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Medical Separations and Retirement

February 2019

Prepared By: LCDR Gail F. Tarlton, Senior Clinical Support Officer, USPHS CC Headquarters, Medical Affairs Evaluations Section

Points of Contact: Medical Affairs, MACCHQ@hhs.gov

The information below, developed by the Medical Affairs Evaluation Section of the Commissioned Corps Headquarters in collaboration with the Junior Officers Advisory Group (JOAG), is designed to serve as an unofficial guide. Please refer to USPHS websites for changes or updates to any of the below information.

Questions/Responses

1. What are the policies and instructions for medical disability, separations, and retirement?

The CCMIS website has the most current policies that guide the Medical Affairs Evaluation Section (MAES) when assisting officers who are experiencing significant medical conditions/events which affect their ability to do their duty or deploy. A current list of policies is located at the end of this article.

2. Are PHS officers covered by or eligible for employer-sponsored short-term disability insurance or long-term disability insurance?

USPHS officers are not eligible for any of the above; neither are any other Uniformed Service members. All Uniformed Service members have unlimited sick leave and are paid their full compensation, including all entitlements, when on Sick Leave. Some special pays (flight/dive pay) can be affected by medical conditions, as they are dependent on the officer meeting certain medical requirements.

3. How are officers identified as needing a fitness-for-duty (FFD) evaluation?

An officer can ask for a FFD evaluation because they have a disabling medical condition(s) that interferes with their ability to do their duty or deploy. A duty station can request a FFD evaluation for an officer because the officer's medical condition(s), or use of sick leave is significantly affecting the duty station's ability to fulfill the agency's mission. Finally, there are two mandatory situations which require an FFD evaluation: when an officer is on Sick Leave for

greater than 90 consecutive days; or, when an officer has more than 120 Sick Leave days in any consecutive 365-day period.

4. What process determines whether to separate an officer with severance pay vs permanently retire?

If an officer is undergoing a Fitness-for-Duty (FFD), and the Medical Review Board (MRB) finds the officer Not-Fit-for-Duty (NFFD), the board members will make three additional recommendations: 1) whether the medical condition is in the line-of-duty; 2) should the officer be placed in a permanent disability retirement (PDRL) status, or temporary disability (TDRL) status, and; 3) what is the level of disability? The level of disability determines the percentage of pay the officer will receive as their medical disability compensation. This is true whether the officer is PDRL or TDRL. If the level of disability assigned to the officer's disabling conditions is 30% or greater, the officer will be medically retired. If it is 20% or less, the officer will be Medically Separated.

5. How is disability compensation calculated (both severance pay without further benefits and permanent retirement)?

If an officer is Medically Separated, they will receive disability severance pay. This is a one-time lump sum payment, equal to 2 months of basic pay for each year of service which includes active service and inactive duty points, but the total service years cannot exceed 19 years. (<https://www.dfas.mil/retiredmilitary/plan/separation-payments/disability-severance-pay.html>)

Medical Disability Retirement pay is based on the combined disability rating recommended by the MRB and the officer's base pay (Final Pay or High 36), i.e. $\$8200 \times 60\% = \4920 . There is no impact for a disability rating at 80% or higher because Disability Retirement Pay is capped by law at 75% of the service member's base pay.

6. If the officer has served over 20 years, is the officer automatically given at least 50% because they are being medically retired?

No, they are not automatically given 50% for medical disability retirement. An officer that has served more than 20 years can elect to retire under their own years of service (YOS-minimum of 50%) or choose Medical Disability Retirement if determined NFFD by a MRB. The officer is responsible for choosing the system that benefits them the most as there are multiple factors that can influence the decision which are unique to each officer (see below).

7. Are medically retired PHS officers eligible for benefits from both the PHS and the VA?

Officers are eligible to receive both benefits from USPHS and the VA but there are caveats to this. See the following examples:

- An officer with less than 20 years of service will have the amount of VA compensation taken away/offset from their USPHS Medical Disability Retirement pay by an equal amount. Example: if the retiree's USPHS Disability Pay is \$5000/month and their VA Disability Compensation is \$2000/month, then the retiree receives \$3000 per month

from the USPHS and \$2000 per month from the VA. The VA compensation is not subject to federal income tax.

- Officers with more than 20 years of service (regular retiree or medical disability retiree) may qualify for Concurrent Retirement and Disability Pay (CRDP) if the VA disability rating is 50% or greater. CRDP allows retirees to receive both retired pay and VA compensation and is automatic if qualifying conditions are met.
 - If the officer retires under YOS and is eligible for CRDP, then they will get the full amount. Example: (\$5000 retirement - \$2000 offset) + \$2000 VA disability + \$2000 CRDP = \$7000 total.
 - If they retire under a Medical Disability Retirement, they are only eligible for CRDP in an amount equal to the number of years served times 2.5%. Example with 23 years of service: (\$5000 retirement - \$2000 offset) + \$2000 VA Disability + (0.025 x 23 x \$2000) = \$6150 total. (This total could be higher than the YOS calculation if the percentage to determine the Medical Disability Retirement Pay is higher than YOS).

