

## Chapter ETF 50

### DISABILITY BENEFITS

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#### Subchapter I — Income Continuation Insurance

**ETF 50.10 Public employer income continuation insurance.** (1) An employee of an employer, other than the state, shall be eligible for income continuation insurance under s. 40.61 (3), Stats., if the requirements of ss. 40.02 (46) and 40.22, Stats., are satisfied.

(3) The employer shall pay an employer contribution toward the income continuation insurance premium which is not less than the corresponding gross premium for the 180-day waiting period plan.

**History:** Cr. Register, December, 1987, No. 384, eff. 1-1-88; CR. 16-034: am. (1) (intro.), r. (1) (a), (b), (c), (2) Register April 2017 No. 736, eff. 5-1-17.

#### Subchapter II — Disability Annuity

**ETF 50.30 Eligibility for a disability annuity.** (1) A person may be eligible for a disability annuity under s. 40.63, Stats., provided the person is not receiving benefits under subch. III.

(1g) For purposes of eligibility under s. 40.63 (1), Stats., an election of coverage to receive benefits under subch. III previously filed with the department will not cause a person to be ineligible for a disability annuity if a claim is filed on or after January 1, 2018 and the person is not receiving benefits under subch. III.

(1m) For purposes of eligibility under s. 40.63 (2), Stats., employment which is substantial gainful activity has intervened if, during any 12 consecutive calendar months beginning with the first of the month following the date service for the participating employer terminated, the participant received aggregate earnings, wages, salary and other earned income exceeding the annual dollar amount determined under s. 40.63 (11), Stats., that is in effect at the end of the 12 consecutive calendar month period.

(2) If the department determines that an applicant does not meet the requirements of s. 40.63 (1) (a), Stats., or this subchapter, the department shall deny the application. The applicant may file a written request for an appeal to the appropriate board under ch. ETF 11 no later than 90 days after the date the department's determination was mailed to the applicant.

(3) In measuring creditable service earned in a calendar year for purposes of s. 40.63 (1) (a), Stats., and in totaling accumulated creditable service for purposes of s. 40.63 (4), Stats., the creditable service shall be determined based upon the service that would have been credited if the participant's account had not been divided by a qualified domestic relations order to which s. 40.08 (1m) (b) 1., Stats., applied.

(3m) For purposes of s. 40.63 (1) (a), Stats., only, if a participant was previously receiving a long-term disability insurance benefit under subch. III, which was terminated for reasons other than fraud, misrepresentation, error, mistake or failure to provide required information, the participant is deemed to have received

full creditable service for any month for which the previous long-term disability insurance benefit was paid.

(4) For purposes of benefits administered under ch. 40, Stats., the participant shall be treated as terminated for all ch. 40, Stats., purposes effective on the date before the s. 40.63, Stats., annuity is effective or on the termination date reported to the department by the employer, whichever is earlier. The benefits include, but are not limited to, health insurance coverage, sick leave credit usage, life insurance coverage, income continuation insurance coverage, Wisconsin retirement system coverage and death benefits under s. 40.73 (1) (am) and (c), Stats., and deferred compensation contributions and benefits under s. 40.80, Stats. This rule does not preclude a participating employer from placing the participant on an administrative leave of absence for purposes of benefits not administered under ch. 40, Stats.

**History:** Cr. Register, September, 1983, No. 333, eff. 10-1-83; emerg. renum. to be (2) and am., cr. (1), eff. 10-15-92; renum. to be (2) and am., cr. (1) and (1m), Register, May, 1993, No. 449, eff. 6-1-93; cr. (3), Register, July, 1999, No. 523, eff. 8-1-99; am. (1m), Register, September, 2000, No. 537, eff. 10-1-00; CR 08-026: cr. (4) Register September 2009 No. 645, eff. 10-1-09; CR 17-031: renum. (1) (intro.) to (1) and am., r. (1) (a) to (c), cr. (1g), (3m) Register December 2017 No. 744, eff. 1-1-18; CR 19-097: am. (1g) Register May 2021 No. 785, eff. 6-1-21.

