 25 | 25 | 75 |
| 120 – 179 | 25 | 50 | 50 |
| 180 or more | 25 | 75 | 25 |

Compensation for VSDP - Non-Work Related (employees hired or re-hired on 7/1/09 or later)

Employees' days of income replacement are based on months of service at the time of disability.

| Months of Service | Days of Income Replacement | | |
|-------------------|----------------------------|----------------------|----------------------|
| | Work Days <u>100%</u> | Work Days <u>80%</u> | Work Days <u>60%</u> |
| 0 to 12 | 0 | 0 | 0 |
| 13 to 60 | 0 | 0 | 125 |
| 61 to 119 | 25 | 25 | 75 |
| 120 – 179 | 25 | 50 | 50 |
| 180 or more | 25 | 75 | 25 |

Short-term Disability (Work Related)

VSDP participants who suffer work-related injuries and illnesses that receive an award for indemnity benefits from the VWCC will be provided primary benefits according to terms of the Workers' Compensation Act. Upon receipt of an action report the VSDP STD provides secondary benefits. VSDP supplements the benefit provided under Workers' Compensation, up to the income replacement level.

A 7 calendar day waiting period must be served to be eligible to receive STD benefits. Employees can use SL, annual leave, compensatory leave, overtime leave, or F/P leave to cover waiting period hours. There is no waiting period if the disability is determined to be major chronic or catastrophic. If the employee's approved absence is over 21 days, the agency will reinstate the employee's leave used during the waiting period up to the value of the workers' compensation payment covering the waiting period. The leave amount is calculated by using the amount of the workers' compensation benefit payment received for the waiting period divided by the employee's hourly rate of pay. The employee must use appropriate leave to receive 100% pay during the waiting period or be placed on LWOP.

Workers' Compensation payments and VSDP supplements for workers' compensation claims are non-taxable.

NOTE: In order for employees to receive the full VSDP and WC benefits, employees must contact both the VSDP TPA and file a claim for Workers' Compensation benefits. If a WC claim is not filed or VSDP is not notified the employee may not be entitled to any benefits and will have to use appropriate leave to supplement and receive 100% income replacement.

Compensation for Work-related VSDP (employees)

Employees' days of income replacement for work-related injury/illness are based on months of service at the time of

hired prior to 7/1/09)

injury/illness.

Days of Income Replacement – Work Related STD

| Months of Service | Work Days <u>100%</u> | Work Days <u>80%</u> | Work Days <u>60%</u> |
|-------------------|-----------------------|----------------------|----------------------|
| Less than 60 | 65 | 25 | 35 |
| 60 to 119 | 85 | 25 | 15 |
| 120 – or more | 85 | 40 | 0 |

Compensation for Work-related VSDP (employees hired or re-hired on 7/1/09 or later)

Employees' days of income replacement for work-related injury/illness are based on months of service at the time of injury/illness.

Days of Income Replacement – Work Related STD

| Months of Service | Work Days <u>100%</u> | Work Days <u>80%</u> | Work Days <u>60%</u> |
|-------------------|-----------------------|----------------------|----------------------|
| Less than 60 | 0 | 0 | 125 |
| 60 to 119 | 85 | 25 | 15 |
| 120 – or more | 85 | 40 | 0 |

Use of Leave while in STD

Employees on STD can use the following leave to supplement VSDP benefits to receive 100% pay during periods of 80% or 60% disability;

- annual, compensatory overtime, holiday, or F/P leave on an hour for hour basis or partial hours;
- DCs in 8-hour increments for any portion of the day if available.

Employees may use SL or other accrued leave to cover the waiting period.

Leave Accruals

Annual Leave

Leave continues to accrue for 90 consecutive calendar days while employees are on STD. Employees on STD are in a Leave With Pay status (LWP).

When employees return to work, including periods of working while in STD, accruals begin at the pre-disability rate. A return to work for a complete pay period will interrupt the count of 90 calendar days of leave with pay. A new 90 calendar day period will begin if the employee again returns to a STD non-working (LWP) status and the employee will continue or resume leave

accrual. See Policy 4.10, Annual Leave.

Employees continuing to work while in STD accrue annual leave at the employee's pre-disability rate;

VSDP Leave (Sick and
Family and Personal)

Employees on STD do not receive sick and F/P leave if they are receiving disability benefits on January 10th. Leave will be applied when employees return to "active employment." F/P leave can be used to supplement STD or LTD-W disability benefits to receive 100% replacement income.

