

## Disability Leave Scenarios

**\*NOTE:** the relevant “effective dates” are as follows: **OCSEA**-March 1, 2006; **1199**-June 1, 2006; **OEA**-July 1, 2006; **Exempts**-October 29, 2006.

Scenario		Outcome	Authority
1	Suzie is an employee whose disability leave commences six days after the effective date*. She remains out for 10 months.	After serving her 14-day waiting period, Suzie will receive 70% of her base rate of pay for the next 3 months. For the remaining period, her benefit will be reduced to 50%.	OCSEA Article 35.01(D) AC 123:1-33-05(B)
2	Suzie from <i>Scenario 1</i> returns to active work status in January, 2007. In January 2012, she files another claim for disability which will last for three months.	Suzie will serve a 14-day waiting period. After that she will receive 50% of her base rate of pay until she has met her lifetime maximum of 12-months of paid disability leave benefit.	OCSEA Article 35.01(D) AC 123:1-33-05(B)
3	John is an employee whose disability leave commences on December 1, 2004. On the effective date*, John is still receiving disability leave.	John continues to receive disability leave until he can return to work, exhaust the 24-month limit per claim, or his lifetime maximum as established under the old contract/rule language, whichever occurs first. If John returns to work after the effective date*, he will still have 1 year of disability leave to use during his state employment, even if his lifetime maximum under the old contract/rule language has been met.	OCSEA Article 35.01(D) AC 123:1-33-12
4	Laverne’s disability leave benefit commences eleven months before the effective date*, and continues until she returns to active work status two weeks before the effective date*. Under the previous contract/rule language, Laverne received the first six months of disability leave at 70% of her base rate of pay, then at 50% until she returned to work. Two weeks after the effective date*, Laverne’s condition returns and she files a subsequent claim.	Although the claim was related to the disability claim filed eleven months before the effective date, Laverne’s claim will be treated as a new claim based on the new language. Therefore, Laverne will serve a new 14-day waiting period, but will receive 70% of her base rate of pay for the first three months, and 50% for remaining time up until 1 year.	OCSEA Article 35.01(D) AC 123:1-33-08(C)

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	Scenario	Outcome	Relevant Rule(s)
5	<p>Shirley is an employee who files a first time disability claim one month after the effective date*, and is approved for six weeks. Therefore, she serves the 14-day waiting period and receives 4 weeks of disability leave benefit at 70% of her base rate of pay. Four months after the effective date*, Shirley has a recurrence and therefore files a subsequent claim related to the earlier disability claim.</p>	<p>Shirley will not have to serve an additional waiting period. She will receive 70% of her base rate of pay until she has accumulated a total of three months of paid disability leave benefit. Afterwards, her benefit will reduce to 50%.</p>	<p>OCSEA Article 35.01(D) AC 123:1-33-08</p>
6	<p>Barney has a prescheduled surgery scheduled for one month after the effective date*, and his doctor has estimated that he will need to be off work for six weeks. He files an application for disability leave one week prior to the effective date*.</p>	<p>Barney does not have a complete disability claim application until the disabling event occurs. Therefore, Barney's claim will be processed under the new contract language.</p>	<p>AC 123:1-33-02(A)</p>
7	<p>Brutus is an employee whose disability leave benefit commenced eight months before the effective date*, and continued until he returned to work two months later in a transitional work program working 4 hours a day and receiving 4 hours of disability benefits. One month before the effective date*, while still on a transitional work program, Brutus' condition returns and he files a subsequent claim.</p>	<p>Since Brutus was participating in a transitional work program he would not serve another 14-day waiting period and his claim would continue under the old provision. Only the hours paid for disability benefits for transitional work would count toward his lifetime maximum.</p>	<p>AC 123:1-33-08(F) AC 123:1-33-06(B)</p>

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	Scenario	Outcome	Relevant Rule(s)
8	<p>Bert's disability leave benefit commences four months before the effective date*, and continues until he returns to work two months later in a transitional work program working 8 hours a day but not performing 100% of his job duties. One month after the effective date*, while still on a transitional work program, Bert's condition returns and he files a subsequent claim.</p>	<p>Since Bert was participating in a transitional work program he would not serve another 14-day waiting period and his claim would continue under the old provision. Only the hours paid for disability benefits for transitional work would count toward his lifetime maximum.</p>	<p>AC 123:1-33-08(F) AC 123:1-33-06(B)</p>
9	<p>Ernie's disability leave benefit commences six months before effective date*, and continues until he returns to work five months later in a transitional work program working 4 hours a day and receiving 4 hours of disability benefits. One month after effective date*, Ernie returns to work full time performing 100% of his job duties. Two months after effective date*, Ernie's condition returns and he files a subsequent claim.</p>	<p>Since Ernie returned to work full time and was not participating in a transitional work program, his subsequent claim will be treated as a new claim. Therefore, Ernie would serve a new 14-day waiting period but will receive 70% of his base rate of pay for the first three months, and 50% for remaining time up until 1 year.</p>	<p>AC 123:1-33-08(F) AC 123:1-33-05(B)</p>