

mcera



Disability Retirement Handbook

Other available publications:

Classic Member Handbook

PEPRA Member Handbook

Preparing for Retirement Handbook

Terminating Employment Handbook

Understanding Retirement: Concepts and Calculations in Real World Scenarios

Resources

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Retirement Workshops

Early Career, Late Career and Social Security workshops are held throughout the year. The complete schedule is on MCERA's website on the "Retirement Workshops" page. Space is limited and workshop materials are customized. To attend, please reserve your seat by emailing MCERAWorkshops@marincounty.org or calling (415) 473-4014.

Legal Notice

This handbook is intended to provide members with general information about the benefits available through the Marin County Employees' Retirement Association (MCERA), but it does not describe every plan provision in detail. Every effort has been made to ensure the timeliness and accuracy of the information offered; however, you should not rely solely on the information contained herein.

MCERA is governed by the County Employees Retirement Law of 1937 (CERL, Government Code Section 31450 et. seq.) as adopted by the Marin County Board of Supervisors and implemented by the MCERA Retirement Board. The laws governing public retirement systems are complex. No statement in this handbook is a legally binding interpretation, enlargement, or amendment of the provisions in the CERL or MCERA's bylaws and policies. If conflict arises between this handbook and the CERL, the decision will be based on the CERL, Board policies, Board resolutions, and other governing law, and not on information contained in this handbook.

The information presented in this handbook should not be construed as legal advice or as a legal opinion on specific facts. For legal advice, consult an attorney knowledgeable in disability retirement law matters.

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About This Handbook

This handbook will help you understand many of the basics about MCERA's disability retirement process and benefits. It can be used in conjunction with other MCERA resources that provide greater detail.

In support of our mission to provide superior service to our members, MCERA is committed to informing you about your benefits so that you have the resources you need to make decisions that are right for you.

We want you to retire with a sense of confidence. Please read through this handbook carefully and contact us if there is something we can help you understand.

Disability Retirement Overview

Introduction

In our role as administrator of the retirement plan at MCERA, we want you to understand what to expect at each step of the disability retirement application process. This handbook will help you with the process, formulate questions, and prepare for your counseling session with MCERA's Disability Coordinator. It will also help you as you complete your Disability Retirement Application.

This handbook is also available online at MCERA.org. The electronic handbook does not include the application. You must download the application from MCERA.org as a separate file or call MCERA to request that a copy of the application be sent to you. Please note that while this handbook is intended to be helpful, it does not constitute legal advice and in the event of a conflict with applicable law, the law will prevail over any statement in this handbook.

Your application must be based on permanent physical or psychological incapacity, or a combination of both. We know that this may be a difficult time for you, so we recommend that you apply as soon as you believe you are reasonably certain your medical condition will prevent you from permanently performing your usual duties, and you have supporting documents from physicians who have treated your disabling condition. We will begin processing your completed Disability Retirement Application as soon as it has been filed.

We recommend that you seek assistance to ensure your application is properly completed and that supporting documents are properly compiled. The exact nature of your incapacity must be clearly stated, as disability retirements are granted only upon submitting a complete application and proving your incapacity according to the applicable legal standard.

Member handbooks that summarize all MCERA benefits and post-retirement benefits provided by your employer are available and may provide additional helpful information. These documents can be downloaded from MCERA.org or can be sent to you upon request.

MCERA's Role

MCERA serves as the administrator of the application process and of your disability retirement benefit, should it be granted. The MCERA Disability Coordinator is a member of our Benefits Team who facilitates the application process by providing you with the proper documents, conducting a counseling session with you, following up with the independent medical consultant, your employer and the Retirement Board, and ensuring the administrative process moves in accordance with applicable law and MCERA's disability retirement procedures.

Your Role

You must carefully read and respond to all questions in the Disability Retirement Application. Your application is considered complete when you also include the following documents:

- Job description from your employer. This is a summary of the usual duties of your job. If you need assistance in obtaining a job description please contact the Disability Coordinator.
- All medical documents supporting your application, including written diagnosis of your injury or illness, prognosis that your disability is permanent, and the causation from your treating physician on the physician's stationery.
- Authorizations to obtain and release records, permitting your physicians to release relevant records and information to MCERA for a full evaluation of your application.

