A PUBLICATION OF THE NEW JERSEY DIVISION OF PENSIONS AND BENEFITS

Workers' Compensation

Public Employees' Retirement System • Teachers' Pension and Annuity Fund
Police and Firemen's Retirement System • State Police Retirement System

The receipt of Workers' Compensation is designed to compensate employees who suffer work-related injuries or illnesses. Workers' Compensation payments are generally paid in weekly payments over a period of time (periodic payments). Workers' Compensation benefits for medical treatments and expenses do not affect pensions. Therefore, this publication deals only with payment of temporary and permanent disability benefits paid as a periodic benefit through Workers' Compensation.

PERIODIC BENEFITS WHEN A MEMBER RECEIVES FULL SALARY

If an employer keeps an employee on regular payroll and supplements the periodic Workers' Compensation benefit by paying the equivalent of the member's full salary, all normal pension deductions should be taken from that payment, including loan and arrears (purchase) deductions. It is as though the member is still active in all respects for pension purposes. Full contributions/ repayments would be remitted monthly and full service credit, salary, contributions, and other deductions would be reported quarterly on the *Report of Contributions* (ROC).

For example: an insurance company pays a Workers' Compensation award of 70 percent of base salary directly to the member. The employer elects to augment the award amount by the remaining 30 percent of base salary. The employer would deduct pension contributions and repayments (loans, etc.) for 100 percent of salary from the 30 percent check.

PERIODIC BENEFITS WHEN A MEMBER DOES NOT RECEIVE FULL SALARY

Normally, no pension credit can be given for periods of time when an employer reports no salary or pension contributions for a member. However, if a member is receiving Workers' Compensation periodic payments, the member's employer is responsible for payment of the member's pension contributions because the member is not collecting salary. The contribution is based on the salary a member was receiving before the Workers' Compensation payments began. This enables the member to receive credit in the retirement system for that period of time.

EMPLOYER LIABILITIES

In James v. Board of Trustees of the Public Employees' Retirement System, 164 NJ 396, 753 A. 2d 1061 (2000) the Supreme Court held that an employee who receives periodic Workers' Compensation benefits must have pension contributions made by the employer. The Court held that this applies to periodic payments in the form of temporary disability and permanent disability. Employers are not responsible for arrears payments (usually purchases), pension loan payments, contributory insurance, or back deductions. Once the periodic benefits for Workers' Compensation cease, so does the employer's liability for pension contributions.

The court in James also recognized valid terminations from employment as a means of terminating the employer's requirement to pay pension contributions. Therefore, the employer's obligation to make pension contributions for members receiving Workers' Compensation ceases when:

1. The employee voluntarily files for a retirement allowance that is subsequently approved;

2. The employer files an involuntary disability retirement application for the employee that is subsequently approved;
3. The employee voluntarily resigns from employment for reasons other than the inability to perform the job's functions due to the incident that was the basis for the Workers' Compensation claim; or
4. The employee is terminated by the employer for reasons unrelated to a Workers' Compensation award.

When the Division receives notification of a Workers' Compensation award, and the employer has not been making or forwarding employee contributions, the Division will bill the employer for those contributions. If an employer has been making payments of employee pension contributions and ceases to do so due to the reasons listed above in items 3 or 4, the employer must notify the Division in writing of the reasons for the cessation of payments.

GROUP LIFE INSURANCE AND WORKERS' COMPENSATION

Most members of the Public Employees' Retirement System (PERS), Teachers' Pension and Annuity Fund (TPAF), Police and Firemen's Retirement System (PFRS), or State Police Retirement System (SPRS) are covered under **noncontributory group life insurance** while employed. Noncontributory group life insurance will remain in effect while the employer is making pension contributions for the member. This includes periods while the member is receiving Workers' Compensation.

Contributory group life insurance is optional and governed by the PERS and the TPAF differently, as follows:

- PERS — While a member of the PERS is receiving Workers' Compensation, the employer is not required to pay contributory group life insurance premiums. In order for a member to continue the contributory portion of group life insurance, the member must remit premiums in advance. Premiums shall be remitted directly to the Division of Pensions and Benefits (see Remittance of Premiums below).
- TPAF — N.J.S.A. 18A:66-53(j) provides that a member of the TPAF who is receiving Workers' Compensation is not required to make contributions for continuation of the contributory group life insurance benefit.

Leave of Absence Without Pay

When a member does not return to employment after temporary disability ceases, and the requirements for termination under James (see page 1) are not met, the employer may place the member on an official leave of absence. An official leave of absence requires documentation to establish the nature of the leave and the continuing relationship between the employer and the member. This should be done to ensure continuation of group life insurance coverage.