#### ETF 50.31 Cancellation of a disability annuity application.

An application for a disability annuity under s. 40.63, Stats., shall be canceled upon request of the applicant if the applicant's written request for cancellation is received by the department no later than the close of the department's regular office hours on the day before the participant's account in the employee accumulation reserve is debited for funding the benefit as provided by s. ETF 10.633 (1) (b). If the day before the debiting date falls on a Saturday, Sunday or holiday under s. 230.35 (4) (a), Stats., the request to cancel shall be considered timely only if received in the department by the close of regular office hours on the last working day preceding the Saturday, Sunday or holiday. Repayment in full of any sum paid under the application for which cancellation is sought shall be required. The employer may not make this payment on behalf of the recipient of the benefit.

**History:** Cr. Register, September, 1983, No. 333, eff. 10-1-83; am. Register, January, 1996, No. 481, eff. 2-1-96.

#### ETF 50.315 Termination for fraud, misrepresentation, error, or mistake.

(1) Payment of disability annuity benefits under s. 40.63, Stats., may be terminated immediately and overpayment recovered upon a department determination of either of the following:

(a) Disability annuity benefits were granted as the result of fraud or misrepresentation in the application or in required evidence of eligibility.

(b) Disability annuity benefits were granted due to an error or mistake by the department or due to an error or mistake in the information supplied by the employer used for determining eligibility, effective date, or amount of disability annuity benefits.

(2) The amount of monthly disability annuity benefits may be altered upon a determination that the amount of disability annuity benefits was computed in error.

(3) Disability annuity benefits may be terminated effective upon a determination by the department that the recipient has made misrepresentations or submitted false or fraudulent information regarding continued disability, earnings, wages, salary, or other earned income.

(4) If the department alters the amount of monthly disability annuity benefits under sub. (2) or terminates payment of disability annuity benefits under sub. (3), the department shall send notice of the action to the recipient. The notice shall be in the form of a written determination stating the reasons for the alternation or termination. The recipient may file a timely appeal of the alteration or termination with the appropriate board as provided in ch. ETF 11. If no timely appeal is filed, the alteration or termination of disability annuity benefits is final.

**History:** CR 23–023; cr. Register May 2024 No. 821, eff. 6–1–24.

**ETF 50.32 Definitions.** In this subchapter and s. 40.63, Stats.:

(1) “Last day paid” means the most recent date for which the employee was paid earnings, including accumulated sick leave, other paid leave, vacation, compensatory time or worker’s compensation temporary disability benefits which may result in the last day paid being subsequent to the date the employee last rendered services.

(2) “Last rendered services” means most recently performed actual work for which entitled to earnings, excluding any subsequent period on sick leave, other paid leave, vacation, compensatory time and worker’s compensation temporary disability benefits.

(3) “Substantial gainful activity” means any work of a nature generally performed for remuneration or profit, involving the performance of significant physical or mental duties, or a combination of both, for which annual compensation exceeds an amount equal to \$6,573 for determinations made in the calendar year commencing on January 1, 1992. For determinations made in subsequent calendar years, this dollar amount shall be increased by the salary index for each subsequent year, ignoring fractions of the dollar. Work is considered substantial even if performed part-time and even if it is less demanding or less responsible than the individual’s previous employment. Work is considered gainful even if it pays less than the individual’s previous employment.

(4) The date on which service for the participating employer terminated, for purposes of s. 40.63 (2), Stats., is the date on which the person last rendered services as defined under sub. (2).

**History:** Emerg. cr. eff. 10–15–92; cr. Register, May, 1993, No. 449, eff. 6–1–93; cr. (4), Register, September, 2000, No. 537, eff. 10–1–00.

### Subchapter III — Long-Term Disability Insurance

**ETF 50.40 Purpose.** The purpose of this subchapter is to administer the long-term disability insurance program for participating employees who are receiving benefits under this subchapter. For a claim to be approved under this subchapter, it must have been filed with the department before January 1, 2018.

**History:** Emerg. cr. eff. 10–15–92; cr. Register, May, 1993, No. 449, eff. 6–1–93; CR 17–031: renum. (1) to ETF 50.40 and am., r. (2) Register December 2017 No. 744, eff. 1–1–18; CR 19–097: am. Register May 2021 No. 785, eff. 6–1–21.