Employees returning to work full time/full duty or with modifications or restrictions while in STD or LTD-W will receive leave credit based on employees full-time (F & Q) or part-time (P) status and months of state service if:

- Leave has not been received for the year; and
- the employee meets the definition of "active employment."

The chart for current full-time or part-time employees is used to determine the amount of leave due.

**Successive Periods of
Short-term Disability
(claims filed prior to
7/1/09)**

Employees released to return to their pre-disability positions on a full-duty basis who again become disabled due to the same condition will be considered to be in a continuation of the prior disability if:

- The employee works fewer than 14 consecutive calendar days (defined as scheduled work days and rest days, e.g., weekends) and the absence is related to the same non-major chronic condition; or
- The employee works fewer than 28 consecutive calendar days, (defined as scheduled work days and rest days e.g., weekends) and the absence is related to the same major chronic condition as determined by the TPA.

Approved absences due to leaves for other reasons, e.g., SL, annual leave, etc., have no effect in the counting of the 14 or 28 consecutive calendar days. Days worked or on leave count towards the transition into LTD

**Successive Periods of
Short-term Disability
(claims filed on 7/1/09 or
later)**

Employees released to return to their pre-disability positions on a full-duty basis who again become disabled due to the same condition will be considered to be in a continuation of the prior disability if the employee works fewer than 45 consecutive calendar days (defined as scheduled work days and rest days, e.g.,

weekends) and the absence is related to the same major chronic or non-major chronic condition

Approved absences due to leaves for other reasons, e.g., SL, annual leave, etc., have no effect in the counting of the 45 or 28 consecutive calendar days. Days worked or on leave **do not** count towards the transition into LTD.

**When A Claim Becomes a
New Period of STD for
claims filed prior to 7/1/09**

A new period of STD begins when employees:

- Return to work full-time/full duty for 14 or more consecutive calendar days after a non-chronic condition, but cannot continue to work, or
- Return to work full time/full duty for 28 or more consecutive days for a major chronic condition, but cannot continue to work, or
- Experience a new disability or illness during the 45 calendar day period, or 28 calendar day period, unrelated to the first condition.

Employees must satisfy a new 7 calendar day waiting period for non-chronic conditions. Income replacement begins again at 100% of pre-disability income.

**When A Claim Becomes a
New Period of STD for
claim filed on or after
7/1/09**

A new period of STD begins when employees:

- Return to work full-time/full duty for 45 or more consecutive calendar days after a major chronic or non-chronic condition, but cannot continue to work, or
- Experience a new disability or illness during the 45 calendar day period unrelated to the first condition.

Employees must satisfy a new 7 calendar day waiting period for non-chronic conditions. Income replacement begins again at 100% of pre-disability income, or at 60% for employees hired or rehired on or after 7/1/09 with less than 60 months of continuous state service.

**Work Arranged Through
Vocational, Rehabilitation,
or Return-to-Work Program**

Work arranged through a vocational, rehabilitation, or return-to-work program, where the employee has not been released by his physician full-time/full-duty, does not count towards days worked when determining if a new disability exists. The employee is still considered disabled and on STD. However, all days worked or not worked count towards the transition into LTD.

Intermittent Disability

Non-chronic Condition – Non-work-related. Absences for doctor, physical therapy, or for other medical appointments are not covered by VSDP. Employees must use accrued leave to cover the absence.

Non-chronic Condition – Work-related. These absences may or may not be covered by Workers' Compensation. See Workers' Compensation Policy 4.65. If the absence is accepted as compensable and the employee is eligible to receive indemnity benefits for the period under a Workers' Compensation VWCC award time will be reinstated to the employee based on the amount paid under the VWCC award. Employee may use appropriate accrued leave to receive 100% pay. Absence should not be designated as Workers' Compensation until approved and employees must use accrued leave to cover the absence until approved by Workers' Compensation.