Eligibility Requirements

If you become permanently incapacitated (disabled) during employment, you may be eligible for a disability retirement. Disability retirement eligibility requires the following:

- Current MCERA membership, meaning your retirement contributions are still on deposit with MCERA.
- Permanent incapacitation from performing the usual and customary duties of your job. For purposes of MCERA, “permanently incapacitated” means that your incapacitating condition is expected to continue for such an extended and uncertain duration of time to be considered permanent according to competent medical evidence, and as determined by the Board. It is not necessary that you be physically or mentally incapable of performing each and every duty or task that might arise within your job classification.
- For a non-service connected disability you must also have at least five years of retirement service credit, which may include reciprocal service credit with another public retirement system in California (there is no minimum service credit requirement for service connected disability retirement).

Types of Disability Retirement

Service Connected Disability

A service connected disability means there was a real and measurable connection between your employment and your permanent incapacity. For a service connected disability the monthly benefit is 50% of your highest average compensation, or the amount of your service retirement benefit, whichever is greater.

Non-service Connected Disability

A non-service connected disability means that your incapacity is a result of injury or disease that is not related to your job. You must have at least five years of service credit (including reciprocal service) to be considered for a non-service connected disability retirement. A formula is used to calculate the benefit, which generally results in a monthly benefit that is either one-third of your final compensation, or the amount of your service retirement benefit, whichever is greater.

Burden of Proof

By law, the applicant has the burden of proof on issues of permanent incapacity and service connection. The amount and nature of the medical evidence you submit to the Retirement Board to substantiate your claim is at your discretion. If you are filing your own application you must prove by a preponderance of the evidence that you are permanently incapacitated and, if applicable, that there was service connection. If your department or some other person is filing on your behalf, it is their obligation to prove by a preponderance of the evidence that you are permanently incapacitated and the service connection, if applicable.

Issues the Board will Consider to Decide Permanent Incapacity

There are several factors that may be considered by the Retirement Board in deciding whether or not to grant a service connected or non-service connected disability retirement.

The Board will review all pertinent medical reports and records, including those submitted by you and any additional medical reports that may be obtained by MCERA staff. Other documents that may be considered include personnel records, employer statements, documents relating to any Workers' Compensation claims, health officer reports and any investigator's reports.

When deciding the question of permanent incapacity, the Board may also consider your employment status both at the time you filed your application and afterward. This issue arises primarily when a member retires from service or otherwise leaves employment and at the same time, or some time thereafter, files an application for disability retirement. Under these circumstances, one of the issues the Board may consider in deciding permanent incapacity is whether you worked full time with no physical restrictions or accommodations until the day you left active service. If you were working full duty on your last day, the Board may consider that fact as evidence that your injury or illness did not affect your ability to do your job.

The Board will also look at what employment, if any, you were engaged in after you left active service to see if you were performing activities you claimed you were unable to perform because of a disability.

Disability Process Timeline

The Board of Retirement generally will make a decision on your disability retirement application six to ten months after the application has been filed. You can expedite matters by submitting copies of all medical records, forms, letters, chart notes and/or test results from any medical facility that has treated or examined you. If the Board approves your application your disability retirement benefit will typically be paid from the later of two dates: the date you filed your application or the last date for which you received compensation (including sick leave, vacation, and for Safety members 4850 compensation).

If you demonstrate to the satisfaction of the Board that the filing of your application was delayed by administrative oversight by MCERA, or by your inability to determine the permanency of your incapacity, then the Board may grant a disability retirement benefit as of the date following the day for which you last received regular compensation, even if you filed your application after that date.

Steps Toward Disability Retirement

Step 1: Injury or Illness

You become injured, ill, or are placed on disability status. You can apply for disability retirement while you receive Workers' Compensation or 4850 benefits. Please keep in mind that Workers' Compensation determinations have no bearing on the MCERA disability retirement determination.

Step 2: Written Diagnosis

Obtain written diagnosis of your injury or illness, prognosis that your disability is permanent, and the causation from your treating physician on physician's stationery.

Step 3: Apply for Disability Retirement

Contact MCERA to inform us of your injury or illness. Complete an application for disability retirement, which can be obtained by downloading it from MCERA.org, or by contacting MCERA's Disability Coordinator. The application must be accompanied by a doctor's diagnosis, prognosis and all supporting documentation. We can only accept complete applications. If your application is incomplete it will be returned to you in its entirety, which may result in processing delays. If you need to change your claim or edit your application you must notify MCERA in writing.

When to File

You can file your application when you or your physician believe your medical condition permanently prevents you from performing your usual job duties. You can file your application while you are still employed, or within four months after you have terminated employment, or any time after terminating employment if you have been continuously disabled since your separation.