**ETF 50.42 Definitions.** Words, phrases and terms used in this subchapter have the same meaning as set forth in s. 40.02, Stats., and s. ETF 10.01, except as defined in this subchapter or where the context clearly indicates a different meaning. In this subchapter:

(1) “Claimant” means a person who made a claim for long-term disability benefits under this subchapter before January 1, 2018.

(2) “Earnings limit” means an amount equal to \$6,573 for determinations made in the calendar year commencing on January 1, 1992, and for determinations made in subsequent calendar years, this amount shall be increased by the salary index for each subsequent year, ignoring fractions of the dollar.

(3) “Final average salary” or “FAS” means:

(a) Except as provided in par. (b), a monthly rate of earnings, ignoring any fractions of a dollar, obtained by dividing 36 into the participant’s total earnings received and for which contributions are made under s. 40.05 (1) and (2), Stats., during the 3 annual earnings periods (excluding any period more than 3 years prior to the effective date for any participating employer) in which the earnings were the highest.

(b) If the claimant does not meet the minimum service requirements of s. ETF 50.50 (2) (b), as it existed prior to June 1, 2021, and the claimant’s medically determinable impairment is a result of employment as a participating employee for an employer, then the FAS is calculated as follows:

**Note:** See <https://docs.legis.wisconsin.gov/code/register/2021/785b/remove/etf50.pdf> for the text of 50.50 (2) (b) prior to June 1, 2021.

1. Divide the total earnings received by the employee in the portion of the annual earnings period in which the last day paid occurs and the 2 immediately preceding annual earnings periods by,

2. The number of months, with all fractions of a month rounded to the next higher whole number, between the last day paid and the commencement date of the earliest annual earnings period in subd. 1. or, if later, the date the claimant commenced participating employment.

(5) “Long-term disability insurance” or “LTDI” means long-term disability insurance as provided under this subchapter.

(6) “Medically determinable impairment” means an impairment which has medically demonstrable anatomical, physiological or psychological abnormalities. The described abnormalities are medically determinable if they manifest themselves as signs or laboratory findings apart from symptoms which are not medically determinable.

(7) “Recipient” means a person receiving LTDI benefits under this subchapter.

(8) “Substantial gainful activity” has the same meaning as stated in s. ETF 50.32 (3).

(9) “Totally and permanently disabled” means the inability to engage in any substantial gainful activity by reason of a medically determinable impairment, whether physical or mental, which can reasonably be expected to result in death or to be permanent, or of indefinite and long-continued duration.

**History:** Emerg. cr. eff. 10–15–92; cr. Register, May, 1993, No. 449, eff. 6–1–93; CR 19–097: am. (1), r. (3m), (4) Register May 2021 No. 785, eff. 6–1–21; correction in (3) (b) (intro.) made under s. 35.17, Stats., Register May 2021 No. 785.

**ETF 50.44 Scope and application.** This subchapter applies to any person who is receiving benefits under this subchapter or has filed a claim for benefits with the department before January 1, 2018.

**History:** Emerg. cr. eff. 10–15–92; cr. Register, May, 1993, No. 449, eff. 6–1–93; CR 17–031: am. (1), (2) (a) Register December 2017 No. 744, eff. 1–1–18; CR 19–097: renum. (1) to ETF 50.44 and am., r. (2) Register May 2021 No. 785, eff. 6–1–21.

**ETF 50.52 LTDI benefits. (1) BASIC BENEFIT.** (a) *Benefit amount.* The basic LTDI benefit payable to recipients shall be a monthly payment of 40% of the recipient’s final average salary or 50% of FAS for a recipient not personally covered under OASD-HI. The basic benefit amount, once determined, shall subsequently be adjusted at the same time and by the same percentages as applicable to post-retirement annuity adjustments under s. 40.27, Stats.

(b) *Reductions and offsets.* 1. The department shall reduce the amount of a recipient’s monthly LTDI benefits under par. (a) by the amounts in subds. 2. and 3. The amount by which any lump

sum benefit or separation benefit under subd. 2. exceeds the basic monthly LTDI benefit otherwise payable shall be carried over to reduce basic LTDI benefits payable in future months until the amount of the lump sum or separation benefit has been completely offset.