Major Chronic Condition – Non-Work-related or Work-related. Conditions may exist where future periods of disability will be covered regardless of whether the disability is continuous. Employees approved for intermittent major chronic STD will have periods of approved absence counted towards STD. Each period of absence for the original STD claim counts towards the transition into LTD. Absences can be in periods of a day, days or weeks. Agencies will have to track intermittent days and the LTD waiting period. Appropriate forms should be submitted for approved Workers' Compensation claims. Absence should not be designated as Workers' Compensation until approved and employees must use accrued leave to cover the absence until approved by Workers' Compensation.

**ADJUSTMENTS TO STD
PAYMENTS**

Employees must notify the agency of any wages, disability payments or other benefits received for an illness or injury that is covered by VSDP.

STD payments will be adjusted by any income from the following sources:

- Wages or salary employees receive from any employment. Wages and salary include income reported on W-2 forms and income from self-employment. The amount of the adjustment is 100%, 80%, or 60% of that income, depending on the income replacement level the employee is receiving under VSDP.
- Disability payments from the Social Security Administration

or other governmental disability program benefits the employee (or family) receives for the same disability for which the employee is receiving VSDP benefits.

- Benefits received from any other state agency sponsored group insurance contract for the purpose of providing income replacement for the same condition (does not include any disability insurance purchased directly by the employee).
- Benefits paid by any compulsory benefits law, such as Workers' Compensation, severance, or unemployment insurance.
- Benefits paid under any other governmental disability program, including primary military disability benefits, local government disability benefits, and federal civil service benefits, that are paid for the same disability condition.

NOTE: Cost-of-living increases received from any of the above sources are not considered in the offset of the VSDP benefit. Employees are responsible to provide their agencies with information about additional earned income using the "Outside Earned Income Form", provided by the TPA. Any overpayments of disability benefits will be required to be repaid, with interest.

BENEFITS FOR SHORT-TERM DISABILITY

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|-------------------------------|---|
| Health Care Insurance | Coverage continues with the state paying the employer share of the premium during STD periods. Employees must continue to pay their portion of the health insurance premium. |
| Life Insurance | Employee Basic Group Life Insurance continues during periods of STD. |
| Optional Group Life Insurance | Employee's Optional Group Life Insurance continues during periods of STD, as long as the employee pays the premium. |
| Job Protection | Employees' positions are held during periods of STD. However, if the situation warrants, Policy 1.60, Standards of Conduct may be used while employees are on STD. |
| ADA | Employees may be covered by the ADA. Contact the DHRM Department of Equal Employment Services for assistance. |
| FMLA | Employees may be covered by FMLA. See Policy 4.20, Family and Medical Leave. Agencies should notify employees of FMLA |

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designation. Medical certification is not required by the agency for an employee's personal illness when the employee is receiving benefits from VSDP. The TPA is responsible for requesting necessary medical information from the employee's LTP.

Leave Anniversary Date

The leave anniversary date is not affected since the employee is in a leave with pay (LWP) status.

VRS Service and Contributions

Full VRS contributions are reported to VRS and service credit is accrued while employees are receiving STD benefits. Once vested, employees retain their eligibility for retirement benefits when they reach normal retirement age.

State Health Insurance Credit

Time spent on STD counts towards the service requirement for eligibility for the State Health Insurance Credit.

Long Term Care

Employees unable to perform at least two of the ADL's and who are receiving STD benefits may be eligible to receive a daily benefit to assist with the cost of long term care. (Contact VRS for additional information).

CESSATION OF SHORT-TERM DISABILITY BENEFITS

STD benefits end when the employee:

- is able to perform the essential functions of his or her pre-disability job on a full-time basis.
- begins receiving LTD benefits.
- begins receiving a VRS service retirement benefit.
- fails to cooperate or comply with the requirements of the VSDP.
- takes a refund of VRS contributions and interest.
- leaves state employment, voluntarily or involuntarily.
- dies.

LONG-TERM DISABILITY (LTD)

LTD benefits, which include LTD-W and LTD (work-related and non work-related), commence upon the expiration of the maximum period for which the employee is eligible to receive STD benefits. LTD benefits provide employees with income replacement if they become disabled and are unable to perform the full duties of the job without any restrictions.

Return to employees' pre-disability positions are not guaranteed after beginning LTD and agencies can recruit and fill their pre-disability position.

Employees approved for LTD receive income replacement of 60% of their pre-disability income, including any salary increases

applied during STD. If the disability is designated as catastrophic, employees receive income replacement of 80% of their pre-disability income, including any salary increases applied during STD.

