

## Introduction

The Maine Public Employees Retirement System (MainePERS) is an incorporated public instrumentality of the state governed by a Board of Trustees pursuant to Maine law. Since 1942, MainePERS has joined with public employers to help their employees prepare for retirement. The System's active contributing members include teachers, state, county, and municipal employees, legislators, judges, and others. Upon retirement, our members receive monthly benefits from their respective defined benefit plans. The System also administers disability retirement, group life insurance, survivor services, and a tax-deferred retirement savings program known as MaineSTART. Management of these programs includes financial and investment administration, recordkeeping of members' work and compensation data, and administration of retirement and related services.

MainePERS' Disability Retirement benefit covers permanent disabilities, which results in a member being unable to perform the essential functions of the member's employment position without reasonable accommodation. Disability Retirement benefits replace either 59% or 66.67% of income, depending on the plan under which an employee has coverage. A long-term disability insurance (LTDI) program would assist in addressing income protection gaps for members who do not, or do not yet, qualify for Disability Retirement benefits, and offer members more robust protection from the financial losses associated with long-term disability. The program is designed to be fully insured through a carrier that would partner with MainePERS in implementing the new program.

MainePERS has approximately 43,500 active members currently employed by a participating employer that have not reached service retirement age by July 1, 2023. The LTDI claims incidence rate associated with the program design and specifications proposed in this report is estimated to be 2 to 3 per 1,000 covered employees, after removing the claims incidence rate associated with MainePERS' Disability Retirement experience (approximately 1 per 1,000). This translates into an estimated 104 to 156 LTDI claims per year. LTDI claim durations vary significantly depending on the cause of disability. Less severe claims (such as injuries or musculoskeletal conditions that can be treated) often terminate within the first 24 months because recovery rates are relatively high during this initial period and many LTDI claims fall within this category. Claims that last beyond 24 months are often due to severe conditions (such as multiple sclerosis or respiratory conditions) with lower recovery rates and can persist a long time. On average, LTDI claims typically last for 4 to 5 years, but with a wide variation in duration on specific claims.<sup>1</sup>

There are approximately 600 employers that participate in MainePERS. A table of the MainePERS member distribution by employment category appears below<sup>2</sup>. The largest employer is the State of Maine, comprising approximately 10,500 employees who have not reached service retirement age and who do not currently have employer sponsored LTDI benefits. Other participating employers may offer LTDI, but many do not.

Employment Category	Assumed Eligible Employees
State Public Safety	903
State All Others	9543
Education	23,948
PLD Public Safety	393
PLD All Others	8,670
<b>Total</b>	<b>43,457</b>

Both AFSCME and MSEA-SEIU offer their members access to an employee paid short-term disability insurance (STDI) benefit. **The Maine Municipal Health Trust offers employees of member employers access to an employee paid self-insured Income Protection Plan (STDI) and a fully-insured LTDI Plan.** While the Maine School Management Association Group Insurance Trust offers their member employers access to a long-term disability insurance program that can be either employer or employee paid and currently enrolls 61 participating member districts and 2,128 participants.

In September 2019, MainePERS issued a Request for Proposal (RFP) to select an insurance carrier for an LTDI plan and three finalists were selected from among the bidders. The intent at the time was to afford MainePERS participating employers the opportunity to offer LTDI insurance to members. However, the carrier selection process was interrupted by the COVID-19 pandemic. In 2021, the 130<sup>th</sup> Legislature, through Public Law, c. 277, Sec. 43, revived this process and called for MainePERS “to develop an implementation plan for providing mandatory long-term disability insurance coverage to retirement system members through their employers”. MainePERS contracted with Milliman to work with the three finalists from the 2019 RFP process to refresh their quotes.