2. LTDI benefits shall be offset by an amount equal to the portion of any retirement annuity or lump sum benefit or separation benefit under s. 40.23, 40.24 or 40.25, Stats., on which the recipient is subject to federal income tax. This subdivision applies to any retirement annuity or lump sum benefit or separation benefit which is paid to the recipient as a result of the recipient's application for the annuity or benefit, excluding any benefit funded by employee additional contributions. This subdivision does not apply to an annuity or lump sum benefit for which the recipient is eligible solely as a beneficiary, alternate payee or joint survivor of another participant.

3. LTDI benefits shall be offset by the amount of any normal form retirement annuity or lump sum retirement benefit under s. 40.23 or 40.25, Stats., for which the recipient is eligible, including a separation benefit that the recipient is eligible to receive under s. 40.23 (2m) (er) or 40.23 (3) (b), Stats., excluding the portion of any annuity or lump sum benefit or separation benefit on which the recipient would not be subject to federal income tax, or a benefit funded by employee additional contributions. Except for a protective occupation recipient, this offset shall be computed as of the recipient's normal retirement age. This subdivision applies only after a recipient's normal retirement date as defined by s. 40.02 (42), Stats. For a protective occupation recipient, the offset shall be computed as of the recipient's 62<sup>nd</sup> birthday. This subdivision does not apply to an annuity for which the recipient is eligible solely as a beneficiary, alternate payee or joint survivor of another participant.

(c) *Proration.* Initial monthly LTDI benefits beginning on other than the first day of a month and final LTDI benefits ending on other than the last day of a month are prorated based on effective date and termination date as provided in s. ETF 50.62.

**(2) LTDI RETIREMENT SUPPLEMENTAL BENEFIT.** (a) In addition to the basic LTDI benefit payable to a recipient, the LTDI program shall pay a retirement supplemental benefit in the form of an employer additional contribution to the Wisconsin retirement system for recipients qualifying under this subsection.

(b) The LTDI retirement supplemental benefit due shall be 7% of the recipient's FAS for each month a recipient qualifies under par. (d). Except as provided in sub. (1) (c), the LTDI retirement supplemental benefit is not prorated. If a recipient is not qualified for the LTDI supplemental benefit on any day during a month, no LTDI supplemental benefits are payable for that month. The supplemental LTDI benefit amount, once determined, shall subsequently be adjusted at the same time and by the same percentages as applicable to post-retirement annuity adjustments under s. 40.27, Stats.

(c) As of December 31 each year, the supplemental LTDI benefit due for each of the preceding 12 months during which the recipient qualified under par. (d) to receive the retirement supplemental LTDI benefit shall be credited to the recipient's WRS employer additional contributions account.

(d) A recipient qualifies for retirement supplemental LTDI benefits if all of the following apply:

1. LTDI benefits have not been terminated or suspended under s. ETF 50.56.

2. The recipient does not earn any creditable service.

3. Payment of the LTDI retirement supplemental benefit would not exceed any limitation on additional contributions or cause the Wisconsin retirement system to fail to meet requirements for a qualified plan under the U.S. internal revenue code, applicable regulations adopted under the U.S. internal revenue code, including proposed regulations in force pending adoption, or rules of the department.

4. The recipient has not applied for any retirement annuity or lump sum retirement or separation benefit from the Wisconsin retirement system, other than a benefit funded by employee additional contributions or from a Wisconsin retirement system account held as an alternate payee. Qualification ceases on the effective date of a retirement annuity or other benefit or the approval date of a separation benefit. This subdivision shall not apply if the application is withdrawn, void, canceled or not granted.

5. The recipient is not qualified to receive duty disability benefits under s. 40.65, Stats., regardless of the amount of duty disability benefits actually received.

(e) Monthly LTDI retirement supplemental benefits due are prorated based on the effective beginning date and termination date as provided in s. ETF 50.62.

**(3) CONTINUATION OF GROUP HEALTH INSURANCE COVERAGE FOR STATE EMPLOYEES.** Pursuant to s. 40.51 (3), Stats., a recipient of LTDI benefits under this subchapter who is an insured employee under any group health insurance plan for state employees insured directly by the public employee trust fund shall also be entitled to continuation of that group health insurance in the same manner and to the same extent as is a disability annuitant under s. 40.63, Stats. Effective no later than January 1, 1993, contracts between the group insurance board and other insurers of group health insurance plans covering state employees shall provide the same continuation rights for recipients insured under those plans.