Work-related Injuries and
Illnesses

VSDP participants who suffer work-related injuries and illnesses that are approved by WC will be provided primary benefits according to terms of the award by the VWCC and the Workers' Compensation Act. The VSDP LTD benefit is secondary. VSDP supplements the benefit provided under Workers' Compensation up to the income replacement level. (See Workers' Compensation Policy 4.60).

**Long Term Disability
Working (LTD-W)**

LTD Working status is in effect when:

- Employees working during STD (modified schedule or with restrictions) continue to work for their agency from STD working status into LTD for 20 hours or more per workweek in their own full-time position.
- Qualified part-time employees working during STD (modified schedule or with restrictions) continue to work for their agency into LTD for 20 or more hours per workweek in their own part-time.

NOTE: Agencies are responsible for reporting to the TPA earnings the employee receives while working for the agency. The employee is responsible for reporting to the TPA any earnings for work performed outside the agency.

Conditions of Employment
LTD-W

Employees in LTD-W are considered employees of the Commonwealth. Agencies should review this status every month to determine if they can continue to accommodate the restrictions based on agency business needs. Agencies should also review for compliance with ADA.

- Employees must continue to work 20 hours or more per week to maintain LTD-W status.
- LTD-W is intended to be a short-term transitional work situation where the employee is working towards full return to work with no restrictions.

Note: Employees who move to LTD cannot return to a LTD-W status.

Leave – LTD-W

Annual Leave Annual leave is accrued based on an employee’s percentage of full-time employment (scheduled work hours) and total years of state service. (See DHRM Policy 4.10, Annual Leave)

Annual leave is not paid out when an employee transitions to LTD-W status. Employees can use annual leave to supplement the difference in pay between the benefit received under LTD-W and their pre-disability income.

VSDP Sick and Family/Personal Leave Employees will be credited with Sick and F/P Leave on January 10th based on months of state service and full-time (F & Q)/part-time (P) status using the charts for current employees.

Using Leave to Supplement Benefits F/P leave can be used to supplement the difference in pay between the LTD disability benefit received from the TPA and the employee’s pre-disability income using whole hours or partial hours.

Sick Leave SL cannot be used to cover periods of disability. It can be used to cover appropriate absences during scheduled work hours while in LTD-W status.

Disability Credits Employees with DCs have the option to use credits in 8-hour increments to maintain 100% income during periods of LTD-W. The agency is responsible for paying disability credits.

Overtime and Compensatory Overtime and compensatory leave can be used to supplement the difference in pay between the LTD disability benefit received and pre-disability income. Overtime and compensatory leave balances are not paid out until the employee goes into LTD.

Anniversary Date Time spent in LTD-W does not affect an employee’s leave anniversary date.

VSDP Months of Service Time spent on LTD-W counts towards an employee’s months of service for VSDP leave credits and VSDP benefit entitlement.

Benefits-LTD-W

Health Care Insurance Agency continues to pay employer portion of health care premium and employee is responsible for his or her portion of the premium.

State Health Insurance Credit Time spent on LTD-W counts towards the service requirement for the State Health Insurance Credit when employees retire. LTD-W

| | |
|---------------------------------|--|
| | employees do not receive the health insurance credit. |
| Group Life Insurance | Employee continues to be covered by group life insurance. No premiums are paid by the agency. |
| Optional Life Insurance | Optional Life Insurance coverage continues as long as the employee continues to pay the premium. |
| VRS Retirement Service | Employee continues to receive service credit towards retirement benefits during time spent on LTD-W. No employer contributions are reported to VRS by the agency. |
| Long Term Care | Employees may be eligible to receive a daily benefit of \$75 if approved. To be eligible employee must be unable to perform two of the six ADL's or have a severe cognitive impairment. |
| ADA | Employee may be covered by the Americans with Disabilities Act. Contact DHRM Office of Equal Employment for additional information. |
| FMLA | Employees who have not exhausted the 12 week period of FMLA time will continue to be covered by FMLA for the remaining period of eligibility when placed in LTD-W. |
| Extended Coverage | Extended coverage eligibility for health care runs concurrently with LTD-W. |
| Long-Term Disability | LTD status is in effect when: <ul style="list-style-type: none">• Employee has received the maximum STD benefit and is unable to RTW;• Employees are working any schedule outside their agency.• Employees are unable to continue working 20 hours a week in LTD-W. Note: Employees must continue to be medically approved for LTD benefits. |
| Effects Of LTD On Status | The following are the effects of LTD and conditions that must be met to receive the benefit. <ul style="list-style-type: none">• Employees in LTD are considered to be inactive employees of the Commonwealth. Return to pre-disability position is not guaranteed. Once in LTD, employees cannot return to LTD-W.• Employees must apply for social security disability income benefits immediately upon going into LTD unless otherwise instructed by the TPA. Within 60 days of being placed in LTD, the TPA must receive notification that application for |