Supporting Documentation

The burden of proving a disability falls on the applicant. It is your responsibility to provide MCERA with any documentation that will support your claim. The documentation must prove that you are permanently disabled from substantially performing your usual and customary job duties. For a service connected disability retirement, the documentation must also demonstrate that there was a "real and measurable" connection between your employment and the disability.

Step 4: Disability Retirement Counseling

Contact MCERA to schedule a disability retirement counseling appointment. The Disability Coordinator will discuss service vs. non-service connected disability and eligibility requirements for service retirement. Retirement staff will also check for your eligibility to receive a service retirement benefit. You may wish to check with your employer to see if you are eligible for advance disability retirement payments (available to those who are eligible for paid 4850 time) pending the outcome of your Disability Retirement Application. Please keep in mind that once you receive a service retirement you will not be able to return to work full-time with an MCERA employer while continuing to receive a retirement benefit.

During counseling, the following topics will be reviewed:

- Eligibility requirements for service connected disability retirement, non-service connected disability retirement, and service retirement.
- Supporting documentation needed to process the disability application.
- Effective date of benefits.
- Timeline and applicant's role.
- Reciprocity.
- Safety member presumption requirements.
- Legal representation.
- Health, dental, and vision coverage, before and after the disability application process.
- Current beneficiary designation and death benefits.

Step 5: Application Reviewed

Your application, physician's medical evidence and supporting documentation are reviewed for completeness prior to being accepted. Once complete, your application is accepted and staff will begin processing the application.

Step 6: Letter to Employer

Information will be sought from your employer about your job duties, documentation of injury/illness, whether reasonable accommodation was attempted and other relevant facts. We will request occupational injury/illness reports and medical records and may also request pre-employment examination reports.

Step 7: Medical Records Collection

Documentation is obtained from Workers' Compensation, all treating physicians and personnel files. All medical records obtained by this office are confidential.

Step 8: Initial Medical Review

Retirement staff and MCERA's independent medical consultant review all medical documentation.

Step 9: Independent Medical Examination

MCERA staff and the independent medical consultant may require you to attend an independent medical examination with one or more Board-approved physicians. MCERA staff will work with you and the physician to schedule the appointment. The physician prepares a report following the examination and sends it to MCERA.

If an independent medical examination is not recommended the applicant may skip to Step 10 in the process.

Please keep in mind that if you miss a medical appointment made by MCERA and you have not provided enough medical evidence to the Board to support your application, your failure to attend the medical appointment may result in denial of your application. If you need to cancel or reschedule an appointment please contact MCERA at least 48 hours in advance of the appointment.

Step 10: Medical Consultant Review

The independent medical consultant reviews the file and all physician reports and provides a written report and recommendation to MCERA's Retirement Board to grant or deny the application.

The medical consultant report and recommendation addresses whether, in the consultant's professional opinion, you are:

1. Physically or mentally capable of substantially performing the usual and customary duties of your job.
2. If not, then whether that incapacity is permanent.
3. If so, then whether there was a real and measurable connection between your permanent incapacity and your job (if applying for service connected disability).
4. Whether you have been continuously disabled since you discontinued active service with your last MCERA-covered employer.
5. Whether you are capable of performing the duties of another position based on the treating physician's and your employer's restrictions.

Step 11: Staff Recommendation

Retirement staff prepares a Disability Retirement Case Summary for the Retirement Board that is included with your completed application, supporting documentation, employer comments, and reports from the independent medical examiner and independent medical consultant. This document summarizes the application and key reports and includes a staff recommendation that the Board either grant or deny the application, in whole or in part. You and your attorney, if represented, also receive a copy.

Step 12: Retirement Board Decision

Your Disability Retirement Application will be presented at a regular monthly meeting of the MCERA Retirement Board. The Application will either be presented in open session, if it is on the Disability Retirement Consent Calendar, or in closed session if it is pulled from the Consent Calendar or originally scheduled for closed session (unless you request that the Retirement Board discuss it in public). The Board will determine whether you are permanently incapacitated from the performance of the usual and customary duties of your job and whether your disability is service connected (if applicable). Each decision is based on all evidence presented to the Board. The MCERA staff recommendation is not evidence, and it may or may not be adopted by the Board.

The Board may:

- **Grant your application, in whole or in part.** If medical evidence/documentation supports your application the Retirement Board may grant your application in whole. If the evidence supports your claim of permanent incapacity, but not service connection, the Retirement Board may grant you a non-service connected disability retirement, and deny your application for service connected disability retirement.