**History:** Emerg. cr. eff. 10–15–92; cr. Register, May, 1993, No. 449, eff. 6–1–93; CR 11–040: am. (2) (a) Register July 2012 No. 679, eff. 8–1–12; CR 14–055: am. (1) (b) 3. Register May 2015 No. 713, eff. 6–1–15.

**ETF 50.54 Administration.** **(1) PLAN ADMINISTRATOR.** The department shall administer the plan established by this subchapter on behalf of the employee trust funds board unless otherwise expressly provided in an administrative services contract between the employee trust funds board and an outside administrator.

**(3) PERIODIC MEDICAL REVIEW.** The department may require that any recipient shall be examined by at least one licensed and practicing physician, designated or approved by the department, during any calendar year the recipient receives benefits under this subchapter. The examining physician shall file with the department a written report of the examination which shall be in a form approved by the department and indicate whether the recipient is still totally and permanently disabled or, for a recipient qualifying under s. ETF 50.58 only, whether the recipient recovered to the extent that the recipient can efficiently and safely perform the duties required by the recipient's former position as a protective occupation participant and whether the recipient recovered to the extent that the impaired condition is not likely to be permanent.

**Note:** Form ET–5909, "Recertification Medical Report," is sent to the claimant by the department as necessary.

**(4) REQUESTS FOR INFORMATION.** The department may request any information on earnings, salary, wages, earned income, compensation or OASDHI benefits or entitlements as it deems necessary to implement the provisions of s. ETF 50.52 (1), including but not limited to copies of state and federal income tax returns.

**(5) APPLICATION OF ANTI-FRAUD STATUTE.** This subchapter is an employee benefit program created under ch. 40, Stats., through rule-making authority expressly granted in that chapter, for purposes of enforcement of the prohibitions of s. 943.395 (1) (c), Stats. Prohibited acts include presenting or causing to be presented false or fraudulent information, including a claim or benefit application, proof in support of a claim or benefit application, or information which would affect a future claim or application.

**(6) OVERPAYMENT.** Section 40.08 (4), Stats., shall apply to obtain repayment of any overpayment of LTDI benefits.

**History:** Emerg. cr. eff. 10–15–92; cr. Register, May, 1993, No. 449, eff. 6–1–93; CR 17–031: am. (1) Register December 2017 No. 744, eff. 1–1–18; CR 19–097: r. (2), am. (3), (4) Register May 2021 No. 785, eff. 6–1–21.

**ETF 50.56 Termination or suspension of benefits.**

**(1) DURATION OF BENEFITS.** Except as otherwise provided in this section:

(a) For a recipient whose LTDI benefit effective date is prior to the date the recipient attains age 61, all LTDI benefits terminate at the end of the month in which the recipient attains age 65.

(b) For a recipient whose LTDI benefit effective date is on or after the date the recipient attains age 61 and prior to the date the recipient attains age 63, all LTDI benefits terminate at the end of the month in which the recipient attains age 66.

(c) For a recipient whose LTDI benefit effective date is on or after the date the recipient attains age 63 and prior to the date the recipient attains age 65, all LTDI benefits terminate at the end of the month in which the recipient attains age 67.

(d) For a recipient whose LTDI benefit effective date is on or after the date the recipient attains age 65 and prior to the date the recipient attains age 67, all LTDI benefits terminate at the end of the month in which the recipient attains age 68.

(e) For a recipient whose LTDI benefit effective date is on or after the date the recipient attains age 67 and prior to the date the recipient attains age 68, all LTDI benefits terminate at the end of the month in which the recipient attains age 69.

(f) For a recipient whose LTDI benefit effective date is on or after the date the recipient attains age 68 and prior to the date the recipient attains age 69, all LTDI benefits terminate at the end of the month in which the recipient attains age 70.

(g) For a recipient whose LTDI benefit effective date is on or after the date the recipient attains age 69, all LTDI benefits terminate 12 months after the LTDI benefit effective date.