Social Security Disability Insurance Benefits (SSDIB) has been made or VSDP benefits will be terminated.

- Employees are separated in PMIS (PSE139) when they are released by their LTP to return to full-time/full-duty without restrictions and their pre-disability positions are no longer available.

**Successive Periods of
Disability LTD**

An employee in LTD who returns to a position full-time/full duty for less than 125 work days will be considered to be in the same LTD disability status if:

- the disability is related to the same cause(s) for which the original LTD benefits were paid.

An illness or disability will be considered a new disability if:

- the disability is considered by the TPA to be non-related to the original disability; or
- the employee returns to a position full-time/full-duty for 125 work days or more and then goes out on another disability leave for the same or different disability from the original disability.

A new 7 calendar day waiting period must be satisfied (unless the condition is deemed major chronic or catastrophic) and if approved the employee will begin receiving STD benefits again at the 100% income replacement level, provided he or she is employed in an eligible position covered by VSDP.

Leave-LTD

Annual Leave

Employees are paid for the balance of accrued annual leave up to the maximum payout amount allowed (See Policy 4.10). If employees return to classified positions within 180 calendar days of the beginning of LTD, they can buy back the annual leave for which they were paid by reimbursing the full amount.

Leave Anniversary Date

An employee's leave anniversary date is adjusted for periods of LTD.

**VSDP Leave (Sick and
Family and Personal Leave)**

SL and F/P Leave expire when an employee moves to LTD. Employees do not receive payment for the unused balances.

**Overtime and Compensatory
Leave**

Employees are paid for any balance of overtime or compensatory leave.

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Disability Credits DCs are automatically transferred to the TPA. DCs are required to be used in 8-hour increments to supplement disability payment to receive 100% pay. The fractional amount (less than 8 hours) is paid out per policy.

VSDP Months of Service Time spent on LTD does not count towards an employee's months of service for VSDP leave credits or calculation of the disability benefit.

Benefits-LTD

Health Care Insurance Employees must enroll in the VRS group healthcare plan within 31 days of going into LTD. Employees are responsible for paying the full healthcare insurance premium. VRS maintains health care insurance coverage for employees in LTD. The employee is billed directly by the carrier.

Health Insurance Credits Employees are eligible for the maximum health insurance credit, up to the cost for single coverage, regardless of the number of years of VRS service credit at the time of LTD. Time spent on LTD will count toward the service requirement for the State Health Insurance Credit at retirement. Employees not in the state group healthcare must submit a Request for Reimbursement form (VRS-45) to the TPA.

Life Insurance Employees continue to be covered by group life insurance. No premiums are paid by the agency.

Optional Life Insurance Optional Life insurance coverage continues as long as the employee continues to pay the premium. Employees are billed directly by the vendor.

Long Term Care Employees may be eligible to receive a daily benefit if approved. To be eligible, employees must be unable to perform two of the six ADL's or have a severe cognitive impairment.

Service Retirement Employees receive service credit for their time on LTD status towards retirement benefits. No employer contributions are reported by the agency.

Americans with Disabilities Act Employees' may be covered by the Americans with Disabilities Act in accordance with law (Contact the Office of Equal Employment Services for additional information).

FMLA Employees on LTD normally are not eligible for FMLA coverage. However, if an employee is eligible for FMLA coverage near the transition from STD to LTD, the FMLA coverage will continue when the employee moves into LTD. Employees continue to receive employer paid healthcare premiums and job protection for

the duration of FMLA eligibility. Agencies should contact DHRM's Office of Health Benefits regarding management of employee benefits.

Extended Coverage

Extended coverage eligibility for healthcare runs concurrently with LTD.

