

**DISABILITY PLAN**  
**As Amended May 7, 1984**  
**As Amended November 7, 1991**

This document constitutes the Fairfax County Water Authority (Authority) Plan for the support of totally disabled employees, as amended November 7, 1991. It supersedes all plans and contracts previously approved by the Authority for the same purpose.

***THE PLAN***

This plan is a salary continuation plan and does not provide any assistance, other than financial assistance, to its eligible members as outlined herein. The plan is not intended to provide rehabilitation, medical or other assistance.

If an employee, while qualified as a member, shall sustain an illness or injury which totally incapacitates such member from performing assigned duties, and if the member is under the regular care and attendance of a legally qualified and licensed physician or surgeon ("physician"), the Authority will pay to the member an amount equal to 66 and 2/3 percent of the member's monthly base salary immediately prior to disability for a period not to exceed twenty-four (24) months unless the employee qualifies for full retirement. No disability payments shall be made for the first ninety (90) days of disability ("the elimination period"). Payments shall begin on the latest of (1) the ninety-first (91) day of disability; (2) sixty (60) days after receipt of notice of disability; or (3) thirty (30) days after the completed forms are submitted to the Authority.

The Authority will pay a rehabilitative employment benefit for each month of rehabilitative employment which follows the elimination period. The amount payable will be equal to the Monthly Benefit less the amount of the insured employee's earnings outside of the benefits provided during disability.

The Authority reserves the right of offer to a claimant a position for which he or she is reasonably qualified by training, education, experience and may be affiliated with their pre-disability duties, but which offers less compensation than the claimant's pre-disability position, with the stipulation that continued disability benefits will be provided - offset by those earnings.

If the disabling injury or illness shall continue for a period exceeding twenty-four (24) months, the Authority will continue to pay the disability benefit for the period the member continues to be disabled and is under a physician's regular care and attendance or until the member reaches the age at which benefits terminate, provided that the member is prevented by such disability from

gainfully employed in any occupation for wage or profit for which member is reasonably qualified by training, education or experience and that includes his or her usual duties.

Benefit payment shall be made (1) to age 65 or retirement (whichever occurs first) in cases where the disability began at age 60 or less and (2) to five years or retirement (whichever occurs first) where the disability occurs after age 60.

## **MEMBERSHIP**

### **Eligibility**

For purposes of this plan, "member" shall mean a full-time, regular employee who has completed three (3) years of employment and who is able to report to work on a regular full-time basis and perform all the usual and customary duties of the assigned occupation. Each former employee who is re-employed after a break-in-service of less than six (6) months, shall be entitled to include the length of time of such employee's continuous former employment for purposes of calculating eligibility. Employees who qualify shall become members automatically with the exception of pre-existing conditions for which the employee received medical treatment, consultation, care or services, including diagnostic measures, or took prescribed drugs or medicines within six months of re-employment.

The term "claimant" shall mean any person who claims to be entitled to benefits under this Plan.

### **Termination**

A terminated employee shall cease to be a member at the close of the last day on which such employee actively worked at the time of employment termination. Membership of a terminated employee shall not be extended by payment of severance pay, annual leave pay or similar payments extending beyond the last actual work day.

A member's status as such shall continue while such member is on approved annual, sick, civil, injury or administrative leave. A non-disabled member's status as such shall continue when such member has been placed on approved leave without pay status, for a period which does not exceed thirty (30) days. Thereafter, membership shall be terminated until such employee returns to active duty from such approved leave without pay status at which time membership shall be automatically reinstated.

## **CLAIMS PROCEDURE**

Upon request, the Human Resource Manager will furnish a claimant forms for filing proof of loss. These forms shall be completed by the claimant and the claimant's physician and submitted to the Human Resource Manager not later than sixty (60) days from the claimed date of disability.

The Human Resource Manager may recommend to the General Manager, and the General Manager may make a preliminary determination that a claimant is not a member and, therefore, not entitled to benefits or to an examination by a physician selected by the Authority, but failure of the Human Resource Manager to recommend, or the General Manager to make such a

preliminary determination shall not constitute a waiver of the right to make any such determination at any time before the claimant has been notified in writing of approval or disapproval of the claim.

When a claim has been submitted, the Human Resource Manager shall arrange for the claimant to be examined by a physician selected by the Authority and at Authority expense, unless the General Manager has made a determination that the claimant is not a member. In lieu of an examination the Authority may have a disability verified based on review of a claimant's medical records or approve an application based on known facts with no outside review. (An example would be an employee with terminal cancer.)

Should the examining physician selected by the Authority not concur with the diagnosis of the claimant's physician, the two physicians will choose a third physician to examine the claimant and the third physician's opinion shall be binding upon the Authority and the claimant for the purposes of determining whether, and to what extent, the member is disabled.

During the claims process and the ninety (90) day elimination period, the claimant will remain an employee of the Authority by use of sick leave, annual leave, injury leave, when applicable, or leave without pay.

Once the Authority physician's determination has been received by the Human Resource Manager, a personnel action form will be initiated by the Division Director for which the employee last worked and forwarded by the Human Resource Manager to the General Manager for approval or disapproval of disability entitlement. The Human Resource Manager shall notify the claimant, in writing, of approval or disapproval and the effect of such decision on the member's employment status.

