



# EMPLOYER BULLETIN

Employer Communication Center  
(608) 264-7900

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## Severance of Employee/Employer Relationship No Longer Required for Approval of Disability Benefits

### Changes in Disability Termination Requirements

Effective April 1, 2006, an employee does NOT have to sever the employee/employer relationship to receive benefits from either of the Department of Employee Trust Funds (ETF) administered disability programs. An employee may be kept on a leave of absence (LOA) for purposes of maintaining fringe benefits not administered under Chapter 40.

All benefits administered through ETF are authorized in Chapter 40 of the Wisconsin Statutes. §40.63 is the reference for the benefit programs under discussion in this bulletin.

### Background on ETF's disability programs:

ETF offers the following disability programs:

- Disability Retirement program under §40.63, Wis. Stat.
- Long-Term Disability Insurance (LTDI) program.

Employees in Wisconsin Retirement System (WRS) covered positions may be eligible for disability benefits if they meet the disability definition in §40.63, Wis. Stat. or ETF Administrative Code 50. The information in this bulletin provides only a summary of the programs. Employees should contact ETF for detailed information if they are considering applying for a disability benefit.

Employees covered under the WRS prior to October 16, 1992, and continuously employed under the WRS since then, may choose to apply for either the LTDI and the §40.63 Disability Retirement benefit programs. Employees first covered under the WRS on or after October 16, 1992, and employees who had a break in covered employment after October 16, 1992, are only eligible for LTDI benefits. The LTDI program will eventually replace the §40.63 Disability Retirement program under the WRS.

### Eligibility Requirements

The following eligibility requirements have slight variations, depending on the disability benefit program for which the employee is applying:

1. WRS minimum service requirement with a WRS employer.
2. Certification by two physicians that the disability prevents the employee from gainful employment.
3. Statement from the employer that they are not contesting the disability.

There is no minimum age requirement to apply for §40.63 Disability Retirement benefits. However, the employee must not have reached the normal retirement age for their employment category. The §40.63 Disability Retirement benefit is only paid as a monthly annuity; no lump sum disability payment can be made. A §40.63 Disability Retirement is available in the annuity options available for a WRS retirement annuity (excluding accelerated options) and is paid for the participant's lifetime, provided they remain

disabled. Death benefits will be paid according to the annuity option selected on the approved application.

There is no minimum or maximum age for applying for the LTDI disability benefit. Generally, LTDI benefits are payable only through the end of the month in which the employee reaches age 65. However, if the employee is age 61 or older when the LTDI benefit begins, the benefits may be payable longer. For employees aged 69 or older, the LTDI benefit ends 12 months after the benefit effective date.

In most cases, the basic monthly LTDI benefit is 40% of the employee's final average salary. LTDI benefits are normally paid monthly; no lump sum disability payment can be made. In addition to the basic LTDI benefit, a supplemental retirement contribution is paid into the employee's WRS account for each month that they meet the criteria. These supplemental contributions may increase the employee's WRS benefit at the time of retirement. LTDI recipients can apply for a WRS annuity while receiving monthly LTDI benefits; however, the supplemental contributions will end and the LTDI benefit will be reduced by the taxable WRS annuity.

## Changes in Disability Termination Requirements

As stated above, effective April 1, 2006, an employee does NOT have to sever the employee/employer relationship to receive §40.63 Disability Retirement or LTDI benefits. You may now elect to keep an employee on a LOA for purposes of maintaining fringe benefits not administered under Chapter 40, i.e., benefits provided by the employer but not administered by ETF. Employees terminated for Chapter 40 purposes but remaining on LOA for non-Chapter 40 benefit purposes are considered Chapter 40 terminations.

Prior to April 1, 2006, ETF required the employer to completely sever the employee/employer relationship in order for the employee to receive §40.63 Disability Retirement or LTDI benefits. Employees then gave up non-Chapter 40 benefits such as private health insurance offered through their employer. Legal opinions sought by

ETF determined that this policy is unnecessarily restrictive, leading to the creation of Chapter 40 terminations. The information in this bulletin relates to your role in reporting when an employee applies for a disability benefit.