**Adjustments to Long-term
Disability Payments
(work-related and non
work-related)**

Employees are responsible for reporting to the VSDP TPA (and if involved the WC Claims Administrator) any income or benefits received. Agencies are responsible for reporting wages or salaries for employees in LTD that are working at the agency (LTD-W and hourly). Agencies are responsible for reporting lost time during LTD working to the WC Claims Administrator. LTD benefit payments will be adjusted by any income from the following:

- During the first six months of LTD. Wages or salary received from any employment in a percentage amount equal to the income replacement level received under VSDP. Wages and salary include income reported on W-2 forms and income from self-employment.
- After the first six months of LTD, an amount equal to 70% of the employees' wages and salary from any employment;
- Disability benefit payments from the Social Security Administration or other similar governmental disability program benefits received by the employee or his or her family as a result of the same condition;
- Benefits paid under any other governmental disability program, including primary military disability benefits, local government disability benefits, and federal civil service benefits that are paid for the same disabling condition;
- Benefits received from any other state agency-sponsored group insurance contract for the purpose of providing income replacement for the same disabling condition (does not include any disability insurance purchased directly by employees.)
- Benefits paid under any compulsory benefits law, such as Workers' Compensation, severance, or unemployment compensation.

Any cost-of-living increases received from any of the above sources are not considered in the adjustment of the VSDP benefit.

The TPA may require copies of year-end tax statements and/or state and federal tax filings annually to certify income from gainful employment as part of the administration of statutory offsets under the program.

Cessation of LTD Benefits

LTD benefits end on the earliest of the following:

- During the first 24 months of disability, if the employee is able to perform the full duties of his pre-disability position on a full time basis without any restrictions.
- After 24 months of disability, if the employee is able to perform the full duties of any job for which he is reasonably qualified, based on his training and experience, on a full-time basis without any restrictions and is earning 80% or more of his pre-disability income.
- A refund of VRS contributions and interest;
- Failure to cooperate or comply with the requirements of VSDP;
- Receipt of a VRS service retirement benefit; or
- Death.

**Exclusion of STD and LTD
Benefits**

Disability benefits are not payable to participating employees when:

- Disability results from employees' commission of a felony or during a period while employees are incarcerated.
- Disability results from the abuse of alcohol, the misuse of any prescribed medication, or the misuse of any controlled substance unless employees are actively receiving treatment and, in the view of the TPA, are fully complying with their treatment plan and making substantial progress toward rehabilitation.
- The TPA is no longer able to certify employees' illness or injury.
- Employees do not seek treatment from a licensed treating professional and do not participate in their proper care and treatment programs during their disability.
- Any independent medical examiner determines that employees are able to RTW before LTD begins.
- The decision to pay or not pay the disability benefit is based solely on objective medical evidence, notwithstanding a

treating professional's request.

- Payments under Workers' Compensation are adjusted or terminated for refusal to work or to comply with the requirements of the Code of Virginia Section 65.2-603. The disability benefits payable under the VSDP shall be computed as if employees were receiving the payments under the Act to which employees would otherwise be entitled.
 - Employees fail to comply or cooperate with the requirements of the TPA for administering VSDP.
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**VSDP EFFECTS ON
LEAVES WITH AND
WITHOUT PAY**

VSDP affects various leaves as indicated below:

Family Medical Leave

FMLA leave runs concurrently with VSDP for eligible employees and FMLA eligible illnesses/disabilities. The TPA is responsible for certifying the disability as FMLA eligible. Agencies are responsible for determining employee eligibility, notifying employees of FMLA rights and tracking FMLA. Agencies should notify employees of the designation of leave as FMLA at the time employers are informed of the VSDP claim. (See DHRM Policy 4.20 - Family Medical Leave.)

**Educational Leave
Without Pay**

Employees on educational leave without pay who become ill or injured during the leave without pay period are not entitled to use available leave to cover their period of illness or injury. Employees' SL and F/P leave will be credited to them only if they return to their pre-leave employment status. Employees who are reinstated to their pre-leave employment status may they use their leave balances and be covered by VSDP.

**Educational Leave With
Partial or Full Pay**

Employees on educational leave with partial or full pay who incur an illness or injury that qualifies under VSDP will be returned to their pre-leave employment status and the educational leave will end. Employees will receive STD and LTD benefits in accordance with the salary earned immediately prior to the period of educational leave with partial or full pay.