(h) Notwithstanding pars. (a) to (g), no LTDI benefits shall be payable for any date after the recipient's death.

(i) The effective date used to determine the duration of LTDI benefits is the effective date of the benefits being paid, not the effective date of terminated LTDI benefits paid under a previous application.

(j) The duration of LTDI benefits for recipients whose LTDI benefit effective date is on or after the date the recipient attains age 61 shall be periodically reviewed and may be revised based on the actuary's determinations, as approved by the employee trust funds board, so as to provide LTDI benefits meeting equal cost standards under federal age discrimination law. As part of the regular 3-year general investigation under s. 40.03 (5) (b), Stats., beginning with the investigation based on data through 1996, the actuary shall determine the appropriate duration for LTDI benefits beginning at and after age 61. The employee trust funds board shall be responsible for approving any change to the duration of LTDI benefits. If the duration of LTDI benefits is changed, the duration of LTDI benefits being paid as the result of an application received by the department prior to the effective date of the change shall not be affected. Any such revision shall be effective upon promulgation as an amendment to this rule by the employee trust funds board.

**(2) TERMINATION FOR FRAUD, MISREPRESENTATION, ERROR OR MISTAKE.** (a) Payment of LTDI benefits may be terminated immediately and overpayment recovered upon a department determination of either of the following:

1. LTDI benefits were granted as the result of fraud or misrepresentation in the application or in required evidence of eligibility.

2. LTDI benefits were granted due to an error or mistake by the department or due to an error or mistake in the information supplied by the employer used for determining eligibility, effective date or amount of LTDI benefits.

(c) The amount of monthly LTDI benefits may be altered upon a determination that the amount of LTDI benefits was computed in error.

(d) LTDI benefits may be terminated effective upon a determination by the department that the recipient has made misrepresentations or submitted false or fraudulent information regarding continued disability, earnings, wages, salary or other earned income.

(e) If the department alters the amount of monthly LTDI benefits under par. (c) or terminates payment of LTDI benefits under par. (d), the department shall send notice of the action to the recipient. The notice shall be in the form of a written determination stating the reasons for the termination. The recipient may file a timely appeal of the alteration or termination with the employee trust funds board as provided in ch. ETF 11. If no timely appeal is filed, the alteration or termination of LTDI benefits is final.

**(3) TERMINATION UPON RECOVERY OR FOR FAILURE TO FURNISH INFORMATION.** (a) The payment of LTDI benefits shall be terminated based on a determination by the department of any of the following:

1. The written physician's report required in s. ETF 50.54 (3) indicates that the recipient has recovered from the medically determinable impairment so that the recipient is no longer totally and permanently disabled, or, for a recipient who qualified under s. ETF 50.58, recovered to the extent that the recipient can efficiently and safely perform the duties required by the recipient's former position as a protective occupation participant or that the recipient's impaired condition is not likely to be permanent. LTDI benefits are payable up to the date of recovery.

2. The recipient refuses to submit to an examination under s. ETF 50.54 (3) or refuses to submit information regarding earnings, wages, salary or other earned income as requested by the department. LTDI benefits shall not be payable for any month following the deadline for the recipient's compliance set by the department.

(b) If the department terminates payment of LTDI benefits under this subsection, the department shall send notice of the termination to the recipient. The notice shall be in the form of a written determination stating the reasons for the termination. The recipient may file a timely appeal of the termination with the employee trust funds board, as provided in ch. ETF 11. If no timely appeal is filed, the termination of LTDI benefits is final.

**(4) TERMINATION OR SUSPENSION BASED ON EARNINGS.** (a) Except as provided in par. (b) and s. ETF 50.58 (2), the payment of LTDI benefits shall be terminated and no LTDI benefits shall be payable after the first of the month in which a determination is made by the department that the recipient has received during the calendar year earnings or other earned income exceeding the earnings limit.

(b) On the first occasion that the department determines that the recipient has exceeded the earnings limitation as described in par. (a), the payment of LTDI benefits shall be suspended rather than terminated. Payment of LTDI benefits suspended under this paragraph shall resume on the earlier of the first day of the next calendar year or the first day of the second month following the termination of personal services due to recurrence of the medically determinable impairment which was the basis for payment of LTDI benefits. A recipient's LTDI benefits may only be suspended once and must be terminated if par. (a) subsequently applies.