During an official leave of absence without pay, group life insurance continues in full force under the following conditions:

- For PERS, TPAF, PFRS, and SPRS members, noncontributory group life insurance continues for up to two years.
- For PERS and TPAF members, contributory group life insurance continues for up to two years. In this case, contributions from the member are not necessary to continue contributory group life insurance.

While on an official leave of absence for personal reasons (also family leave):

- For PERS, TPAF, PFRS, and SPRS members, noncontributory group life insurance continues for up to 93 days.
- For PERS and TPAF members, contributory group life insurance continues for up to 93 days. In this case, contributions from the member are necessary to continue contributory group life insurance (see Remittance of Premiums below).

After the 93-day period, the member has the option to convert group life insurance to a private policy (see Fact Sheet #13, *Conversion of Group Life Insurance*), or else group life insurance coverage will end.

Remittance of Premiums

Direct remittance of PERS or TPAF contributory group life insurance premiums requires the use of a *Contributory Group Life Insurance Remittance* card. This card is available from your employer, by contacting the Division of Pensions and Benefits, or it may be printed directly from the Division of Pensions and Benefits Web site at:

www.state.nj.us/treasury/pensions/pubslist1.shtml

Remittance should be done immediately upon leaving the employer's payroll. If a member does not make these optional premium payments, contributory group life insurance is suspended until the member returns to the employer's regular payroll.

If you have any questions on the continuation of contributory group life insurance, please contact your employer or the Division of Pensions and Benefits, Office of Client Services at (609) 292-7524.

HEALTH BENEFITS AND WORKERS' COMPENSATION

When an employee is receiving an award of periodic benefits under Workers' Compensation or the Second Injury Fund, the employee is considered active in all respects for State Health Benefits Program or School Employees' Health Benefits Program coverage. Health benefits coverage will continue in force for the employee and all eligible dependents covered under the employee's health benefits coverage level selection. It should be noted, however, that work-related disease or injuries are not covered under the SHBP or SEHBP.

If the employee shares in the cost of health benefit premiums, the employee receiving Workers' Compensation must pay the employer in advance for his or her share of the premiums. Likewise, if the member continues to receive full salary, the premium share will continue to be deducted from the employee's paycheck. When an employee ceases being an employee for any of the four valid termination reasons stated in the section Employer Liabilities (page 1), the health benefits coverage as an employee shall end. The member may then be eligible for coverage continuation under federal COBRA laws or possibly as a retiree.

RETIREMENT AND WORKERS' COMPENSATION

Ordinary and Accidental Disability retirement allowances are subject to reductions.

If you are approved for Ordinary Disability retirement benefits and receive a Workers' Compensation award, your Workers' Compensation award may be reduced by the amount of your Ordinary Disability retirement benefit. If you have any questions concerning this issue, please contact your attorney or union representative. This offset is made by the Workers' Compensation carrier.

In the case of Accidental Disability retirement, the retirement benefit is reduced on a dollar-for-dollar basis. This offset is made by the Division of Pensions and Benefits. The following are examples of when a Workers' Compensation award would reduce a retiree's disability retirement allowance:

- If the retiree receives a periodic payment award, the weekly dollar amount of the award is converted to a monthly dollar amount, which reduces the pension portion of an Accidental Disability retirement allowance dollar-for-dollar for as long as the retiree receives the award. The reduction is applied only to Workers' Compensation benefits payable from the retiree's retirement date or later, and does not include such payments before the retirement date. Any assessments, such as attorney fees or court costs charged to the retiree are not subject to the reduction.
- If a retiree receives a Second Injury Fund award, this amount will also be subject to the same dollar-for-dollar offset.

A retiree's disability retirement allowance is not reduced by monies received under the award for medical coverage or monies received which are not periodic payments.

A retiree's Cost-of-Living Allowance (COLA) is also not affected by reductions in the pension portion of the retiree's retirement benefit. The COLA continues to be based upon the retiree's full pension benefit amount regardless of the Workers' Compensation offset.

NOTIFYING THE DIVISION

Either the member or the member's employer must notify the Division of Pensions and Benefits that a Workers' Compensation claim is pending. Once a judge has reviewed the claim and a Workers' Compensation award has been granted, a copy of the award must be sent to the Division of Pensions and Benefits.

Questions regarding the impact of Workers' Compensation on pension benefits may be directed to the Division of Pensions and Benefits at (609) 292-7524.

General questions regarding Workers' Compensation should be addressed to the Human Resources office of the member's employer.

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New Jersey Division of Pensions and Benefits • PO Box 295 • Trenton, New Jersey 08625-0295
(609) 292-7524 • TDD for the hearing impaired (609) 292-7718
URL: http://www.state.nj.us/treasury/pensions • E-mail: pensions.nj@treas.state.nj.us