8. Can you provide more information regarding “fit for limited duty”?

“Fit for limited duty” (FFLD) is an infrequently used MRB recommendation that is only applicable in very limited circumstances, and may be eliminated in the future. For a MRB to recommend FFLD, the medical condition/situation must have a clear resolution point (less than a year) and the conditions for limited duty must be accepted by the duty station prior to the MRB, as USPHS cannot dictate what duty limitations a duty station can/must accept/abide by.

9. What is the temporary disabled retired list (TDRL)?

In TDRL status the officer is given a Temporary Medical Disability Retirement for a period of time, not to exceed three years. Between 6-18 months after the initial MRB, the officer will have a TDRL review at a new MRB. An officer can be found fit-for-duty, put on PDRL, Medically Separated, or continued on TDRL (not to exceed the three years total).

10. Are TDRL pay and benefits the same as active duty, or permanent disability retirement list (PDRL)?

During TDRL the officer’s status is the same as any other retiree (YOS or PDRL) in regards to pay and benefits. When placed on TDRL, the officer will be awarded a minimum disability rating of 50%.

11. Does a car accident on the weekend while coming home from the mall fit into this definition the definition of “disability not incurred in line of duty”?

Line of duty encompasses all activities performed on duty and off duty as long as the actions by the officer are not found to be a result of an officer’s misconduct (i.e. the commission of a crime), when AWOL, or result of an officer’s willful neglect.

Examples:

Car accident driving home from the mall on Saturday → line of duty

Car accident driving home from the mall while drunk (with conviction) → not line of duty
Car accident evading the police with a trunk full of meth-amphetamines → not line of duty
Car accident driving home from the mall on Thursday when you are AWOL → not line of duty

12. When an officer is medically retired with less than 20 years of service is the officer still considered retired for the purpose of base privileges and entitlements such as Space-A, commissaries, and exchanges? Does the officer still get a retired uniformed services ID card?

Officers with a Medical Disability Retirement (PDRL or TDRL) who served less than 20 years have the same privileges and entitlements as any other retiree. They receive a standard retired uniformed services ID card. There is nothing on the ID card that indicates they were medically retired.

13. Can a disability rating change, after an officer is medically retired? Can an officer lose their medical disability?

Once in PDRL status the officer's USPHS Disability Rating which determines the Medical Disability Retirement Pay cannot be changed. If an officer is on TDRL, their USPHS disability rating can increase or decrease when the case is re-evaluated and they are placed on PDRL. A retired officer in TDRL status could also end up with a Medical Separation.

An officer's VA Disability Rating can increase or decrease based on numerous factors as some medical conditions evolve or improve. VA service connected disability ratings are determined exclusively by the Department of Veterans Affairs.

14. Can an officer fight medical separation? How?

An officer can appeal any recommendation made by a MRB at a Medical Appeals Board (MAB) which is called a Full and Fair Hearing (a legal proceeding versus an administrative process-MRB). After the MRB, the officer receives a packet of information including a summary of the information presented on their behalf with the MRB's recommendations. At that point, the officer has seven calendar days to respond. A non-response defaults to acceptance. The remainder of the process is outlined in the policy for Medical Appeals Board.

15. Who are an officer's advocates?

The word "advocate" connotes a legal definition. Medical Affairs Evaluation Section (MAES) personnel guide officers undergoing a FFD evaluation through the entire process. If an officer elects to appeal the MRB recommendations at a MAB they have the right to hire at their own expense a legal advocate.

Who are the DCCPR contacts for questions or more information? For questions or more information, you can email MAES@hhs.gov

Current List of relevant policies:

CCPM23.8.6: Disability Retirement:

https://dcp.psc.gov/ccmis/ccis/documents/CCPM23_8_6.pdf

CCPM49.3.1: Medical Review Boards:

https://dcp.psc.gov/ccmis/ccis/documents/CCPM49_3_1.pdf

CCPM23.8.7: Medical Appeals Board:

https://dcp.psc.gov/ccmis/ccis/documents/CCPM23_8_7.pdf

CCD127.01: Annual, Sick, and Station Leave:

https://dcp.psc.gov/ccmis/ccis/documents/CCD127_01.pdf

CCI363.01: Sick Leave:

<https://dcp.psc.gov/ccmis/ccis/documents/CC363.01.pdf>

CCD124.01: Retirement:

https://dcp.psc.gov/ccmis/ccis/documents/CCD124_01.pdf

CCD123.01: Involuntary Separation:

https://dcp.psc.gov/ccmis/ccis/documents/CCD123_01.pdf

CCD111.03: Conditions of Service:

https://dcp.psc.gov/ccmis/ccis/documents/CCD111_03.pdf

CCPM23.8.2: Computation of Retirement Pay:

https://dcp.psc.gov/ccmis/ccis/documents/CCPM23_8_2.pdf

CCPM29.6.1: VA Disability Compensation:

https://dcp.psc.gov/ccmis/ccis/documents/CCPM29_6_1.pdf