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Disabled Veteran Leave

A Mandatory Reference for ADS Chapter 480

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This mandatory reference provides policy guidance on disabled veteran leave benefits, in accordance with the [Wounded Warriors Federal Leave Act of 2015](#) (Public Law 114-75, November 5, 2015), [5 U.S.C. 6329](#) and [5 CFR Part 630, Subpart M](#).

a. Overview

An eligible employee who is a veteran with a qualifying service-connected disability rated at 30 percent or more from the Veterans Benefits Administration (VBA) of the Department of Veterans Affairs is entitled to a separate leave balance of up to 104 hours of disabled veteran leave for the purpose of undergoing medical treatment for the rated disability.

b. Eligibility

The following requirements must be met in order for an employee to be eligible for and credited with disabled veteran leave. An employee must be:

1. In the Civil Service (CS) or Foreign Service (FS) (as defined in [5 U.S.C. 2105](#));
2. A veteran as the term is defined in [38 U.S.C 38 101\(2\)](#);
3. Hired, as defined in [5 CFR 630.1303](#), on or after November 5, 2016;
4. Subject to a leave system for which leave is charged for absences; and
5. Rated at 30 percent or more, as determined by the VBA, for a service-connected disability. A disability rating of 30 percent or more includes a rating of one disability rated at 30 percent or more, or a combined degree of disability of 30 percent or more that reflects the combined effect of multiple individual disabilities.

The following categories of employees are not eligible for disabled veteran leave:

1. Employees not covered under [5 U.S.C 2105](#) (such as employees of the Department of Defense nonappropriated fund instrumentalities);
2. Employees not covered by a leave system (such as those with intermittent work schedules or leave-exempt Presidential appointees); and
3. Employees under leave systems governed by an independent statutory authority (such as Federal Aviation Administration [FAA] or Transportation Security Administration [TSA] employees).

c. 12-Month Eligibility Period

An eligible employee may only use disabled veteran leave during the continuous 12-month eligibility period, beginning on the “*first day of employment*” as defined below.

The 12-month eligibility period is determined after the Agency establishes that an employee is eligible to receive the disabled veteran leave.

For employees who have a VBA rating in effect before they are hired, the 12-month eligibility period begins on the date the employee is hired.

Some employees may be hired before a qualifying VBA disability rating has been determined. These employees may be waiting for a pending VBA disability rating or file a VBA disability rating claim after the date they are hired. An employee who does not have a qualifying VBA disability rating at the time of hire can establish eligibility for disabled veteran leave at a later time. For these employees, whether the hiring date or the effective date of the qualifying disability rating is the start date of the 12-month eligibility period, depends on exact circumstances. The effective date could be before or after the hiring date. The latter of the two dates will be the start date of the 12-month eligibility period.

Possible Scenarios:

1. An employee's qualifying disability rating has an effective date before November 5, 2016. The employee is hired on or after November 5, 2016. The hiring date is the later date and the first day of employment, which starts the 12-month eligibility period.
2. An employee's qualifying disability rating has an effective date on or after November 5, 2016. The employee is hired on or after that effective date. The hiring date is the later date and the first day of employment.
3. An employee is hired on or after November 5, 2016, in a position but does not have a qualifying disability rating in effect at that time. The employee is later awarded a qualifying disability rating that is made effective after the hiring date. The effective date is the later date and the first day of employment.
4. An employee is hired on or after November 5, 2016. At the time hired, the employee has a pending VA disability claim. Later, the VBA determines that the employee has a qualifying service-connected disability and sets the effective date retroactively to a date before the hiring date. The hiring date is the later date and the first day of employment.

The 12-month eligibility period expires one day before the anniversary date of the first day of employment. For example, if the first day of employment is December 6, the 12-month eligibility period expires on December 5 of the next year. The 12-month eligibility period is not extended because of a break in service.

If an employee's service-connected disability rating is decreased below 30 percent or discontinued during the 12-month eligibility period, such that the employee no longer has a qualifying service-connected disability:

1. The employee must notify the Office of Human Capital and Talent Management, Human Capital Services Center (HCTM/HCSC) of the effective date of the change in the disability rating; and
2. The employee becomes ineligible for disabled veteran leave as of the end of the day before the effective date of the rating change.

d. Required Documentation

In order to demonstrate eligibility for disabled veteran leave, an employee must submit documentation to HCTM/HCSC from the VBA certifying the status of their service-connected disability rating and the effective date. The employee must provide the documentation:

1. Upon the first day of employment, if the employee has already received such certifying documentation; or
2. For an employee who has not yet received such certifying documentation from the VBA, as soon as practicable after the employee receives the certifying documentation.

