

# Q&As:

## *Answers to Commonly Asked Questions About the Virginia Sickness and Disability Program*

*Q.* Why was the program developed?

*A.* In 1993 the General Assembly's Workforce Commission hired a consulting firm to assess state employees' benefits. Benefits were found to be excellent, but one major gap was identified--the lack of short and long-term disability coverage. The new Virginia Sickness and Disability Program (VSDP) provides income protection for absences due to sickness or disability from the first day on the job, closing the gap that currently exists.

*Q.* Why is lack of short term and long term disability coverage a problem?

*A.* Reports from the Department of Personnel & Training reveal many employees carry low leave balances that are insufficient to cover absences due to extended illness or injury. Those who are out for an extended time and do not qualify for VRS disability retirement, which requires that the disability be permanent, can be left with no income. Statistics indicate that between age 35 and 65, 30% of Americans will experience an extended period of sickness or disability.

*Q.* Does the disability have to be permanent in order to be covered under the VSDP?

*A.* No. The new plan provides income protection if you are partially disabled or temporarily unable to perform the duties of your job until you can go back to work.

*Q.* When will the new Sickness & Disability Program take effect?

*A.* The new program takes effect January 1, 1999. Current employees must enroll between January 1 and March 31, 1999.

*Q.* Who is covered?

*A.* All full-time, classified state employees, including state police officers, hired on or after January 1, 1999 will be covered as long as they are also covered for VRS benefits. Part-time classified employees who work at least 20 hours a week on a salaried basis will also be covered. Coverage will be effective from the first day on the job. Judges are not covered under the new program.

Current employees are also eligible for coverage under the Virginia Sickness & Disability Program; however, they must enroll during a special Open Enrollment period that begins January 1 and ends on March 31, 1999. The decision to enroll is irrevocable; no additional enrollment is planned.

*Q.* Are wage and hourly employees eligible for the program?

*A.* No, only those employees who are part-time classified employees work at least 20 hours per week are eligible for the program.

*Q.* Are college and university faculty members covered under this program?

*A.* Any eligible employee who is employed by an institution of higher education in a faculty position performing teaching, research or administrative duties and who is an active member of VRS may elect to participate in the current sick leave and disability retirement program; the VSDP or an existing program provided by the institution during the special open enrollment period. Eligible faculty members who start work on or after January 1, 1999, must make an irrevocable decision within 90 days from the date of employment to participate in this program (the VSDP) or the program provided by the institution. Participants in the Optional Retirement Program are not eligible.

*Q.* What happens if current employees do not enroll in the new program?

*A.* Current employees who do not enroll in the Virginia Sickness and Disability Program remain under the current sick leave and disability retirement program and are ineligible to enroll in the plan for the remainder of their period of continuous state employment.

*Q.* Are employees with pre-existing conditions eligible?

*A.* Yes.

*Q.* How does the amount of sick leave provided under this program compare with the current plan?

*A.* Currently, full-time employees receive five hours of sick leave per pay period (15 days a year), regardless of years of service, provided they are not on “leave without pay” status. Unused sick leave is carried over to the next year, with no limit on accrual. Under the new program, on the effective date of participation, and on each January 10 thereafter, current full-time employees would receive from 8-10 days of sick leave annually, depending on the number of months service credit they have, as follows:

Months of State Service	Number of Hours
Fewer than 60	64 (8 work days)
60-119	72 (9 work days)
120 or more	80 (10 work days)

Current part-time employees who work at least 20 hours a week on a salaried basis are eligible for up to five days of sick leave annually, depending on the number of months service credit they have, as follows:

Months of State Service	Number of Hours
Fewer than 120	32 (4 work days)
120 or more	40 (5 work days)

Sick leave can be used throughout the year, but may not be carried over to the next year; nor can an employee be paid for the unused leave upon termination of employment.

*Q.* What else is new?

*A.* In addition to personal sick leave, current full-time and eligible part-time classified employees will also receive up to five days of a new leave category, “family and personal leave.” The amount of leave received would depend on the number of months service credit they have, as follows:

Months of State Service	Number of Hours
Fewer than 120	32 (4 work days)
120 or more	40 (5 work days)

The new Sickness & Disability Program provides a total of 12-15 days of sick leave and family & personal leave each year, depending on state service. Unused leave may not be carried forward from one year to the next; nor may the employee be paid for the unused leave upon termination of employment.