- **Deny your application.** If your application is denied based on disputed facts and/or expert opinions, you may appeal the Board's decision by providing a written request for an administrative hearing to the Retirement Administrator. Your request must be received by MCERA no later than 60 days after MCERA mails you notification of the denial. The Board may, in its sole discretion, waive this deadline upon a showing of good cause.
- **Refer your application to an Administrative Law Judge.** If medical evidence/documentation does not support your application, including if there is conflicting medical evidence, the Retirement Board may refer your application to an Administrative Law Judge for a hearing.
- **Remand to staff** for independent medical evaluation or more information.

Non-Service Connected Disability Retirement Pending Review of Right to Service Connected Disability Benefits

If you apply for a service connected disability retirement and the Board determines that you are permanently incapacitated but that your job did not contribute to your disability, the Board may elect to grant you a non-service connected disability retirement. You may accept the non-service connected disability retirement benefit while you pursue a hearing with an Administrative Law Judge concerning your right to a service connected disability retirement.

If later you are approved for a service connected disability retirement, appropriate adjustments will be made to your retirement benefit retroactive to the effective date.

Notice of Board's Action

The Disability Coordinator notifies all parties and their representatives, if any, of the Board's decision within ten days of the date the application was considered by the Board. The letter is sent by certified mail and includes the decision, the date the decision was rendered, and notice of your right to judicial review.

Step 13: Disability Hearing at Applicant's Request if Application is Denied or if Board Refers Application to Administrative Law Judge

If your application is denied by the Retirement Board you may appeal the Board's decision and request to have your case heard before an Administrative Law Judge (ALJ). The Board may also make the decision to refer your application to an ALJ.

1. **Prepare for hearing.** MCERA strongly recommends that you retain legal counsel to prepare your case. County Counsel represents MCERA during the hearing.
2. **Selection of ALJ.** MCERA counsel will work with the Office of Administrative Hearings as well as you or your attorney to schedule the hearing with the ALJ.
3. **Notice of hearing.** Once the hearing date is set MCERA counsel notifies attorneys, court reporter, applicant and ALJ of time and location of the hearing.
4. **Hearing held.** Member presents his/her case to the ALJ. MCERA appears through County Counsel. The ALJ prepares a recommendation for the Retirement Board to grant or deny the application, generally within 60 days of the hearing.

Step 14: Board Decision after Hearing

1. **ALJ recommendation.** The ALJ prepares a written report that summarizes the evidence and findings of fact and makes a recommendation to the Board. The Board has the option to adopt the findings of fact and recommendation, require a transcript or summary of all evidence received by the ALJ and take action based on such evidence, send the recommendation back to the ALJ for further proceedings, or to reconsider the matter themselves.
2. **Notice of decision.** You and your attorney are sent a notice of the Board's decision.
3. **Judicial appeal.** If the Board denies the application after reviewing the ALJ decision, you may appeal that decision to the Superior Court within 90 days of the Board's announcement of the denial.

If Disability Retirement is Granted

Upon granting of a disability retirement benefit by the Retirement Board your final retirement benefit calculations will be completed. This process generally takes one week after the Board's decision but may take longer depending on your pay status. Retirement benefit payment option forms are provided to you once the final calculations are complete. You may expect your first monthly benefit at the end of the month after MCERA receives your signed documents. If payroll has already been submitted for that month you will receive your monthly benefit the following month, including any retroactive payments.

Service Connected Calculations

When you retire for service connected disability you will receive a lifetime monthly retirement benefit equal to 50% of your highest average compensation or, if eligible for a service retirement, you will receive your service retirement allowance, if it is greater.

Non-service Connected Calculations

A non-service connected benefit is paid to you monthly during your lifetime. The amount you receive will depend on your age, highest average compensation, and service credit, and may be greater than your service retirement benefit.

Reexaminations

If you are granted a disability retirement and you are under age 55, the Board may require you to complete a Continuing Disability Questionnaire Form and undergo a medical examination, at MCERA's expense. The disability questionnaire and medical examination records are reviewed by MCERA's medical advisor, who makes a recommendation on whether you remain permanently incapacitated. If there is a question about your continuing incapacity the Board will then determine if you are still unable to perform the usual duties of the position you held when your disability retirement was granted.

Your retirement allowance will be suspended if, over a period of one year, you refuse to submit to a medical examination, supply requested information, or provide requested release forms.