Any claimant who is aggrieved by a decision by the General Manager regarding the claimant's entitlement to benefits under the Plan may within fourteen (14) days of receipt of the notice of such decision request a re-determination and the General Manager shall within a reasonable time afford the claimant an opportunity for an informal hearing. A request for a hearing shall be filed in writing with the Human Resource Manager.

Continuing claims will require periodic examinations which will be arranged by the Human Resource Manager at Authority expense. Verification of continued entitlement may be required, at least, once each 12 months during the first five (5) years following disability approval, and once in every three (3) year-period thereafter. In addition, the Authority reserves the right to order an examination at any time during the claimant's period of entitlement as it deems appropriate.

No claim will be honored if received six months after the date of injury or commencement of illness, unless the General Manager, based on the recommendation of the Division Director and Human Resource Manager, determines that extreme or unusual conditions exist as a result of the employee having been mentally or physically incapacitated.

#### ***EXPIRATION OF DISABILITY BENEFIT***

The disability benefit shall be discontinued upon the first of the following occurrences:

- The claimant fails to submit the required forms or refuses to be examined by a physician designated by the Authority;
- The claimant becomes gainfully employed in any occupation or employment for wage or profit for which member is reasonably qualified by training, education, or experience and that includes his or her usual duties.
- The claimant can no longer prove disability;
- The claimant becomes eligible for full benefits under the Fairfax County Water Authority Retirement Plan.
- The claimant dies;
- The claimant reaches age 65, or if the claimant becomes disabled at age 61 or older, at the time the claimant reaches the age of termination.

Should the member attempt to return to work and suffer a recurrence of total disability from the same or related causes, the period of disability shall be deemed a continuation of the prior period, unless between such periods the member has performed assigned duties on a full-time basis for at least six consecutive months, in which event the total disability shall be deemed the result of a new injury or illness and subject to a new ninety (90) day elimination period.

### ***EXCLUSIONS***

The Authority shall not provide disability payments which result from:

- Intentionally self-inflicted injuries or illnesses (occurring while the member is sane or insane);
- War or any act of war; or
- Service in the Armed Forces including military leave for Reserve or National Guard Duty

No payment shall be made under this plan for any disability caused or contributed to by or resulting from a pre-existing condition. A "pre-existing condition" shall mean any sickness or injury for which the member received medical treatment, consultation, care or services, including diagnostic measures, or took prescribed drugs or medicines within six months prior to employment.

### ***COORDINATION OF BENEFITS***

During any disability period (initial twenty-four (24) months and thereafter), the disability benefit shall be reduced by any amount paid or payable, including a total lump sum settlement, because of the disability under any workers' compensation, occupational or non-occupational disease or disability act or law, any unemployment compensation benefit, or by any amount paid or payable under the Federal Social Security Program because of said disability. All combined benefits for

the claimant and spouse shall not exceed 66 and 2/3 percent of the claimant's final base salary, with a maximum benefit not to exceed the first step of the salary assigned to the highest graded position in the Authority.

A lump sum disability payment received under any such act or law shall affect the Authority disability benefit. The number of months used to determine the lump sum payment shall serve as the basis for reducing the Authority disability benefit. The reduced Authority disability benefit will continue for the same number of months, as long as the claimant continues to be eligible as stipulated herein.

In no case will the disability benefit be reduced by any increase in benefits payable under the Federal Social Security Program resulting from a change in the Consumer Price Index. Should a claimant not qualify for or lose primary Social Security benefits to which the claimant is entitled because of failure to make application therefore or because of the claimant's violation of the Social Security Act, such primary Social Security benefits shall nevertheless be considered as being received by the claimant for the purposes of this document.

The claimant must furnish copies of awards of benefits, denials or appeals to the Authority Personnel Office and keep them advised as to the status of claims for benefits.

### ***EMPLOYMENT STATUS UPON DISABILITY APPROVAL***

A claimant's employment by the Authority shall be terminated upon receipt of notice that a claim has been approved, unless such employment has otherwise terminated earlier. Upon such termination the employee shall no longer be on leave status and payment for balances of accrued annual and sick leave shall be paid in accordance with the rules for all terminated employees as set forth in the "Employee Leave Rules". Subsequent employment of the claimant by the Authority is subject to position availability, the ability of the claimant to meet all qualification requirements for any position applied for and personnel policies and procedures in effect at the time of any such application. During the first two years of disability, the Authority may, at its discretion, hold the claimant's position when the claimant is expected to be able to return to the same position.

The time during which a claimant receives disability payments under this plan, shall be counted as creditable service for retirement calculations (as stipulated in the Authority Retirement Plan) as long as the member has not withdrawn accumulated contributions from the Retirement Plan. Such credit will be granted only if the claimant has completed five years of service and is vested in the Retirement Plan.

Claimants covered by any of the Authority's group insurance policies at the time of disability approval are treated as follows:

#### **Life Insurance**

Claimants receiving disability payments may continue individual and family life insurance protection by paying the employee share of the premium.

## Health Insurance

The Authority will continue the claimant's and any dependent group health insurance enrollment as long as the claimant continues to pay the employee portion of all health insurance premiums.

### ***ADMINISTRATION OF PLAN***

The administration of this plan, including the financing of benefits and withholding of applicable payroll taxes, shall be in a manner determined by the Authority.

The Authority may amend the plan in any manner and at any time; provided, however, that the disability benefit being paid to any member shall not be reduced except as otherwise provided herein.