NOTE: Chapter 40 benefits include health insurance and sick leave credit usage, life insurance, income continuation insurance, long-term disability insurance, Employee Reimbursement Account, long-term care, EPIC, Spectera, WRS coverage, death benefits, and making deferred compensation contributions.

## §40.63 Disability Retirement

ETF will continue to send the *Employer Statement* (ET-5607) to the employer when an employee applies for a §40.63 Disability Retirement benefit. The completed *Employer Statement* must include:

- The date the employee last rendered services.
- Certification that all earnings are paid, including sick leave balances.
- The last day paid.
- Whether the employee is expected to resume service.
- Whether you contest the disability.
- Detailed earnings and hours.
- Termination transaction code: '04' termination code (or '08' termination code for termination due to work related injury/illness). \*

\*You must certify that all earnings are paid, including sick leave balances. In addition you must terminate the employee before a §40.63 Disability Retirement can be approved. This Chapter 40 termination will allow your employee to remain on a LOA for non-Chapter 40 benefits.

Sick leave balances with which the employee intends to pay for health insurance premiums are considered earnings not-paid. In this situation, a Chapter 40 termination is not an option. Both state and local employees must sever the employee/employer relationship if they convert sick leave balances to pay for health insurance premiums. They cannot remain on a LOA as permitted with a Chapter 40 termination.

The termination date must be reported before the disability benefit can be approved. However, do not report the termination until you receive notice from ETF that the disability will be approved. Once you submit the Employer Statement to ETF with either the '04' or '08' termination code, no further action is necessary. Should the employee subsequently sever the employee/employer relationship, you do not need to submit another termination.

Should the individual return to WRS employment, the annual earnings limit continues to apply. Once the earnings limit is reached, the benefit will be suspended. You should only report the individual as a participating employee if notified that the §40.63 Disability Retirement benefit is terminated.

The table below provides examples of §40.63 situations, including action for health insurance affected by policy changes:

NOTE: State of Wisconsin Central Payroll employers should refer to system reporting instructions provided by Central Payroll.

| Type of Employee/ Disability Type | Employee's Situation upon Approval of Disability  | Type of Termination   | Action BEFORE §40.63 Benefit Approval   | WRS Death Benefit |
|-----------------------------------|---|---|---|-------------------|
| A.<br>State §40.63                | Sick leave balance remains (earnings not all paid).<br><br>Health insurance <u>coverage continued</u> during LOA. | Sever employee/ employer relationship OR exhaust sick leave balance before §40.63 can be approved. (If sick leave is exhausted, go to C.) | Employer reports termination OR employee exhausts sick leave balance (extending last day paid).<br><br>Employee continues health insurance as an annuitant with deductions from sick leave conversion account.  | Annuitant         |
| B.<br>State §40.63                | Sick leave balance remains (earnings not all paid).<br><br>Health insurance <u>coverage lapsed</u> during LOA.    | Sever employee/ employer relationship OR exhaust sick leave balance before §40.63 can be approved. (If sick leave is exhausted, go to D.) | Employer reports termination OR employee exhausts sick leave balance (extending last day paid).<br><br>Health insurance reinstated as annuitant if enrollment received within 30 days of approval notice. Employee continues health insurance as an annuitant with deductions from sick leave conversion account. | Annuitant         |