Leave will not be credited when they are on educational leave. Employees on educational leave with partial or full pay will receive their SL and F/P leave allotments when returned to their pre-leave employment status.

Military Leave With Pay

Employees on military leave with pay who become ill or injured are entitled to use any of their available leave (e.g., annual leave,

SL, family and personal leave) to cover their period of illness or injury. If certified, they also are eligible for STD and LTD benefits.

Military Leave Without Pay

Employees on military leave without pay who become ill or injured are not entitled to use their available leave to cover periods of illness or injury. Only if these employees are reinstated to their pre-leave employment status may they use their leave and be covered by VSDP.

Unconditional Leave Without Pay

Employees on unconditional leave without pay (position held) who become ill or injured are not entitled to use their available leave to cover their period of illness or injury. Only if these employees are reinstated to their pre-leave employment status and their disability continues may they use leave and be covered by VSDP.

Conditional Leave Without Pay

Employees on conditional LWOP (position not held) who become ill or injured are not entitled to use their available leave to cover their period of illness or injury. Only if these employees are reinstated to their pre-leave employment status and their disability continues may they use leave and be covered by VSDP.

Layoff

Employees on LWOP-Layoff who become ill or injured are not covered by VSDP and are not entitled to use any of their available leave. Only if these employees are recalled or reinstated to employment in a covered position and their disability continues may they use leave and be covered by VSDP.

Employees who incur an injury or illness that makes them eligible for VSDP benefits will continue to receive those benefits as long as they are eligible even if subsequently placed on leave without pay-layoff.

Severance

VSDP benefits will be offset by severance benefits. Employees who are still disabled at the end of severance or leave without pay-layoff will continue to receive VSDP benefits as long as the illness/disability continues to be clinically and administratively approved. (See Policy 1.30, Layoff and Policy 1.57, Severance)

Workers' Compensation benefits are not offset by severance benefits; however, the VSDP portion received by the employee is offset by severance.

Temporary Work Force Reduction (TWFR)

Active employees (STD & LTD-W) who incur an injury or illness that makes them eligible for VSDP benefits will receive those benefits even if subsequently placed on TWFR. Applicants notified of TWFR who move into LTD before TWFR begins will

be eligible to receive LTD benefits only. (See Policy 1.65, TWFR)

Suspensions

Employees placed on suspension pending investigation or outcome of employment related court action or disciplinary suspension through Policy 1.60, Standards of Conduct, are not eligible to receive VSDP benefits during the period of suspension and depending upon case facts may not be eligible for Workers' Compensation benefits. If these employees are reinstated to employment in a covered position they will be covered by VSDP and if eligible may receive VSDP benefits.

RESPONSIBILITIES

DHRM

- Provide policy guidance to VRS in administering the VSDP;
- Provide policy interpretation to agencies.
- Coordinate Workers' Compensation claims with VSDP TPA and oversee and administer the State Employee Workers' Compensation Program. Claims are handled by the Program's claims administrator.

Agency

- Comply with VSDP Program.
- Include overview in employee orientation and ensure that employees have access to the handbook online.
- Submit Employers Accident Reports, supplementary reports of lost time and any other required documentation or forms to workers' compensation immediately.
- Coordinate disability claim and benefits with the TPA, employee, and employee's supervisor.
- Coordinate VSDP Work-related disability claims with Workers' Compensation benefit coordinator and VSDP coordinator.
- Ensure employee receives appropriate communication regarding VSDP and FMLA.
- Communicate with employee during absence if employee is physically able.
- Provide FMLA notification and track FMLA hours if appropriate.
- Keep records for employees covered by VSDP and furnish information as required under VSDP.