### **Program Objectives**

The goal of the new LTDI program is to provide participating employers with readily available and affordable group disability insurance coverage options for their employees who are MainePERS members. To that end, the proposed program includes plan options which employers will be able to evaluate, allowing them to select the most appealing option in terms of coverage and cost. The primary objectives of the LTDI program are as follow:

1. Bridging the income replacement gap for employees who are unable to work due to a long-term disability, but who do not, or do not yet, qualify for disability retirement
2. Providing insurance coverage for disabilities that are not permanent and/or result in a partial reduction in work hours and wages.
3. Coordinating disability insurance coverage with existing employee benefit programs to avoid complexity, over-insurance, and excessive cost.
4. Providing options that are affordable to the employers, to maximize the number of employees who have basic coverage.
5. Including benefit buy-up options to increase benefits, which can be paid for by employers or employees.
6. Encouraging return to work and rehabilitation for LTDI recipients.
7. Providing a positive and helpful experience to employees and employers throughout the LTDI claim process.
8. Developing clear and effective communications about the LTDI program that use existing approaches and terminology where possible.
9. Partnering with an insurance carrier who can perform the whole LTDI process, and coordinate with MainePERS at the point when a disability may have become permanent.
10. Keeping the existing MainePERS Disability Retirement benefit in place.

## Disability Working Group

The 130<sup>th</sup> Legislature passed Public Law 2021, c. 277, An Act to Improve the Disability Retirement Program of the Maine Public Employees Retirement System. Section 43 of the legislation calls for the development of an implementation plan for providing mandatory long-term disability insurance coverage to retirement system members through their employers. Section 44 of the legislation calls for a report on the experience of the system and its members after the implementation of changes to the Disability Retirement Program included in this Act. The full text of these two Sections appears below. The report required under Section 44 of the legislation is separate from this report.

MainePERS convened a stakeholder group, including representatives of participant employers and employee groups, to develop an implementation plan for mandatory long-term disability insurance coverage and to provide feedback on the experience of members under the new disability retirement program. All known stakeholder groups representing participant employers and employees were invited to participate. The stakeholder group, known as the Disability Working Group, was given the following charge:

The Disability Working Group is charged with advising MainePERS on the development of an LTDI implementation plan, accompanying legislation and report to the joint standing committee of jurisdiction by January 3, 2023. The Working Group is also charged with providing feedback to MainePERS on the experience of members under the new disability retirement program for MainePERS' report to the joint standing committee of jurisdiction due by January 31, 2023.

The working group met in the fall of 2022 and held [redacted] meetings. All agendas and meeting materials can be found on the MainePERS website at <https://www.mainebers.org/disability-working-group/>. Through these meetings, members of the working group provided perspective and review of the implementation plan for mandatory long-term disability insurance coverage, accompanying legislation and this report. Their participation was valuable in assessing the plan design and impact on members and employers. A list of the questions and issues raised during the development of the plan appears along with responses as Appendix C in this report.

Members of the working group have not taken positions on the implementation plan design or legislation included in this report. They encourage additional legislative discussions. Each stakeholder group involved reserves the right to discuss this further before taking a position.

## Membership

Rick Cailler, Professional Fire Fighters of Maine  
 Kate Dufour, Maine Municipal Association  
 Paul Gaspar, Maine Association of Police  
 Sylvia Hebert, AFSCME Council 93  
 Bill Laubenstein, Maine Association of Retirees  
 Jeff McCabe, Maine Service Employees Association  
 Heather Perreault, Maine Department of Administrative and Financial Services  
 Craig Poulin, Maine State Troopers Association  
 Deb Roberts, Maine School Management Association

Mark Roberts, Maine State Law Enforcement Association  
Mary Anne Turowski, Governor's Office  
Nate Williams, Maine Education Association  
Rebecca Wyke, MainePERS (chair)

**MainePERS Staff**

Michael Colleran  
Chip Gavin  
Kathy Morin  
Mara McGowen

**Public Law 2021, c. 277**

**Sec. 43. Implementation plan for mandatory long-term disability insurance.** The Maine Public Employees Retirement System shall convene a stakeholder group, including representatives of participant employers and employee groups, to develop an implementation plan for providing mandatory long-term disability insurance coverage to retirement system members through their employers. The Maine Public Employees Retirement System shall submit an implementation plan, including any recommended legislation, to the joint standing committee of the Legislature having jurisdiction over retirement matters no later than **January 3, 2023**. The joint standing committee of the Legislature having jurisdiction over retirement matters may report out a bill to the 131<sup>st</sup> Legislature on matters related to the report.