| Type of Employee/ Disability Type | Employee's Situation upon Approval of Disability  | Type of Termination   | Action BEFORE §40.63 Benefit Approval   | WRS Death Benefit |
|-----------------------------------|---|---|---|-------------------|
| C.<br>State §40.63                | No sick leave balance remains (earnings all paid).<br><br>Health insurance <u>coverage continued</u> during LOA.  | Employer's Option:<br><br>Chapter 40 termination OR sever the employee/employer relationship.   | Employer reports termination.<br><br>Employee continues health insurance as an annuitant through annuity deduction or direct pay.   | Annuitant         |
| D.<br>State §40.63                | No sick leave balance remains (earnings all paid).<br><br>Health insurance <u>coverage lapsed</u> during LOA.   | Employer's Option:<br><br>Chapter 40 termination OR sever the employee/employer relationship.   | Employer reports termination.<br><br>Health insurance reinstated as annuitant if enrollment received within 30 days of approval notice. Employee continues health insurance as an annuitant through annuity deduction or direct pay.  | Annuitant         |
| E.<br>State §40.63                | No sick leave balance remains (earnings all paid).<br><br>No health insurance as active employee.   | Employer's Option:<br><br>Chapter 40 termination OR sever the employee/employer relationship.   | Employer reports termination.<br><br>No enrollment opportunity allowed; coverage not in effect prior to the LOA.  | Annuitant         |
| F.<br>Local §40.63                | Sick leave balance remains (earnings not all paid) per local employer contract.<br><br>Employee participates in the Wisconsin Public Employers Group Health Insurance program and <u>coverage continued</u> during LOA. | Sever employee/employer relationship OR exhaust sick leave balance before §40.63 can be approved. (If sick leave exhausted, go to H.) | Employer reports termination OR employee converts sick leave to pay for health insurance pursuant to employer provisions or exhaust sick leave balance (extending the last day paid).<br><br>Employee continues health insurance with deductions from sick leave conversion account per employer contract and is reported as "Employer Paid Annuitant." | Annuitant         |

| Type of Employee/ Disability Type | Employee's Situation upon Approval of Disability   | Type of Termination  | Action BEFORE §40.63 Benefit Approval  | WRS Death Benefit |
|-----------------------------------|--|--|--|-------------------|
| G.<br>Local §40.63                | <p>Sick leave balance remains (earnings not all paid) per local employer contract.</p> <p>Employee participates in the Wisconsin Public Employer Group Health Insurance program and <u>coverage lapsed</u> during LOA.</p>   | Sever employee/ employer relationship OR exhaust sick leave balance before §40.63 can be approved. (If sick leave exhausted, go to I.) | <p>Employer reports termination OR employee converts sick leave to pay for health insurance pursuant to employer provisions or exhausts sick leave balance (extending last day paid).</p> <p>Health insurance reinstated as annuitant if enrollment received within 30 days of approval notice. Employee continues health insurance with deductions from sick leave conversion account per employer contract and is reported as "Employer Paid Annuitant."</p> | Annuitant         |
| H.<br>Local §40.63                | <p>No sick leave balance remains (earnings all paid) per local employer contract.</p> <p>Employee participates in the Wisconsin Public Employer Group Health Insurance program and <u>coverage continued</u> during LOA.</p> | <p>Employer's Option:</p> <p>Chapter 40 termination OR sever employee/ employer relationship.</p>                                      | <p>Employer reports termination.</p> <p>Employee continues health insurance as an annuitant through:</p> <ul style="list-style-type: none"> <li>• annuity deduction premium payments, or</li> <li>• direct pay, or</li> <li>• employer-paid premium payments.</li> </ul>   | Annuitant         |
| I.<br>Local §40.63                | <p>No sick leave balance remains (earnings all paid) per local employer contract.</p> <p>Employee participates in the Wisconsin Public Employer Group Health Insurance program and <u>coverage lapsed</u> during LOA.</p>    | <p>Employer's Option:</p> <p>Chapter 40 termination OR sever employee/ employer relationship.</p>                                      | <p>Employer reports termination.</p> <p>Health insurance reinstated as annuitant if enrollment received within 30 days of approval notice.</p> <p>Employee continues health insurance as an annuitant through:</p>   | Annuitant         |