Employee

- Report to the TPA any agency wages earned for employees in LTD (working hourly for the agency) and LTD-W status.
- Ensure that employee information is updated in PMIS in a timely manner.
- Respond to the TPA in a timely manner regarding requests for job modifications.
- Consider employees in STD for RTW with job modifications or restrictions based on physician guidance and agency's Return To Work Policy.
- Understand the program features of VSDP and his or her role and responsibilities of participating in the program.
- Cooperate and comply with VSDP requirements.
- Complete leave slips using leave until time off is authorized by VSDP. If work-related disability, monitor leave balances to assure credits are made for approved periods of disability under Workers' Compensation and/or VSDP. To preserve VWCC statute of limitations for indemnity benefits, file a claim for benefits with the VWCC if awards are not entered for workers' compensation lost time.
- Carefully read the VSDP handbook and the VWCC Workers' Compensation booklet in order to understand benefits, personal responsibilities and remedies.
- Understand the requirement for notifying your supervisor and the TPA of absence and ensuring that medical information is provided to the TPA in a timely manner.
- Understand the requirement for notifying your supervisor of any workers' compensation injury/illness.
- Contact the TPA regarding illness/disability as soon as possible or within 14 days of disability in order to receive full retro payment if approved.
- Ensure that a family member or other person knows to contact the TPA in the event the employee is unable to do to disability/illness.
- Ensure that supervisor is kept informed regarding disability claim and any changes that occur to return to work date; and restrictions.
- Report any outside wages or income earned to Human

Resource Department (STD), Workers' Compensation Claims Adjuster if work-related, and the TPA (LTD and LTD-W) so that disability payment can be adjusted.

- Apply for Social Security Disability Insurance Benefits and pursue all levels of appeal, as deemed appropriate by the TPA, and provide proof of filing to the TPA when appropriate.
 - Provide the LTP and the TPA with a signed copy of the Claimant's Authorization form.
 - Report any change in disability to the TPA.
-

RETURN TO WORK PROVISIONS

Return to Work Full- Time/Full-Duty With No Restrictions

Agencies may allow employees to RTW full-time/full-duty, no restrictions, if they present a doctor's note with full RTW indicated. The agency should fax the note to the TPA and call the TPA to confirm release. Agencies do not have to wait until receipt of the Determination Notice to allow the employee to RTW.

Return to Work With Authorization From LTP With Restrictions

Agencies may allow employees to RTW with restrictions if the employee presents a doctor's note with RTW indicated and restrictions designated. The agency should fax the note to the TPA or if work-related to the Workers' Compensation Claims Administrator and call to confirm release. If the doctor's note indicates restrictions, the agency must review the request and determine if the restrictions can be accommodated. If clarification is needed regarding restrictions, the coordinator should contact the TPA or if work-related the Workers' Compensation Claims Administrator for assistance. The employee should be sent home until the restrictions are coordinated with the TPA.

If the restrictions are clear and the TPA or if work-related the Workers' Compensation Claims Administrator confirms that the doctor's note is from the LTP (or Workers' Compensation Panel Physician) who designated the employee as disabled under VSDP, and if the agency can accommodate the restrictions, then the employee may RTW immediately.

The agency should receive information on the Request For Job Modification Form. If the agency cannot accommodate restrictions, the TPA or if work-related the Workers' Compensation Claims Administrator should be notified so that

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the claim can be approved for no modified duty.

APPEAL PROCESS

Employees have access to an Appeals Process for VSDP claims. See VSDP Employee Handbook for details.

AUTHORITY

The Department of Human Resource Management issues this policy pursuant to the authority provided by Chapter 12 of Title 2.2 of the Code of Virginia.

INTERPRETATION

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with section 2.2-1201 of the Code of Virginia.

Questions regarding the application of this policy should be directed to the Department of Human Resource Management's Division of Agency Human Resource Services.

The Department of Human Resource Management reserves the right to revise or eliminate this policy at any time.

RELATED POLICIES

Policy 1.25, Hours of Work

Policy 1.30, Layoff

Policy 1.40 Performance Planning and Evaluation

Policy 1.45, Probationary Period

Policy 1.55, Return to State Service

Policy 1.57, Severance Benefits

Policy 1.60, Standards of Conduct

Policy 1.65, Temporary Workforce Reduction

Policy 3.10, Compensatory Leave

Policy 3.15, Overtime Leave

Policy 4.10, Annual Leave

Policy 4.15, Educational Leave

Policy 4.20, Family and Medical Leave

Policy 4.25, Holidays

Policy 4.45, Leave Without Pay – Conditional/Unconditional

Policy 4.55, Sick Leave

Policy 4.60, Workers' Compensation

**VIRGINIA SICKNESS AND DISABILITY
PROGRAM**

**POLICY NO.: 4.57
EFFT. DATE: 1/1/99
REV. DATE: 11/25/05
REV. DATE: 11/25/13**
