



Disability & Workers' Compensation

40 ILCS 5/15-153.1

General Information

The State Universities Retirement System (SURS) will reduce your disability benefit if you also receive any benefits through a State or Federal Workers' Compensation (WC) or Occupational Diseases Act for the same period of time you receive SURS disability benefits. In determining whether or not you receive WC benefits and SURS disability benefits for the same period of time, SURS looks at the period the WC benefit is being paid, not the date the payment was issued.

The amount of the reduction will depend on the type(s) of WC benefits you are awarded. See the Illinois Workers' Compensation Commission's (IWCC) Handbook for more information about the different types of WC benefits (www.iwcc.il.gov).

In order to determine the impact to your SURS disability benefit, SURS must receive the following information about your WC benefit(s): type(s) of benefit, amounts, frequency (i.e. weekly, lump sum), dates for which the benefit(s) is payable, and your attorney fees & costs.

Contact SURS immediately if you receive any WC benefits. In addition, submit a copy of either the settlement contract approved by the arbitrator or the arbitrator's or IWCC's decision on review, if applicable.

When WC Benefits are Paid for an Unrelated Medical Condition

If you receive WC benefits for the same period of time that you receive SURS disability benefits but each benefit is paid for different conditions (i.e. WC benefits are paid for an arm injury you incurred while working but SURS disability benefits are paid because you have cancer), SURS will still reduce your disability benefit by the WC benefits you receive.

When WC Benefits are Disputed

In some instances, the WC benefits you apply for can be denied and/or disputed; therefore, you may not receive any WC benefits until the dispute is resolved. In order to avoid potential financial hardship, if you are eligible for SURS disability benefits, SURS can begin paying a full disability benefit to you. A SURS "Disability Reduction Acknowledgement" must be signed before disability benefit payments can begin.

Because SURS reduces disability benefits if you also receive WC benefits for the same period of time, it is likely that you will eventually be overpaid by SURS for disability benefits after your WC benefits have been resolved. WC benefits are typically paid for a retro-active period of time; therefore, those benefits will generally cover the same period of time for which SURS would have already paid you a full disability benefit.

You will be required to repay SURS for any overpayment of disability benefits that occurs. By signing the "Disability Reduction Acknowledgement," you are agreeing to repay SURS immediately for any overpaid disability benefits. If you fail to repay SURS, interest may be charged and the overpayment will be recovered from any future SURS benefits payable to you, to your beneficiaries, or to your estate.

SURS disability benefits are subject to federal income tax (FIT). If you receive SURS disability benefits and are overpaid once your WC benefits have been resolved, you may end up paying more in FIT than you would have had you not started receiving SURS disability benefits before your WC benefits were resolved. SURS recommends you consult a tax advisor to discuss any tax-related questions.

Reduction for Weekly WC Benefits

If you receive a weekly WC benefit, your SURS disability benefit will be reduced. The monthly reduction is calculated by multiplying your weekly WC benefit by 4.3333 weeks per month (which is the conversion factor as defined by statute).

Reduction for Lump-Sum WC Benefits

If you are awarded a lump-sum WC benefit, your SURS disability benefit may still be reduced. SURS must determine the begin date and the end date of the period that the lump-sum WC benefit applies to as well as the amount of the monthly reduction. We apply the information provided in the settlement contract that was approved by the arbitrator or the arbitrator's or IWCC's decision on review, if applicable.

Most commonly, lump sum WC benefits are paid under the permanent partial disability (PPD) category of WC benefits. For these types of lump-sum WC benefits, SURS determines the reduction period and reduction amount as follows:

Begin Date of PPD Reduction:

This date is the day after the accident date unless you receive temporary WC benefits (i.e. temporary total disability [TTD]), in which case the begin date would be the day after the end date of the temporary WC benefits.

End Date of PPD Reduction:

PPD benefits are typically paid at a rate of 60 percent of your average weekly wage (AWW). To determine the length of the reduction period, we divide the gross lump-sum PPD benefit you receive by the weekly PPD rate (AWW X 60 percent) to get the total number of weeks of the reduction period. We then convert the total weeks into months by dividing the total weeks by 4.3333 weeks per month (which is the conversion factor as defined by statute). Finally, we determine the end date of the reduction period by adding the total months of reduction to the begin date.

Amount of PPD Reduction:

SURS will not reduce your disability benefit by the portion of your lump-sum PPD settlement that is for attorney fees & costs. Therefore, we use the net lump-sum PPD benefit you receive and divide it by the number of months of the reduction period to determine the monthly reduction amount.

NOTE – The above information only illustrates how reductions are determined for lump-sum WC PPD benefits. If you are awarded a different type of lump-sum WC benefit, the reduction could be determined differently.

Prorating Lump-Sum Benefits Over Your Lifetime:

If the terms of your settlement contract include language indicating the lump-sum benefit will be prorated over your lifetime but you actually receive the benefit as one lump sum, SURS will not calculate the reduction to your disability based on the prorating language. This language does not apply to SURS disability benefits.

Resignation Agreements:

In some cases, an employer may offer to settle a WC claim if the employee agrees to resign from their position and give up all rights as an employee of that employer. If this is a condition in your case, you may still be eligible for SURS disability benefits, provided you have supporting medical documentation that you became disabled and continue to be disabled from the position you were working on the date your disability occurred. However, keep in mind that **you must exhaust all sick leave benefits you accrued as an employee in order to be eligible for SURS disability benefits.** In some cases, if you sign a resignation, your employer may not be able to pay your sick leave benefits to you. Before signing the resignation agreement, please contact your attorney or employer to determine the status of your sick leave benefits.

Purpose of Applying for SURS Disability Benefits

If you have applied for and/or you are receiving WC benefits, it is still important that you also apply for SURS disability benefits immediately (if you know you will be off work for more than 60 days). Why?

SURS Service Credit: You will still earn service credit if you are eligible for SURS disability benefits, even if the disability benefit is reduced to \$0.00 due to the WC reduction. You must remain medically eligible for SURS disability benefits; therefore, you will still be required to complete medical rechecks periodically.

Disability Application One-Year Filing Requirement: It is required that you file a SURS disability application no later than one year after the date your disability occurs. By filing an application with SURS immediately, you will have met that requirement and you could have options to receive disability benefits later should your WC benefits end and you are still unable to return to work.