| Type of Employee/<br>Disability Type | Employee's Situation<br>upon Approval of<br>Disability  | Type of Termination  | Action BEFORE<br>§40.63 Benefit<br>Approval   | WRS Death<br>Benefit |
|--------------------------------------|---|--|---|----------------------|
|                                      |   |  | <ul style="list-style-type: none"> <li>• annuity deduction premium payments, or</li> <li>• direct pay, or</li> <li>• employer-paid premium payments.</li> </ul> |                      |
| J.<br>Local §40.63                   | <p>No sick leave balance remains (earnings all paid) per local employer contract.</p> <p>Employer participates in the Wisconsin Public Employer Group Health Insurance program; however, employee did NOT have active health coverage prior to the LOA.</p> | <p>Employer Option:</p> <p>Chapter 40 termination OR sever the employee/employer relationship.</p>   | <p>Employer reports termination.</p> <p>No enrollment opportunity allowed; coverage not in effect prior to the LOA.</p>   | Annuitant            |
| K.<br>Local §40.63                   | <p>No sick leave balance remains (earnings all paid) per local employer contract.</p> <p>Employer does NOT participate in the Wisconsin Public Employer Group Health Insurance program.</p>   | <p>Employer's Option:</p> <p>Chapter 40 termination OR sever the employee/employer relationship.</p> | <p>Employer reports termination.</p> <p>Non-ETF health insurance coverage contingent on employer's provisions.</p>  | Annuitant            |

## Long-Term Disability Insurance (LTDI)

Employees applying for or receiving LTDI benefits can remain on a LOA under the WRS for up to 36 months, after which time, §40.02 (40) Wis. Stat. requires that ETF terminate the individual. Death benefits will be paid according to the employee's employment status (either terminated or on LOA) at the date of death. If on LOA, death benefits will be paid as an active employee—otherwise, death benefits will be paid as an inactive employee.

When an employee applies for an LTDI benefit, ETF's Third-Party Administrator, Broadspire, will

continue to send the *Long Term Disability Insurance Employer Statement* (ET-5315).

The questions and the detail on the completed *LTDI Employer Statement* must include:

- The date the employee last rendered service.
- Certification that all earnings are paid, including sick leave balances.
- The last day paid. (The LOA maximum—36 months—is based on the last day paid. The LTDI approval date does not re-start the 36-month LOA maximum.)
- Whether the employee is expected to resume service.
- Whether the employer contests the disability.
- Detailed earnings and hours.
- Transaction Detail: '04' termination code (or

'08' termination code for termination due to work related injury/illness) OR Action code '54' ('58' for LOA due to work related injury/illness). \*

\*You must certify that all earnings are paid, including sick leave balances. Sick leave balances with which the employee intends to pay for health insurance premiums are considered earnings not-paid. In this situation, a Chapter 40 termination is not an option. Both state and local employees must sever the employee/employer relationship if they convert sick leave balances to pay for health insurance premiums. They cannot remain on a LOA as permitted with a Chapter 40 termination.

You must report the LOA or termination code in order for benefits to be approved. If you allow the employee to remain on a LOA during the 36-month period after the last day paid and the

employee/employer relationship later terminates, do not submit another LTDI Employer Statement.

You must report an '01' termination code when the employee/employer relationship is severed. Where no termination is reported during the 36-month period, ETF will terminate the WRS account at the end of the 36-month period in accordance with §40.02 (40).

NOTE: State of Wisconsin Central Payroll employers should refer to system reporting instructions provided by Central Payroll.

Individuals returning to WRS employment must again be reported as participating employees. The annual earnings limit remains in effect and you must report earnings and service.

The table below provides examples of LTDI situations, including action for health insurance affected by policy changes:

| Type of Employee/ Disability Type | Situation during leave of absence upon approval of disability   | Type of Termination  | Action BEFORE LTDI approval  | WRS Death Benefit                          |
|-----------------------------------|---|--|--|--|
| A. State LTDI                     | Sick leave balance remains (earnings not all paid).<br><br>Health insurance <u>coverage continued</u> during LOA. | Sever employee/ employer relationship OR exhaust sick leave balance before LTDI can be approved. (If sick leave exhausted, go to C.) | Employer reports termination OR employee exhausts sick leave balance (extending last day paid).<br><br>Employee continues health insurance with deductions from sick leave conversion account.                         | Inactive: employee contribution balances.  |
| B. State LTDI                     | Sick leave balance remains (earnings not all paid).<br><br>Health insurance <u>coverage lapsed</u> during LOA.    | Sever employee/ employer relationship OR exhaust sick leave balance before LTDI can be approved. (If sick leave exhausted, go to D.) | Employer reports termination OR employee exhausts sick leave balance (extending last day paid).<br><br>Health insurance reinstated if enrollment received within 30 days of approval notice. Employee continues health | Inactive : employee contribution balances. |