Additional Information

Workers' Compensation

Workers' Compensation and disability retirement laws that govern MCERA may be similar, but they are not the same. It is not unusual for the Board of Retirement to find that a person is not permanently incapacitated even after the person has been granted an award by Workers' Compensation or Social Security.

Service Retirement Pending Determination of Your Application

If you are eligible for a regular service retirement benefit, you may apply for it pending the determination of your application for disability retirement. Adjustments will be made to your retirement allowance retroactive to your effective date of disability, if applicable, if you are found eligible for disability retirement. If you begin receiving your regular service retirement and your disability retirement is not granted, you may not be eligible to return to your job because your employment terminates upon accepting a regular service retirement.

You and your beneficiaries may only receive one type of retirement allowance for the same period of time.

If you are interested in applying for a service retirement pending a disability retirement you will need to submit a regular service retirement application. Please contact MCERA for a customized packet.

Reciprocal Disability Benefits Processing

Generally, each reciprocal system calculates its respective obligations based upon your service with that system and each adjusts payments on a pro rata basis. Each retirement system is liable for its own financial obligation, as provided by law. Your combined reciprocal benefit will not be higher than it would have been if all of your service credit was earned in one system.

Safety Member Presumptions

As set forth in the County Employees Retirement Law of 1937, disability presumptions apply only to certain Safety and other law enforcement and/or firefighter members as explained below.

If you are a Safety member or a member in active law enforcement (or a County probation officer in the case of the blood-borne infectious disease presumption) and you have completed a combined five years or more of service as a member of MCERA or a reciprocal retirement system, one of the following rebuttable presumptions of disability may apply, provided that you otherwise satisfy the requirements of the presumption.

Heart trouble

If you develop heart trouble, and you are permanently incapacitated for the performance of duty as a result of heart trouble, you will be presumed eligible for a service-connected disability retirement. Such heart trouble shall not be attributed to any disease existing prior to the development of the heart trouble. The heart trouble presumption is rebuttable by other evidence.

Cancer

If you develop cancer it is presumed to have arisen out of and in the course of employment. Notwithstanding the existence of nonindustrial predisposing or contributing factors, if you are permanently incapacitated for the performance of duty as a result of cancer you will be presumed eligible for a service-connected disability retirement if you demonstrate that you were exposed to a known carcinogen (known carcinogenic agents as recognized by the International Agency for Research on Cancer or the Director of the Department of Industrial Relations) as a result of performance of job duties. Such cancer shall not be attributed to any disease existing prior to the development or manifestation of the cancer.

The presumption is rebuttable by evidence that the carcinogen to which you have demonstrated exposure is not reasonably linked to the disabling cancer. This is provided that the primary site of the cancer has been established. Following your termination of service, this presumption is extended three calendar months for each full year of service, not to exceed 60 months, beginning on the last day worked.

Blood-borne infectious disease

If you have been exposed to blood or blood products during the performance of your duties and develop a blood-borne infectious disease (including but not limited to diseases defined by the California Department of Industrial Relations), it is presumed that the illness has arisen out of and in the course of employment. If you are permanently incapacitated for the performance of duty as a result of the exposure you will be presumed eligible for a service-connected disability retirement. The disease so developing or manifesting itself shall not be attributed to any disease existing prior to that development or manifestation. The presumption is rebuttable by other evidence. Following your termination of service, this presumption is extended three calendar months for each full year of service, not to exceed 60 months, beginning on the last day worked.

Effective January 1, 2009, this provision also includes any methicillin-resistant *Staphylococcus aureus* (MRSA) skin infection. If you develop MRSA, it is presumed to have arisen out of and in the course of employment. If you are permanently incapacitated for the performance of duty as a result of MRSA, you will be presumed eligible for a service-connected disability retirement. The MRSA presumption is applicable for up to 90 days after termination of service, and is applicable regardless of length of service in the retirement system. This presumption is also rebuttable by other evidence.

Exposure to biochemical substances

If you become ill and unable to perform your duties or die due to exposure to a biochemical substance (including but not limited to any chemical warfare agent, biological warfare agent, or nuclear or radiological agent), it is presumed that the illness has arisen out of and in the course of employment. The illness that develops or manifests itself shall not be attributed to any illness existing prior to that development or manifestation. The presumption is rebuttable by other evidence. Following your termination of service, this presumption is extended three calendar months for each full year of service, not to exceed 60 months, beginning on the last day worked.