Note: This type of VA disability rating letter is usually several pages long and is sent to the veteran when establishing a new or updated service-connected disability rating. This letter is not the same as the shorter, one- or two-page letter generated through the eBenefits web portal used to establish 10-point veterans' preference for federal hiring purposes.

Before providing such documentation, the employee must redact sensitive medical information (such as descriptions of the type and nature of the employee's disability(ies)).

The HR Specialist advises new hires of their potential eligibility for disabled veteran leave benefits during the onboarding process. The HR Specialist must follow up during the one-on-one orientation to advise new hires of the process for submitting this information to the Bureau for Management, Office of the Chief Financial Officer, Payroll Division (M/CFO/P) for processing.

e. Crediting Disabled Veteran Leave

An employee under a regular full-time work schedule receives an initial crediting of 104 hours of disabled veteran leave. An employee who has a part-time or seasonal work schedule or an uncommon tour of duty receives a proportionally equivalent amount of disabled veteran leave, initially credited, based upon the hours in the employee's work schedule. The initial crediting of hours may be subject to offset (reduction) as shown in the table below.

Work Schedule	Formulas for Computing Hours Initially Credited Based on the # of Hours in Established Tour	Examples	Offset
Full-Time nonseasonal	104	104	Reduced by # of Hours of: 1: Sick leave to the employee's credit as of the first day of employment; or 2: Equivalent disabled Veteran leave used under another authority.
Part-time nonseasonal	$(h/80) \times 104$	40 hours biweekly: $(40/80) \times 104 = 52$	
Uncommon Tour of Duty	$(h/80) \times 104$	144 hours biweekly: $(144/80) \times 104 = 187$	
Season Tour part time or full time	$(H/2.080) \times 104$	Full time for half year: $(1.040/2) \times 104 = 52$	
<i>H Represents the hours in the established tour for the period of time designed (i.e., 80 hours for a biweekly pay period and 2,050 hours for a 52 week annual period). For part-time employees, the hours are based on the scheduled part-time tour established for the purpose of charging leave when absent.</i>			

e. Offsetting Disabled Veteran Leave

Disabled veteran leave is offset by the initial crediting by:

1. Any hours of sick leave to the employee's credit as of the first day of employment; or
2. Any hours of the equivalent disabled veteran leave benefit used by an employee in a position not covered by [5 U.S.C 6329](#) (equivalent leave granted under another authority, such as the personnel authority of the FAA or the TSA).

An employee may have a sick leave balance as of the first day of employment in the following situations:

1. A former federal employee is rehired after a break in service of at least 90 days and the rehire date qualifies as the first day of employment triggering eligibility for disabled veteran leave. The rehired employee is entitled to a recredit of the former sick leave balance. Such recredited sick leave hours will offset the initial crediting of disabled veteran leave hours, which would reduce the disabled veteran leave.
2. A veteran is first hired in a qualifying position as a federal employee on or after November 5, 2016, and does not have eligibility for the disabled veteran leave

benefit, as of the hire date. Later, the veteran files a claim for VA disability compensation, which is approved, and the effective date of the disability rating is after the hire date. The effective date of the VBA disability rating is the first day of employment and the start date of the 12-month eligibility period for using disabled veteran leave. The hours of sick leave to the employee's credit, if any, as of that start date, would offset the initial crediting of disabled veteran leave benefit hours.

3. A federal employee is called up to perform military duty as a reservist. After such military service, the employee qualifies for the disabled veteran leave benefit. The hours of sick leave to the employee's credit, if any, as of the start date of the 12-month eligibility period would offset the initial crediting of disabled veteran leave benefit hours.

For an employee who was granted an equivalent disabled veteran leave benefit under an authority other than [5 U.S.C. 6329](#), eligibility for disabled veteran leave under section [6329](#) is determined at the point the employee moves to a position covered by section [6329](#). Employment in a noncovered position cannot trigger the first day of employment under section [6329](#) (see definition of employment).

However, the Office of Personnel Management (OPM) regulations provide that, if 12 months have elapsed since the commencing date of the eligibility period for using the equivalent benefit, the employee is considered to have received the full benefit (regardless of the number of hours actually used), which offsets (i.e., eliminates) the disabled veteran leave benefit.