| Type of Employee/<br>Disability Type | Situation during leave<br>of absence upon<br>approval of disability  | Type of Termination   | Action BEFORE LTDI<br>approval   | WRS Death<br>Benefit   |
|--------------------------------------|--|---|--|--|
|                                      |  |   | insurance as an annuitant with deductions from sick leave conversion account.  |  |
| C.<br>State LTDI                     | No sick leave balance remains (earnings all paid).<br><br>Health insurance <u>coverage continued</u> during LOA.   | Leave of absence. Termination allowed, not required.  | Employer reports LOA or termination.<br><br>Employee continues health insurance during LOA by payment of employee/employer premiums to employer.   | Active employee: minimum of twice the employee required contributions. |
| D.<br>State LTDI                     | No sick leave balance remains (earnings all paid).<br><br>Health insurance <u>coverage lapsed</u> during LOA.  | Leave of absence. Termination allowed, not required.  | Employer reports LOA or termination.<br><br>Health insurance reinstated if enrollment received within 30 days of approval notice. Employee continues health insurance during LOA by payment of employee/employer premiums to employer. | Active employee: minimum of twice the employee required contributions. |
| E.<br>State LTDI                     | No sick leave balance remains (earnings all paid).<br><br>No health Insurance coverage as active employee.   | Leave of absence. Termination allowed, not required.  | Employer reports LOA or termination.<br><br>No enrollment opportunity allowed; coverage not in effect prior to the LOA.  | Active employee: minimum of twice the employee required contributions. |
| F.<br>Local LTDI                     | Sick leave balance remains (earnings not all paid) per local employer contract.<br><br>Employee participates in the Wisconsin Public Employer Group Health Insurance program and <u>coverage continued</u> during LOA. | Sever employee/employer relationship OR convert/exhaust sick leave balance before LTDI can be approved. (If sick leave exhausted, go to H.) | Employer reports termination OR employee converts sick leave to pay for health insurance or exhausts sick leave balance (extending last day paid).<br><br>Employee continues health insurance with                                     | Inactive: employee contribution balances.                              |



| Type of Employee/ Disability Type | Situation during leave of absence upon approval of disability   | Type of Termination   | Action BEFORE LTDI approval  | WRS Death Benefit  |
|-----------------------------------|---|---|--|--|
|                                   |   |   | deductions from sick leave conversion account per employer contract and is reported as "Employer Paid Annuitant."  |  |
| G.<br>Local LTDI                  | Sick leave balance remains (earnings not all paid) per local employer contract.<br><br>Employee participates in the Wisconsin Public Employer Group Health Insurance program and <u>coverage lapsed</u> during LOA.   | Sever employee/employer relationship OR convert/exhaust sick leave balance before LTDI can be approved. (If sick leave exhausted, go to I.) | Employer reports termination OR employee converts sick leave to pay for health insurance or exhausts sick leave balance (extending last day paid).<br><br>Health insurance reinstated if enrollment received within 30 days of approval notice. Employee continues health insurance with deductions from sick leave conversion account per employer contract and is reported as "Employer Paid Annuitant." | Inactive: employee contribution balances.                              |
| H.<br>Local LTDI                  | No sick leave balance remains (earnings all paid) per local employer contract.<br><br>Employee participates in the Wisconsin Public Employer Group Health Insurance program and <u>coverage continued</u> during LOA. | Leave of absence. Termination allowed, not required.  | Employer reports LOA or termination.<br><br>Employee continues health insurance per employer contract and is reported as "Employer Paid Annuitant."  | Active employee: minimum of twice the employee required contributions. |
| I.<br>Local LTDI                  | No sick leave balance remains (earnings all paid) per local employer contract.<br><br>Employee participates in the Wisconsin Public Employer Group  | Leave of absence. Termination allowed, not required.  | Employer reports LOA or termination.<br><br>Health insurance reinstated if enrollment received within 30 days of approval notice. Employee   | Active employee: minimum of twice the employee required contributions. |

| Type of Employee/<br>Disability Type | Situation during leave<br>of absence upon<br>approval of disability          | Type of Termination | Action BEFORE LTDI<br>Approval  | WRS Death<br>Benefit |
|--------------------------------------|--|---------------------|---|----------------------|
|                                      | Health Insurance<br>Program and <u>coverage</u><br><u>lapsed</u> during LOA. |                     | continues health<br>insurance as an an-<br>nuitant through direct<br>pay. |                      |