**Sec. 44. Report on disability retirement.** The Maine Public Employees Retirement System shall report to the joint standing committee of the Legislature having jurisdiction over retirement matters, no later than **January 31, 2023**, on the experience of the system and its members after the implementation of this Act. The joint standing committee of the Legislature having jurisdiction over retirement matters may report out a bill to the 131<sup>st</sup> Legislature on matters related to the report.

**Program Design**

The MainePERS LTDI program will be coordinated with the existing Disability Retirement program benefit. The insurance carrier will serve as the single point of contact for initiation of all LTDI benefits. The carrier will be responsible for all decisions on the LTDI benefits and keep MainePERS informed on the status of such decisions. The carrier will be the claim fiduciary on the fully insured LTDI benefit.

Information collected by the carrier in the context of its LTDI administration will be available to and shared with MainePERS should an application for Disability Retirement be pursued subsequent to a member's interactions with or coverage by the carrier. MainePERS will retain claim fiduciary responsibilities on the Disability Retirement benefit.

In instances when the carrier believes a claimant's condition may be appropriate for consideration under the MainePERS Disability Retirement program, the carrier will collaborate with MainePERS to evaluate the claimant's condition.

From an income replacement perspective, the LTDI benefit percent exactly matches the Disability Retirement benefit percent, so if an employee qualifies for the Disability Retirement benefit, the LTDI benefit would be offset by the disability retirement benefit (subject to the \$100 minimum monthly benefit). Also, the maximum LTDI benefit period reflects an employee's normal service retirement date, meaning that LTDI benefits will terminate once the payee qualifies for a Service Retirement benefit without an early retirement reduction.

### Program Design Specifications

The RFP outlined initial program design specifications, which were modified through discussion with the Disability Working Group. The proposed program design specifications appear below, however, working group members differ in their support for some of these specifications. An outline of their respective positions appear following this section of the report.

- A. Participating MainePERS employers must offer the program to all employees who are MainePERS members<sup>3</sup>
  - a. Employer may offer the MainePERS LTDI Program, or
  - b. Employer may offer an LTDI program through another provider
- B. Benefit percent is 59% or 66.67% of compensation, depending on the disability retirement benefit in the employee's plan<sup>4</sup>
- C. Variable core maximum monthly benefit, from \$0 to \$8000 in thousand dollar increments
- D. Core maximum monthly benefit determined and paid for by employer, may be bargained
- E. Employees may opt-out of the program if core maximum monthly benefit is \$0
- F. Employees may elect the core maximum monthly benefit elected by the employer or buy-up for a maximum monthly benefit of \$8,000.
- G. Employee premiums to be paid through payroll deduction, post-tax so that the portion of the benefit contributed by the employee is not taxable
- H. Eligibility
  - a. Unable to perform material and substantial duties of employee's own occupation in first two years
  - b. Unable to perform material and substantial duties of any gainful occupation after two years
- I. No waiting period for employees actively at work
- J. Employee must apply for Social Security disability if covered by Social Security
- K. Elimination period is the later of 180 days of disability or the date the member exhausts short term disability days
- L. An employee may apply before elimination period ends
- M. Employee receives service credit while on LTDI for the MainePERS LTDI Program
- N. Benefit payments continue if employee's employment is terminated
- O. Work Incentive Benefit
  - a. Benefit is not reduced for RTW earnings for the first 12 months unless the sum of RTW earnings and the benefit exceeds 100% of pre-disability earnings
  - b. After 12 months, the benefit will be offset according to a proportionate loss formula in which the deduction to the benefit is proportionate to the employee's RTW earnings ratio
- P. Benefit Offsets
  - a. MainePERS disability or service retirement, Social Security awards, workers' compensation, sick pay, and other benefits paid by employer\*

- Q. Disabilities due to mental illness and/or drug and alcohol abuse are limited to a lifetime maximum of 24 monthly benefit payments
- R. Survivor benefit equal to three times the gross monthly benefit amount payable if employee received at least 12 monthly benefit payments prior to the date of death
- S. Benefit ends when employee is no longer eligible for coverage under the plan, qualifies for a disability retirement benefit, or qualifies for an unreduced service retirement benefit
- T. A retroactive disability retirement benefit will be offset by any LTDI benefit paid for the same benefit period

*\*Note: MainePERS intends to negotiate with carrier to exclude a benefit offset for STDI or LTDI coverage paid for by the employee*