If the employee is still within that 12-month period, OPM regulations provide that the section [6329](#) leave benefit is offset by the number of hours of equivalent disabled veteran leave (under another authority) that were used by the employee ([5 CFR 630.1305\(e\)\(3\)](#)). There is no additional offset based on the employee's sick leave balance; however, the number of hours of disabled veteran leave used may be adjusted if those hours were used under a different work schedule, consistent with [5 CFR 630.1305\(c\)](#). In that case, the employee would be able to use any remaining disabled veteran leave during the 12-month eligibility period established under section [6329](#) (i.e., the period starting on the date of first employment in a position covered by section [6329](#)).

f. Conversion of Disabled Veteran Leave Based on a Change in a Tour of Duty

When an employee is converted to a different tour of duty for leave purposes, including in conjunction with movement to a different agency, the employee's balance of their unused disabled veteran leave must be converted to the proper number of hours, based on the proportion of hours in the new tour of duty, compared to the former tour of duty. For seasonal employees, HCTM/HCSC must annualize hours when determining the proportion (see [5 CFR 630.1305\(c\)](#)).

For example, if an employee has a balance of 60 hours of disabled veteran leave and changes from a full-time schedule (80 hours per biweekly pay period) to a half-time schedule (part-time schedule of 40 hours per biweekly pay period), the 60-hour balance would be converted to a 30-hour balance $[60 \times (40/80) = 30]$.

These balance conversion rules do not apply to disabled veteran leave that was credited to a U.S. Postal Service or Postal Regulatory Commission employee under Postmaster General regulations, since those regulations do not provide for variable crediting of hours based on type of work schedule. OPM defers to the Postmaster General regulations on crediting; when an employee moves from a Postal agency to a non-Postal agency, the non-Postal agency may not apply the conversion rule in OPM regulations to a disabled veteran leave benefit originally established under Postmaster General regulations—even if there is a change in work schedule, upon movement to the non-Postal agency or later changes in work schedule. The balance at the time of separation under Postmaster General regulations is carried over and adjusted during the 12-month eligibility period only when hours of disabled veteran leave are used.

g. Requesting and Using Disabled Veteran Leave Benefits

1. Use of Leave for Medical Treatment

Disabled veteran leave must only be used for the medical treatment of a qualifying service-connected disability, which includes any individual disability that is part of a combined disability rating of at least 30 percent. Medical treatment may include a period of rest, but only if the period of rest is specifically ordered by the employee's health care provider, as part of a prescribed course of treatment for the qualifying service-connected disability. Qualifying medical treatment may be provided or prescribed by any health care provider who is covered by the definition of "health care provider" in OPM's Family and Medical Leave Act (FMLA) regulations at [5 CFR 630.1202](#).

2. Requesting Use of Disabled Veteran Leave

An employee must submit a request to use disabled veteran leave through the time and attendance system. The employee must include a personal self-certification that the leave will be (or was) used for the purposes of obtaining medical treatment for a qualifying service-connected disability. Unless the need for leave is critical and unforeseeable (e.g., a medical emergency or the unexpected availability of an appointment for surgery or other critical treatment), the employee must request the leave in advance and specify the specific days and hours of absence required for the medical treatment.

3. Retroactive Substitution

An employee is permitted to retroactively substitute disabled veteran leave for other forms of leave or time off taken for the purpose of receiving treatment for a

qualifying disability (excluding periods of absence without leave [AWOL] or suspension, but including forms such as leave without pay [LWOP], sick leave, annual leave, compensatory time off, or other paid time off) when the leave or time off was taken during the employee's 12-month eligibility period for the medical treatment of a qualifying disability. Retroactive substitution may be necessary when an employee has a pending claim under review by VBA that is later approved with a retroactive effective date. In that situation, the employee should keep documentation or records relating to medical treatment of a condition that may later be covered as a qualifying service-connected disability. Employees who want to retroactively substitute disabled veteran leave should contact their HR specialist for specific instructions and work with their timekeeper to retroactively apply the leave. The HR Specialist may require an employee to submit medical certification before approving any retroactive substitution.

h. Medical Certification

In addition to the required employee self-certification, the supervisor, in consultation with HCTM's Office of Employee and Labor Relations (HCTM/ELR) or the Office of the General Counsel, Ethics and Administration (GC/EA) may require a signed medical certification from a healthcare provider that the medical treatment was for a qualifying service-connected disability. If medical certification is requested, the supervisor or employee must send the certification to HCTM/ELR and it should not contain any specific or detailed information concerning the employee's health or medical condition. The request for medical certification may specify that it includes the following:

1. A written statement signed by the health care provider that the medical treatment is for one or more service-connected disabilities of the employee that resulted in a 30 percent or more disability rating;
2. The date or dates of treatment or, if the treatment extends over several days, the beginning and ending dates of the treatment;
3. If the leave was not requested in advance, a statement that the treatment required was of an urgent nature or there were other circumstances that made advanced scheduling not possible; and
4. Any additional information that is essential to verify the employee's eligibility.