The following table identifies situations where the employee receiving LTDI benefits remains on a LOA and a subsequent termination occurs. These examples include action for health insurance affected by LTDI policy changes.

| Type of Employee | Employee receiving<br>LTDI benefit remains<br>on LOA and<br>termination occurs   | Type of Termination | Action After<br>Termination   | WRS Death<br>Benefit                               |
|------------------|--|---------------------|---|--|
| A.<br>Local LTDI | Employee continued<br>health coverage in the<br>Wisconsin Public<br>Employer Group<br>Health Insurance<br>program through<br>employer or through<br>direct pay.<br><br>36-month period ends<br>and ETF terminates<br>employee.         | Chapter 40          | ETF terminates.<br><br>When employer-paid<br>premiums cease,<br>during the 36-month<br>period or at the end of<br>the 36-month period,<br>employer submits<br>verification that pre-<br>miums are no longer<br>paid by/through<br>employer.<br><br>Employee is eligible<br>to continue coverage<br>through direct pay-<br>ment. | Inactive:<br>employee<br>contribution<br>balances. |
| B.<br>Local LTDI | Employee remains on<br>LOA upon LTDI<br>approval, but later<br>terms before end of<br>36-month period.<br><br>Employer/employee<br>does NOT participate<br>in the Wisconsin Pub-<br>lic Employer Group<br>Health Insurance<br>program. | Chapter 40          | Employer reports<br>termination.<br><br>Non-ETF health<br>insurance coverage<br>contingent on em-<br>ployer's provisions.   | Inactive:<br>employee<br>contribution<br>balances. |

| Type of Employee | Employee receiving LTDI benefit remains on LOA and termination occurs  | Type of Termination | Action After Termination  | WRS Death Benefit                         |
|------------------|--|---------------------|---|---|
| C.<br>Local LTDI | Employee remains on LOA until end of 36-month period.<br><br>Coverage in the Wisconsin Public Employer Group Health Insurance program and <u>coverage lapsed</u> during LOA. | Chapter 40          | ETF terminates.<br><br>No health insurance enrollment available unless coverage lapsed and was elected within 30 days of LTDI approval. That coverage may be continued on direct pay until termination of LTDI benefit, then COBRA. | Inactive: employee contribution balances. |

## FORM REVISIONS

ETF is revising all forms affected by the policy change and will provide revised forms to employees requesting disability information. You do not need to distribute the revised forms.

Forms revised (all effective 04/2006) include:

|  |         |
|--|---------|
| <i>Disability Benefits</i> (brochure)            | ET-5102 |
| <i>Long-Term Disability Insurance</i> (brochure) | ET-5314 |
| <i>§40.63 Employer Statement</i>                 | ET-5607 |
| <i>LTDI Employer Statement</i>                   | ET-5315 |
| <i>Disability Approval Letter</i>                | ET-5804 |

Note: A notice explaining this policy change will be included in all disability packets sent out until all the forms are updated and printed. All individuals with a pending disability application who have not terminated employment received a letter from ETF or Broadspire explaining the policy change and asking whether they wish to continue with the application/

claim process. You will be notified by ETF of any changes for transitional applicants and given instructions at that point. If you submit the previous version of the Employer Statement after April 1, 2006, ETF or Broadspire will send you the current version to complete and resubmit.

REMINDER: Please continue to report last day paid date, earnings, hours and LOA/termination codes on the *Employer Statements* for §40.63 or LTDI. This expedites ETF and Broadspire processing of the employee benefit.

## MORE INFORMATION

For more information on reporting issues, contact the Employer Communication Center at (608) 264-7900. Participants with program questions may contact the Department toll free at 1-877-533-5020.