Retirement Benefit Payment Options

You can select the retirement option that best meets your needs for providing for a spouse, state-registered domestic partner or other beneficiary. You may change your selected option prior to receipt of your first retirement benefit payment. After that time, your option selection is irrevocable.

Unmodified Benefit

For Service Retirement and Non-service Connected Disability Retirement

The Unmodified benefit is the highest benefit possible. When you die after retiring and provided you were married/registered for at least one year at the time you retired, your surviving spouse/registered domestic partner will receive a lifetime benefit equal to 60% of the amount you were receiving upon your death. If you marry/partner after you are retired, you must be married/registered for at least two years prior to your death and your spouse/partner must be at least age 55 at the time of your death to be considered eligible for the 60% continuance.

If you have no spouse/registered domestic partner and you have unmarried minor children under age 18, or to the age of 22 if in school full time and not married, there is a 60% continuance available as long as they remain age/status eligible.

If you choose the Unmodified benefit and do not have an eligible spouse/partner or minor child to receive the survivor's continuance at the time of your death, any remaining balance in your member contribution account will be paid as a one-time lumpsum payment to the beneficiary you have designated.

For Service Connected Disability Retirement

If you are approved for a service connected disability retirement and choose the Unmodified benefit, your spouse/partner or minor children who meet the criteria noted above are eligible for a 100% continuance of the benefit you were receiving at the time of your death.

Option 1: Cash Refund Annuity

This option provides that after your death a lump sum payment of your remaining member contributions will be paid to any beneficiary you choose. How much remains of your member contributions will be determined by how long you had been retired. A portion of every monthly retirement benefit comes from your contributions. Therefore, the amount of your contributions available to a beneficiary after your death decreases each month. This option does not provide a continuance to your named beneficiary.

Option 2: 100% Joint and Survivor Continuance

This option allows you to reduce the amount of the benefit you receive during retirement in order to provide the same benefit to a beneficiary of your choice following your death. Under this option the amount paid after your death will be up to 100% of the amount paid to you during retirement. The amount of the benefit reduction is based on the life expectancies of you and your designated beneficiary and may be sharply reduced if your beneficiary is much younger than you are. Also, if your beneficiary is more than 10 years younger than you and not your spouse, the payable continuance may be less than 100% due to Internal Revenue Code provisions.

If you elect this option you can only change your beneficiary after retirement if your beneficiary predeceases you. However, your retirement allowance will not be adjusted based on the new beneficiary's age, and the newly named beneficiary will only receive a lump sum refund of your remaining member contributions.

Option 3: 50% Joint and Survivor Continuance

This option allows you to reduce the amount of the benefit you receive during retirement in order to provide a continuance to a beneficiary of your choice following your death. Under this option the amount paid after your death will be of 50% of the amount paid to you during retirement. The amount of the benefit reduction is based on the life expectancies of you and your designated beneficiary and may be sharply reduced if your beneficiary is much younger than you are.

If you elect this option you can only change your beneficiary after retirement if your beneficiary predeceases you. However, your retirement allowance will not be adjusted based on the new beneficiary's age, and the newly named beneficiary will only receive a lump sum refund of your remaining member contributions.

Option 4: Multiple Beneficiaries

This option allows you to reduce the amount of the benefit you receive during retirement in order to provide a continuance to more than one beneficiary upon your death. Under this option you may assign the percent of continuance to each beneficiary. The amount of the benefit reduction is based on the life expectancies of you and your designated beneficiaries.

This option will need to be calculated by MCERA's actuary and there may be costs associated with the calculation. Please contact our office if you would like an estimate for this benefit payment option.

Taxability

Withholding Election

As a retiree you have the option to elect whether to have federal or California state tax withheld from your MCERA benefit and at whatever rate you choose. You may elect not to have a withholding applied to your benefit, choose an amount based on the tax withholding tables, or request withholding of an additional specific dollar amount. For those who have elected to have taxes withheld using the tax withholding tables, please keep in mind that these tables can change annually or during the year.

If at any time you wish to change your tax election you may do so by completing new federal and/or state tax withholding forms and returning them to MCERA.

Service Connected Disability Payments

The amount of your service connected disability benefit that is equal to 50% of your highest average compensation is nontaxable. Benefit amounts above 50% of monthly highest average compensation are considered taxable income.

Non-service Connected Disability Payments

MCERA reports benefits received from a non-service connected disability retirement as taxable income and withholds tax accordingly.