**(5) TERMINATION UPON CERTAIN REEMPLOYMENT.** LTDI benefits for a recipient under s. ETF 50.58 (1) shall be terminated upon reemployment as provided in s. ETF 50.58 (3).

**History:** Emerg. cr. eff. 10–15–92; cr. Register, May, 1993, No. 449, eff. 6–1–93; CR 17–031: am. (1) (j), (2) (e), (3) (b) Register December 2017 No. 744, eff. 1–1–18; CR 19–097: am. (title), r. (2) (b), am. (3) (a) 1., (4) (a), (5) Register May 2021 No. 785, eff. 6–1–21.

**ETF 50.58 Special provisions applicable to protective occupation participants.** (1) NOT TOTALLY AND PERMANENTLY DISABLED. An LTDI recipient who is a protective occupation participant is not disqualified from receiving LTDI benefits although not totally and permanently disabled, provided the recipient's LTDI benefit was approved based on all of the following:

(a) The recipient had accumulated 15 or more years of creditable service and earned at least 0.33 years of creditable current service or prior service, or both, in each of at least 5 calendar years not including any calendar year preceding by more than 7 calendar years the year in which the claim for LTDI benefits was received by the department.

**Note:** The accumulated creditable service need not be in the protective employment category and may include military service.

(b) The recipient would have attained age 55 in 60 months or less after the occurrence of disability.

(c) The medical evidence established a disability to the extent that the participant could no longer efficiently and safely perform the duties required by the participant’s position, and that the condition was likely to be permanent. In this paragraph, “medical evidence” means written certifications received by the department from at least 2 licensed and practicing physicians who have been approved or appointed by the department.

**(2) EXCEEDING EARNINGS LIMIT.** Notwithstanding s. ETF 50.56 (4) (a), LTDI benefits for a recipient under this section may not be terminated for exceeding the earnings limit. The payment of LTDI benefits shall be suspended and no LTDI benefits shall be payable after the first of the month in which the recipient has received during the calendar year earnings or other earned income exceeding the earnings limit. Payment of LTDI benefits suspended under this paragraph shall resume on the first day of the next calendar year.

**(3) REEMPLOYMENT IN LAW ENFORCEMENT OR FIRE FIGHTING.** Payment of LTDI benefits shall be immediately terminated upon employment of a recipient in a law enforcement or fire fighting capacity.

**History:** Emerg. cr. eff. 10–15–92; cr. Register, May, 1993, No. 449, eff. 6–1–93; CR 11–040: am. (1) (b) Register July 2012 No. 679, eff. 8–1–12; CR 19–097: r. and recr. Register May 2021 No. 785, eff. 6–1–21; **CR 23–023: am. (2) Register May 2024 No. 821, eff. 6–1–24.**

**ETF 50.60 Plan funding.** The actuary shall determine liabilities for the LTDI program annually and include those liability determinations in the calculation of contribution rates as determined under s. 40.05, Stats., for the Wisconsin retirement system, based on the information available at the time the determination is made and on the assumptions the actuary recommends and the employee trust fund board approves.

**History:** Emerg. cr. eff. 10–15–92; cr. Register, May, 1993, No. 449, eff. 6–1–93; CR 17–031: am. (2) (b) Register December 2017 No. 744, eff. 1–1–18; CR 19–097: r. and recr. Register May 2021 No. 785, eff. 6–1–21.

**ETF 50.62 Proration of adjustment percentages and monthly benefits.** **(1) ANNUAL ADJUSTMENTS TO BENEFITS.** The percentage of the annual adjustment to a recipient’s LTDI basic benefits or retirement supplemental benefits under s. ETF 50.52 (1) (a) or (2) (b) shall be prorated in the first calendar year after the effective date of the benefits. The applicable adjustment

percentage shall be determined by multiplying the percentages as applicable to post–retirement annuity adjustments under s. 40.27, Stats., by the proration factor from Table 1 according to the effective date the benefits began. If the resulting prorated adjustment percentage is less than 0.1%, no increase shall result.