The employee must provide the additional medical certification within 15 calendar days of request, unless it is determined that more time is required (not to exceed 30 calendar days).

i. Employee Transfers or Separations

When an employee with a positive balance of disabled veteran leave transfers between qualifying agencies or separates from qualifying federal employment and returns later to

qualifying federal employment, the employee is entitled to a recredit of any unused disabled veteran leave, only if the employee is still within their originally established 12-month eligibility period (see [5 CFR 630.1308\(c\) and \(d\)](#)).

The losing agency must certify the number of unused disabled veteran leave hours and the expiration date of the employee's established 12-month eligibility period to the gaining agency.

In the event that certification is not available upon transfer or reemployment, the recredit of disabled veteran leave may be supported by written documentation available to the employing agency in its official personnel records concerning the employee, the official records of the employee's former employing agency, copies of contemporaneous leave and earning statement(s) provided by the employee, or copies of other contemporaneous written documentation acceptable to the agency.

If an employee's work schedule changes in conjunction with movement to a different agency (during the 12-month eligibility period), the balance of disabled veteran leave must generally be converted to the proper number of hours, based on the proportional relationship between the two schedules (see [5 CFR 630.1305\(c\)](#)).

j. Forfeiture of Disabled Veteran Leave

Any unused disabled veteran leave is forfeited at the end of the employee's established 12-month eligibility period. There are no circumstances under which the leave may remain to an employee's credit afterwards. Lump sum payments are not authorized for unused disabled veteran leave under any circumstance.

k. Definitions

Disabled veteran leave regulations include defined terms under [5 CFR 630.1303](#). HCTM/H CSC must consider the following key definitions when determining an employee's eligibility for disabled veteran leave.

Employment

Service as an employee within the meaning of [5 U.S.C. 2105](#) during which the employee is covered by a leave system under which leave is charged for periods of absence. This excludes service in a position in which the employee is not covered by [5 U.S.C. 6329](#) due to application of another statutory authority.

First Day of Employment

The first day of service that qualifies as employment occurs on the later of:

1. The earliest date an employee is hired after the effective date of the employee's qualifying service-connected disability, as determined by the VBA; or

2. The effective date of the employee's qualifying service-connected disability, as determined by the VBA.

Note: For each employee, there is a single first day of employment as it relates to determining the 12-month eligibility period.

Hired

The action of:

- Receiving an initial appointment to a CS or FS position; or
- Receiving a qualifying reappointment to a CS or FS position, or
- Returning to duty status in a CS or FS position, when such return immediately followed any break in civilian duty (with the employee in a continuous leave status) to perform military service. Continuous civilian leave status includes both periods of paid leave and unpaid leave taken for military service.

Qualifying service-connected disability

A veteran's service-connected disability rated at 30 percent or more by the VBA, including a combined degree of disability of 30 percent or more that reflects multiple individual disabilities, which resulted in the award of disability compensation under [Title 38, United States Code](#). A temporary disability rating under [38 U.S.C. 1156](#) is considered a valid rating in applying this definition for as long as it is in effect.

Service-connected

Refers to a disability that was incurred or aggravated in the line of duty in the active military, naval, or air service (as determined by VBA), as defined under [38 U.S.C. 101\(16\)](#).

Veteran

A person who served on active military, naval, or air service, and who was discharged or released under conditions other than dishonorable, as defined under [38 U.S.C. 101\(2\)](#).

I. References

- A. [5 CFR Part 630, Subpart M](#)
- B. [5 U.S.C 6329](#)
- C. [38 U.S.C. 101\(2\) and 101\(16\)](#)
- D. [38 U.S.C. 1156](#)
- E. [Office of Personnel Management Fact Sheet on Disabled Veteran Leave](#)

F. Wounded Warriors Federal Leave Act of 2015

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