1099-R Annual Tax Reporting Statement

Each January you will receive a Form 1099-R containing information on your MCERA income from the previous calendar year. Box 1 on the form labeled "Gross Distribution" contains the total amount of benefits paid to you. This is normally the accumulated annual gross amount of the payments you received dated January 1 through December 31. Box 2a labeled "Taxable Amount" contains the amount of your gross payments that is taxable income. This is the amount that you will report as income on your personal income tax return.

You are encouraged to seek advice from a professional tax advisor concerning your MCERA retirement benefit payments. MCERA cannot give tax advice so it is important to consult with someone who has the expertise to discuss the tax implications of individual circumstances or benefits.

Medical, Dental and Life Insurance Availability

Retiree medical benefits are provided by your employer. If your disability retirement is approved you are eligible for the same retiree medical and dental insurance coverage and subsidies provided by your employer for all service retirees.

Please refer to the Post-retirement Medical Benefits Brochure specific to your employer for more information on retiree medical plans. The brochures are available on our website or upon request.

Vision Insurance Availability

The State Association of County Retirement Systems (SACRS), of which MCERA is a member, sponsors a vision insurance plan for retirees through VSP Vision Care. The vision care plan is voluntary and separate from any plans that may be offered by your employer and is not covered by any employer-provided subsidy you may receive. That plan also is not provided, or financially supported, by MCERA.

Social Security Benefits

Most MCERA members do not participate in Social Security during their MCERA-covered employment. However, many have had jobs covered by Social Security elsewhere before coming to work for an MCERA plan sponsor, or may pay Social Security taxes in another job after retiring. If your service with MCERA or another government pension plan was not covered by Social Security, the pension you receive from MCERA (or other public plan) could reduce your Social Security benefits.

Social Security has two special provisions which may affect MCERA members. One, the Windfall Elimination Provision (WEP), applies to public employees who also have enough credits to qualify for Social Security benefits on their own account number. The other, the Government Pension Offset (GPO), applies to public employees when claiming benefits on a spouse's Social Security account number.

Windfall Elimination Provision (WEP)

The WEP affects how the amount of your Social Security retirement or Social Security disability benefit is calculated. A modified formula is used to calculate your Social Security benefit amount, resulting in a lower Social Security benefit than you would otherwise receive. The WEP primarily affects you if you earned a pension in any job where you did not pay Social Security taxes and you also worked in other jobs long enough to qualify for a Social Security retirement or Social Security disability benefit.

Government Pension Offset (GPO)

The GPO applies only if you are eligible for Social Security benefits as a spouse. The GPO reduces or eliminates Social Security spousal and survivor benefits for those who collect pension from jobs that were not covered by Social Security. If this is your situation and you expect to receive a Social Security spousal benefit upon retirement, that benefit will be reduced by two-thirds of your government pension. In some cases, this could eliminate your Social Security spousal benefit altogether.

Fact sheets on the WEP and GPO are available on the Benefits Information page of www.MCERA.org, and the website for Social Security, www.ssa.gov:

- WEP: Publication No. 05-10045
- GPO: Publication No. 05-10007

Frequently Asked Questions

May I receive a service retirement benefit while waiting for the Board of Retirement to decide on my application?

Yes. Whether or not you are disabled, if you are eligible to receive a regular service retirement benefit you may file for a service retirement while you are awaiting determination on your Disability Retirement Application. Your retirement benefit would be adjusted, if applicable, if you are found to be permanently incapacitated by the Board.

Keep in mind that receipt of a regular service retirement will make you ineligible to return to full-time employment with an MCERA employer in the event that your Disability Retirement Application is denied.

Could there be any consequences if I take a service retirement benefit pending the Board's decision?

Yes. In order to receive a service retirement benefit you must terminate your employment. If it is determined that you are not eligible for a disability retirement, you may not be eligible to return to your same job. If you do not take a service retirement benefit pending the Board's decision on your disability retirement application and it is determined that you are not permanently incapacitated, you have the right to be reinstated by your employer.

When should I submit my Disability Retirement Application?

You should submit your Disability Retirement Application as soon as you are reasonably certain that your medical condition permanently prevents you from performing your regular job duties. You may apply while you are still employed or within four months following your separation from employment. You also may apply at any time from the date of discontinuance of service if you demonstrate through medical evidence that you have been continuously physically or mentally incapacitated from performing your job duties. You may not apply if you have withdrawn your retirement contributions from MCERA.

May another person file a disability retirement application for me?

Yes. Your employer may file on your behalf, with or without your permission.

How long does this process take?