### **Employee Groups Position on Program Design Specifications**

The members of the Disability Working Group representing employee stakeholder groups generally support the Program Design Specifications. However, they advocate the employer should pay for a basic level of coverage, a core maximum monthly benefit of \$2,000. Additionally, they would require a review of the \$2,000 core maximum monthly benefit be completed within 6 months of the contract renewal with the insurance carrier to ensure the benefit keeps pace with salary growth. In particular, the employee stakeholder groups support the following changes to the program design specifications:

- A(b). Employer may offer an a substantially equivalent LTDI Program
- C. Variable core maximum monthly benefit, from ~~\$0~~ \$2,000 to \$8,000 in thousand dollar increments
- E. ~~Employees may opt-out of the program if core maximum monthly benefit is \$0~~

### **Employer Groups Positions on Program Design Specifications**

Maine School Management Association asserts the benefits offered to employees of school districts is a local decision and that school districts should not be mandated to offer a specific benefit, one that would require negotiations if it were implemented. They also note that the MSMA Group Insurance Trust has offered a fully-insured group long-term disability insurance plan to its participating school districts for over thirty years.

Maine Municipal Association asserts the benefits offered to employees of municipalities are a local decision and that municipalities should not be mandated to offer a specific benefit. The Maine Municipal Employees Health Trust offers both a self-insured Income Protection Plan and a fully-insured Long Term Disability Plan, so that municipalities may select the disability benefits that best meet the needs of their employees.

State of Maine government, as Maine's second largest employer, understands and empathizes that long-term disability coverage is a need for some employees. The state interprets that this coverage must be offered, but that the employer is not obligated to contribute. The state also clarifies that non-leave benefits for state employees are not bargained. As is the case with any benefit, the state must consider

the need, cost and impact to the entirety of its employee group, as well as administrative, implementation and oversight efforts. The state would seek to balance any Long Term Disability Income program with other programs as well as the current and future funding requirements of its existing comprehensive benefit package.

## Notes

<sup>1</sup>Milliman, response to questions posed by MainePERS on behalf of the Disability Working Group on October 27, 2022. Estimated number of employees that would qualify for LTDI annually and average length of benefit?

*The typical claim incidence rate for LTDI coverage that features a 180-day EP is approximately 3 to 4 claims per 1,000 covered members per year, which includes permanent and total disabilities as well as less severe disabilities. Based on historical MainePERS disability retirement experience (which represents permanent and total disabilities only), the average claim annual incidence rate is approximately 1 claim per 1,000 covered employees. Based on these high-level approximations, the estimated annual claim incidence rate for employees that would qualify for LTDI annually (excluding permanent and total disabilities that would be eligible for disability retirement benefits) is roughly 2 to 3 per 1,000 covered employees.*

*LTDI claim durations vary significantly depending on the cause of disability. For example, claims related to less severe conditions (such as injuries or musculoskeletal conditions that can be treated) often terminate within the first 24 months because recovery rates are relatively high during this initial period. Generally speaking, many LTDI claims fall into this category. Claims that last beyond 24 months are often due to severe conditions (such as MS or respiratory conditions) and have much lower recovery rates. These claims can persist a very long time. On average, LTDI claims typically last for 4 to 5 years, but with a wide variation on specific claims.*

<sup>2</sup>The member numbers in this report are those provided to bidders in the RFP process. They represent active members as of FY2021 who would not reach normal retirement age prior to July 1, 2023. Actual numbers of active members below normal retirement age as of that date are currently projected to be approximately 4% higher.

<sup>3</sup>Participating MainePERS employers must also offer the program to employees who choose not to become members but participate in the defined contribution plan pursuant to Title 5, section 18801, sub-section 1.

<sup>4</sup>The benefit available to the employee without a buy-up is the lesser of the core maximum monthly benefit and 59% (or 66.67% where applicable) of compensation. For example, an employee in a 59% plan with a core maximum monthly benefit of \$2,000 and annual compensation of \$50,000 will have an LTDI benefit of \$2,000 since 59% of compensation at \$2,458.33 per month exceeds the core maximum monthly benefit amount.

## Appendices

- A. DRAFT Legislation
- B. Proposed Premiums
- C. Disability Working Group Questions & Issues