

## Disability Working Group – Questions & Issues List 9/28/22

### Questions from 9/15 Meeting

1. Will members receive service credit while on LTDI? *Yes.*
2. Will premiums be paid through payroll deduction? *Yes.*
  - a. Do other groups currently have payroll deduction for STDI/LTDI? *To be determined. Likely yes.*
3. What is the form of any legislation required to implement? *To be determined.*
4. What population is involved? *All MainePERS members.*
  - a. How many members who apply for disability retirement are determined ineligible? *For determinations made 2021-22, approximately 9% of applications do not result in disability retirement benefits. Prior periods had higher denial rates (e.g., 2019-20 approx. 25%).*
  - b. How long does it take to reach a determination on disability retirement? *Approval approximately nine months; denial approximately one year. Prior to process changes to give applicants more opportunity to submit information, the average times were approximately three and five months, respectively.*
5. Would there be coordination of LTDI with other disability insurance? *To be determined. Likely yes.*
6. Would employers be required to participate? *To be determined.*
7. Will employers be permitted to choose which LTDI plan they adopt? *To be determined.*
8. Would employees who had declined optional MainePERS membership be required to participate in LTDI? *No.*
9. If local employers are required to fund this, would it be an unfunded mandate? *To be determined.*
10. What would the costs be per employee? *To be provided.*
11. What changes were made to the disability program by the recent law? *The new law made the following changes:*
  - *Replaces “impossible to perform the duties of the member’s employment position” standard with “unable to perform the essential functions of the member’s employment position with reasonable accommodation”;*
  - *Calls on MainePERS to create a form to be completed by the member’s provider addressing eligibility requirements;*
  - *Eliminates the Medical Board and provides for a medical review service provider;*

- *Requires an Independent Medical Examination before an application can be denied on medical grounds unless the requirement is waived;*
- *Requires primary consideration of medical opinions in the record and whether the opinions are supported by sound medical evidence and consistent with other medical evidence;*
- *Specifies that Hearing Officers are independent contractors;*
- *Gives an appellant a role in selecting the Hearing Officer;*
- *Provides for de novo court review; and*
- *Allows attorney's fees of up to \$12,000 for a successful appellant.*

12. Will there be a return of premium for any benefit not used? *No.*

a. If not, is this a quasi-tax? *No.*

13. Is there a qualifying impairment list? *To be determined.*

Mark Roberts, Maine State Law Enforcement Association

14. If there is mandatory participation and premium payment from State employees, much like MainePers retirement, will there be a return of premium for any benefit not used? If not, does the required contribution become a quasi-tax? *See number 12 above.*

15. Is there an available qualifying impairment list? Are there known exclusions (work related injury, mental health injury, etc.)? *See number 13 above.*

Rick Callier, Professional Fire Fighters of Maine

16. What is the expected time frame for qualification can people apply in advance or must they wait for the elimination period to pass prior to application? *They can apply in advance.*

17. If the employee is terminated during the disability period, what happens? *The benefit payments continue.*

18. Will disability time be counted as service credit time if the employee does not reach normal retirement? *See answer to number 1 above.*

a. If so, who pays the contribution? *It is built into the contribution rates the same as service credit during disability retirement is.*

19. Will there be a Coordination of benefits for employees' sick leave? *To be determined.*

20. MMEHT income protection is a common employee purchased item, would there income guidelines that would be used if an employee buys his own private coverage, MMEHT/AFLAC etc? *To be determined.*

21. Will these payments be reported as income? *Benefits are taxable to the extent that they are employer funded; any employee-funded portion will be not taxable.*
22. MEPERS disability requires social security disability application, will long term disability have the same requirement? *Yes.*
23. If an employee eventually qualifies for retirement under the existing MainePERS disability benefit programs, how would the prior disability payments that had been made apply? *To be determined.*
24. It appears that the Insurance Company determines qualifications for the program, will there be an effort to insure their requirements are based upon the same criteria of MEPERS with the exception of permanency, i.e not able to work in the present job capacity prior to disability application? *The requirements are similar – the first two years are own occupation; after two years it is any gainful occupation.*
25. Will the exception period be based on last day at work or nonpayment status, or will reduce work time suffice toward the exception period? *To be determined.*
26. Waiting Period Coverage begins the date the member becomes an eligible employee, will this be for new employees, or are all members considered for the waiting period? *There is no waiting period for employees actively at work.*

Deb Roberts, Maine School Management Association

Questions/Comments regarding mandatory LTD insurance from a small group of Superintendents surveyed:

27. The majority of Superintendents surveyed are NOT in favor of a mandatory LTD insurance program for their MEPERS Teacher member employees
28. School employees already have generous sick leave benefit accumulations in their collective bargaining agreements
29. The majority of Superintendents surveyed already offer a voluntary employee paid LTD insurance program for their employees
30. All benefits including LTD insurance are negotiated along with other benefits in exchange for other priorities
31. Why does it take so long for a MEPERS disability retirement to be processed? *An explanation of the process will be provided.*

32. Would substitute teachers and coaches who are Teacher members of MEPERS be covered under this mandatory LTD program? *Yes.*

33. Would the 180-day elimination period run concurrently with the employee's own personal sick leave or kick in after the employee runs out of their own sick leave? *To be determined.*

Heather Perreault, State of Maine Department of Administrative & Financial Services

34. Maximum LTD benefit period reflects employee's normal service retirement date

a. How does this work for MEPERS plans that do not have a normal service retirement date, just required # years of service? *To be determined.*

b. What happens for employees whose # years of service result in lower retirement benefit than what they were receiving as LTD benefit? *To be determined.*

c. Do employees continue to earn years of service while receiving LTD benefit? *See answer to number 1 above.*

d. Is employer required to hold an employee's position for them while they are receiving LTD benefits? *No.*

e. How would a LTD benefit coordination impact pending Workers' Compensation claims? *To be determined.*

35. How will LTD and disability retirement benefits be coordinated, especially if employee is on LTD and separates from service but didn't apply for disability retirement prior to separation? *To be determined.*

36. Employer alternatives

a. \$8,000 is a large benefit – at 66.67% of salary, that covers 2/3 salary for someone making \$144k/year

b. Need an option that allows the employer to select a core benefit amount greater than \$1,000

i. Option 2 allows employer to select how much they pay for but obligates the employee to paying the full balance for \$8k benefit – could be a hardship for some employees to pay for

ii. Option 3 core benefit of \$1k puts majority of cost on employee for a decent amount of coverage – could be a hardship for some employees to pay for

37. Definition of disability – after 24 months switches from own occupation to any occupation – is there any benefit once it switches to any occupation, to make up the difference between new earnings and former own occupation earnings? *The benefit amount remains the same.*

38. How many people are we trying to solve an insurance gap problem for? Would it make more sense cost-wise to try a self-funded or pay-as-you-go program rather than paying premiums on all employees? *To be determined.*

a. Could incorporate independent claims review similar to new disability retirement process

William Laubenstein, Maine Association of Retirees

39. The role, if any, MainePERS will have if the State implements long term disability insurance program. *MainePERS would contract with the LTDI insurance carrier. Any other role is to be determined.*