Usually 6 to 10 months from the date your application is filed, depending on the complexity of the claim, the timeliness of the responses to MCERA's requests for information, and whether the Retirement Board's decision is appealed. Each case is different, so processing times will vary.

Do I need an attorney to help me?

An application may be filed with or without the assistance of an attorney. If your matter goes to hearing you may wish to obtain the services of an attorney. Costs of legal counsel are the responsibility of the applicant. MCERA cannot provide you with legal advice.

Is Workers' Compensation the same thing as disability retirement?

No. Workers' Compensation findings do not guarantee eligibility for a disability retirement from MCERA because Workers' Compensation and MCERA have different laws governing the determination of disability.

Can my Workers' Compensation attorney represent me in this matter?

In most cases Workers' Compensation attorneys do not handle Disability Retirement Applications. Please check with your attorney to find out if they are able to serve as your legal counsel for the MCERA disability process.

If my application is approved, when will my disability retirement become effective?

Your disability retirement will be effective on the date you filed your application with the Board of Retirement or the date following the last day for which you received regular compensation, whichever is later. If you filed your application after your last day of pay, and if the delay was because you could not determine the permanency of your disability, or if an administrative oversight caused the delay, the effective date of your disability retirement benefit may be the date following the last day for which you received regular compensation. A change in effective date is determined by the Board, either based on information you submitted with your application or by additional information you may need to provide to support the reason for the delay.

You may want to check with your department payroll/ personnel representative to determine if you are eligible to use your paid sick leave before receiving your disability retirement benefit.

How much will my disability retirement benefit be?

The amount of money you receive for a service connected disability retirement is no less than 50% of your highest average compensation. If you are eligible to receive a service retirement benefit that is greater than the service connected disability retirement amount, you will receive the greater service retirement benefit.

The amount of money you receive for a non-service connected disability retirement depends on your age, years of service, and highest average compensation, but may be greater than your service retirement benefit.

When will I receive my first check?

Members generally receive their first benefit payment at the end of the month following the Board's decision. In order for MCERA to process your benefit in a timely manner you must be terminated from your employer. MCERA can not process your retirement if you are still in the payroll system as an active employee.

How frequently and how long will I receive this benefit?

Disability retirement benefits are paid monthly during your lifetime.

Will I be eligible for medical and dental insurance?

If your disability retirement is approved you are eligible for the same retiree medical and dental insurance provided by your employer for all service retirees.

The cost for your portion of the insurance premiums, if any, will be deducted from your retirement benefit payment each month.

What benefits are payable to my spouse/domestic partner?

At the time of retirement for either service or disability, you will elect a benefit payment option that determines what benefits are payable to your spouse/partner or other designated beneficiary. Please see page 11 for all available benefit payment options. A \$5,000 lump sum death benefit is also payable to your designated beneficiary.

May I continue to work for my employer if I am found to be disabled by the Board?

You may accept a new position with your employer if you are able to perform other duties, but you must comply with all requirements for working after retirement in order to continue receiving your disability benefit. Please contact us if you have questions about returning to work following your disability retirement.

May I obtain work other than with my employer if I am found to be disabled?

Yes. You may obtain full- or part-time employment in an occupation that you are not deemed disabled to perform.

Can my disability retirement be canceled at a later date?

Yes. If you are under age 55, MCERA can require you to submit to a medical re-evaluation. If the Board of Retirement determines that you are no longer disabled, your disability retirement can be canceled if your employer agrees to reinstate you to your former position.

If you are working in a position you are deemed disabled to perform, MCERA may discontinue your disability benefits.

Is my retirement benefit reported to the IRS?

All disability retirement income is reported to the state and federal governments during the years you receive it.

Are taxes withheld from my retirement benefit?

Federal and California State tax withholding is available, at your option. You may want to consult with a tax professional to help you determine withholding from your retirement benefit.

Will my disability retirement benefit ever change?

It may. Annual cost of living adjustments (COLAs) are effective April 1 and included in your retirement benefit beginning with the payment received at the end of April. The COLA is calculated as provided in the California Government Code based on changes in the Urban Consumer Price Index (UCPI) for the San Francisco Bay Area. The UCPIs for the two prior calendar years are averaged and rounded to the nearest one-half percent.

MCERA retirement tiers have maximum COLAs of 2%, 3% or 4%. Any changes in the UCPI over the maximum are held in a COLA bank and are applied to your benefit in a future year when the UCPI change is less than the maximum for your tier.

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Disability Retirement Handbook

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