<b>Effective Date Benefits Began in Prior Year</b>	<b>Proration Multiplier</b>
January 1	1.000
January 2 through February 1	0.917
February 2 through March 1	0.833
March 2 through April 1	0.750
April 2 through May 1	0.667
May 2 through June 1	0.583
June 2 through July 1	0.500
July 2 through August 1	0.417
August 2 through September 1	0.333
September 2 through October 1	0.250
October 2 through November 1	0.167
November 2 through December 31	0.083

**EXAMPLE 1:** A recipient begins to receive LTDI benefits effective August 10. The annual adjustment for the following year is an increase of 1%. The recipient would instead receive an increase of 0.33% ( $1\% \times 0.333 = 0.33\%$ ). The following year the annual adjustment is an increase of 6%. The recipient receives the entire 6% increase.

**EXAMPLE 2:** A recipient begins to receive LTDI benefits effective November 30. The annual adjustment for the following year is an increase of 1%. The recipient would receive no increase. Although  $1\% \times 0.083 = 0.083\%$ , this is less than 0.1% and therefore no increase results. The following year the annual adjustment is an increase of 6%. The recipient receives the entire 6% increase.

**(2) PRORATION OF MONTHLY BENEFITS.** (a) The amount of the initial and final monthly LTDI basic benefits and LTDI retirement supplemental benefits paid shall be prorated based on the date in the month on which LTDI benefits begin or end.

(b) The first payment of LTDI benefits shall be prorated based on the first date in the month for which benefits are paid and based on the number of days in the month, according to Table 2.

(c) The last payment of LTDI benefits due to termination or suspension of benefits or ceasing to qualify for benefits shall be prorated based on the effective date of the action and based on the number of days in the month, according to table 3.

<b>TABLE 2. PRORATION OF LTDI BENEFITS BY BEGIN DATE</b>			
<b>Effective Begin Date of LTDI Benefits</b>			<b>Percent of Monthly LTDI Benefit Paid</b>
<b>In 31-day month</b>	<b>In 30-day month</b>	<b>In February</b>	
1	-	-	100.0%
2	1	-	100.0
3	2	-	100.0
4	3	1	100.0
5	4	2	97.2
6	5	3	93.6
7	6	4	90.0
8	7	5	86.4
9	8	6	82.8
10	9	7	79.2
11	10	8	75.6
12	11	9	72.0
13	12	10	68.4
14	13	11	64.8
15	14	12	61.2
16	15	13	57.6
17	16	14	54.0
18	17	15	50.4
19	18	16	46.8
20	19	17	43.2
21	20	18	39.6
22	21	19	36.0
23	22	20	32.4
24	23	21	28.8
25	24	22	25.2
26	25	23	21.6
27	26	24	18.0
28	27	25	14.4
29	28	26	10.8
30	29	27	7.2
31	30	28 or 29	3.6

<b>TABLE 3. PRORATION OF LTDI BENEFITS BY END DATE</b>			
<b>LTDI Benefit Termination or Suspension Effective Date</b>			<b>Percent of Monthly LTDI Benefit Paid</b>
<b>In 31-day month</b>	<b>In 30-day month</b>	<b>In February</b>	
1	-	-	0.0%
2	1	-	0.0
3	2	-	0.0
4	3	1	2.8
5	4	2	6.4
6	5	3	10.0
7	6	4	13.6
8	7	5	17.2
9	8	6	20.8
10	9	7	24.4
11	10	8	28.0
12	11	9	31.6
13	12	10	35.2
14	13	11	38.8
15	14	12	42.4
16	15	13	46.0
17	16	14	49.6
18	17	15	53.2
19	18	16	56.8
20	19	17	60.4
21	20	18	64.0
22	21	19	67.6
23	22	20	71.2
24	23	21	74.8
25	24	22	78.4
26	25	23	82.0
27	26	24	85.6
28	27	25	89.2
29	28	26	92.8
30	29	27	96.4
31	30	28 or 29	100.0

**History:** Emerg. cr. eff. 10-15-92; cr. Register, May, 1993, No. 449, eff. 6-1-93; reprinted to restore dropped copy in Table 3, Register, December, 1999, No. 528; CR 19-097: am. (1), Example 1, Example 2 Register May 2021 No. 785, eff. 6-1-21.