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Disabled Veteran Leave

References

Law: 5 U.S.C. 6329

Regulations: 5 C.F.R. 630.1301-630.1308

Guidance: <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/disabled-veteran-leave>

Introduction

Disabled Veteran Leave (DVL) is a leave category established by the Wounded Warriors Federal Leave Act of 2015. An employee who is a veteran with a service-connected disability rated at 30 percent or more is entitled to use disabled veteran leave during a 12-month period beginning on the first day of employment for the purposes of undergoing medical treatment for such disability.

Eligibility

DVL is available to an employee who is a veteran with a qualifying service-connected disability rated at 30 percent or more, covered by title 5, U.S. Code (U.S.C.) leave provisions. The employee must be **hired on or after November 5, 2016**. Hired is defined as the action of:

- 1) receiving an initial appointment to a civilian position in the Federal Government;
 - 2) receiving a qualifying reappointment in a covered position following a break in employment of at least 90 calendar days; or
 - 3) returning to duty status in a covered position following a break in civilian duty to perform military service.
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Benefit Period

DVL is available during the continuous 12-month period beginning on the “first day of employment,” which is the latter of:

- 1) the earliest date an employee is hired after the effective date of a qualifying service-connected disability; or
- 2) the effective date of a qualifying service-connected disability (i.e., when the hiring event occurs before the effective date).

Crediting DVL

Upon receipt of the certifying documentation, an agency must credit 104 hours of DVL to a full-time employee or a proportionally equivalent amount for employees with part-time, seasonal, or uncommon tours of duty.

Medical Treatment

DVL may only be used for the purpose of undergoing medical treatment of a qualifying service-connected disability. The employee will be required to self-certify that DVL is being used (or was) used for this treatment, however the supervisor may request additional medical certification from a health care provider that the treatment provided was for the service-connected disability.

Retroactive Usage

If an eligible employee does not provide certifying documentation for a qualifying service-connected disability to establish eligibility for DVL before receiving medical treatment for such disability, the employee may still use DVL through retroactive substitution. The medical treatment must have occurred within the employee's 12-month eligibility period.

QUESTIONS AND ANSWERS

Eligibility

What type of documentation do employees need to provide to show they have a service-connected disability rated at 30 percent or more?

The employee must provide proper documentation/certification from the Veterans Benefits Administration (VBA) to enable supervisors to make determinations about eligibility for DVL.

How is the effective date of the service-connected disability determined?

The effective date is generally either the day after the date of military discharge (if the person filed a disability claim within 1 year of discharge date) or the date the claim was filed.

How will the supervisor know the effective date of the service-connected disability?

The effective date of the claim will be documented on the certification provided by the VBA that the employee will provide to establish eligibility.

When must the employee file a disability claim to be eligible for DVL?

The employee may have filed a disability claim immediately after military discharge, prior to Federal employment, or the employee may file a claim after being hired. If the employee has already received a disability claim determination from the VBA prior to his hire date, the first date of employment will be the hire date. If the employee has not yet submitted a disability claim to the VBA before his/her hire date, the first date of employment will be the effective date of the qualifying service-connected disability as determined by the VBA.

If an employee separates from Federal service after having received DVL and after the end of the 12-month eligibility period, and is later reemployed by another agency, can they receive DVL in the new position?

No, DVL is a benefit that may only be granted once during an employee's entire Federal career.

Are employees with intermittent schedules eligible for DVL?

No, an employee must have an established tour of duty to be eligible for DVL.

The regulations state DVL applies to Federal civilian employee as defined in 5 U.S.C. § 2105 that are covered by 5 U.S.C. § 6329, which does not include non-

appropriated fund (NAF) employees. Will a parallel benefit be adopted for these employees?

Yes, Department of Defense (DoD) Instruction 1400.25, Volume 1406, "DoD Civilian Personnel Management System: Nonappropriated Fund (NAF) Attendance and Leave," will be updated to extend to DoD Components and eligible NAF employees the provisions of 5 U.S.C. § 6329.

Benefit Period

Can the 12-month period of eligibility be paused or extended due to military service?

No, the 12-month period of eligibility is continuous, meaning the entitlement expires one calendar year from the date of eligibility. The 12-month eligibility period for DVL cannot be paused or extended for any reason once eligibility is determined and the first day of employment is established. There are no breaks allowed during the 12-month eligibility period.

If a new employee hired in January files a disability claim in March, but the VBA does not approve the claim until June, does this mean the employee cannot use DVL until it has been approved by the VBA?

The first day of employment is the later of the hire date or the effective date of the service-connected disability. As explained in the previous question, the effective date of the service-connected disability is typically the day the employee files the claim. Thus, once VBA approves the claim, an employee can retroactively substitute DVL for other leave they may have taken for covered medical treatment between March and June.

DVL Use

When would retroactive substitution of DVL apply?

One reason that retroactive substitution may be necessary is because of the lag in time between an employee's filing of a claim with VBA and the approval of the claim. The employee will not be penalized waiting for the VBA approval if he needs to take leave for medical treatment of the service-connected disability between the time he files the claim and the time VBA approves the claim.

Is DVL carried forward if an employee has a break of service greater than 3 days and returns to service under a new appointment?

Yes, but only if the break in service ends before the end of the 12-month eligibility period. The leave will remain available for use for 12 months from the date of eligibility, regardless of any breaks in service.

Does an employee's entitlement to DVL affect their accrual of sick leave?

No. An employee's entitlement to DVL has no effect on the accrual of sick leave. Sick leave will always accrue at a normal rate.

Will an employee be able to use DVL to substitute for unpaid leave under the Family Medical Leave Act (FMLA)?

No, DVL cannot be used under the FMLA.

ELIGIBILITY EXAMPLES:

Erica is hired by the Department of Army on October 5, 2016. She files a disability claim with the VBA on November 20, 2016, which is later approved with a qualifying service-connected disability rated at 30 percent. Is Erica eligible for DVL?

No, Erica is not eligible because she was not hired on or after November 5, 2016.

James filed a disability claim with the VBA on June 15, 2016, which was approved on August 30, 2016, with a qualifying service-connected disability rated at 30 percent. He was hired by the Department of Navy on December 1, 2016. Is James eligible for DVL?

Yes, James is eligible for DVL because he has a service-connected disability of 30 percent or more, and was hired on or after November 5, 2016. His first day of employment is December 1, 2016, which is the later of his hire date or the effective date of his qualifying service-connected disability.

Henry was hired by the Department of Air Force on December 8, 2016. He waited to file a disability claim with the VBA until January 18, 2017, which was approved on March 25, 2017, with a service-connected disability rating of 30 percent. Is Henry eligible for DVL?

Yes, Henry is eligible for DVL because he has a service-connected disability of 30 percent or more, and was hired on or after November 5, 2016. His first day of employment is January 18, 2017, which is the later of his hire date or the effective date of his qualifying service-connected disability.