*Q.* What about new employees hired after January 1, 1999?

*A.* Employees hired on a **full-time** basis on or after January 1, 1999 will receive an annual allotment of personal sick leave based on their first date of employment, as follows:

Date of Employment	Number of Hours
January 1 - June 30	64 (8 work days)
July 1 - December 31	40 (5 work days)

**Part-time** classified employees hired on or after January 1, 1999 who work at least 20 hours a week on a salaried basis will be eligible for an annual amount of personal sick leave based on their first date of employment, as follows:

Date of Employment	Number of Hours
January 1 - June 30	32 (4 work days)
July 1 - December 31	20 (2 _ work days)

Full-time and eligible part-time employees hired on or after January 1, 1999 will also be eligible for family and personal leave based on their first date of employment, as follows:

Date of Employment	Number of Hours
January 1 - June 30	32 (4 work days)
July 1 - December 31	16 (2 work days)

Unused family and personal Leave may not be carried forward from one year to the next; nor may the employee be paid for the unused leave upon termination of employment.

*Q.* How can family and personal leave be used?

*A.* This new leave category may be taken for short-term absences due to family illness or for care of a family member. It may also be taken for any other permitted purpose, provided reasonable notice is given to the supervisor and the absence does not impede the ability of the agency to perform essential services.

*Q.* If current employees switch to the new program, how will their sick leave accumulated under the present system be credited?

*A.* Current employees enrolling in the new program will have two options:

**1. Convert their present sick leave balances to additional VRS service credit.**

Accumulated sick leave balances may be converted to additional VRS service credit on the basis of one month of VRS service credit for each 173 hours of sick leave. The number of months that may be credited is rounded up to the next highest month. For example, a member with 200 hours of sick leave is eligible for two months of VRS service credit. Members with fewer than 173 hours of sick leave would receive one month of service credit. No contributions are required from the employer to fund the cost of conversion to VRS service credit. The employee's VRS member record will be credited with the appropriate service credit amount. If an employee who converted sick leave to VRS service credit terminates and refunds, this service credit remains available for them should he/she return to covered employment. No contributions, however, are available for refund as a result of the conversion of sick leave to VRS service credit.

**2. Conversion of sick leave to disability credit.** Sick leave can be converted to disability credit at a rate of one hour of sick leave equaling one disability credit. Disability credit may only be used to extend the number of days of income replacement at 100% during periods of short and long-term disability.

*Q.* How are credits used to extend days at 100% of income replacement?

*A.* During short-term disability the employee may elect to use the credits, however the balance of credits must be used during long-term disability. Credits are used at a rate of 8 disability credits for each day of income replacement at 100%.

*Example:* An employee with 20 years of service who goes on short-term disability is eligible for 25 days of income replacement at 100 percent, after which the benefit reduces to 80 percent for 75 days, and 60 percent for 25 days. If the employee has 640 hours (80 days) of accumulated sick leave and converts it to disability credit, he gains 80 additional days at 100 percent income replacement, for a total of 105 days. If disability credits are applied starting as of the 26<sup>th</sup> day of short-term disability, the person in this example would substitute 75 work days at 100 percent for the 75 work days at 80 percent income replacement, and 5 work days at 100 percent for the first 5 days paid at 60 percent, leaving 20 work days remaining in short-term disability to be paid at 60 percent.

Disability credits may not be used for any purpose other than substituting days of 100% income replacement for days at less than 100% income replacement; for instance, such as applying the credits toward the 7 calendar day waiting period. The use of disability credits also does not increase the duration of the period that an employee receives short term disability benefits.

Unused sick leave converted to disability credit and not used will be refunded upon retirement or termination of employment according to current policy on pay for unused sick leave.

*Q.* When does short-term disability coverage begin under the new program?

*A.* Short-term disability benefits for participating employees will begin following a seven calendar-day waiting period. Sick leave, Family and Personal Leave or annual leave may be used during the waiting period.

*Q.* What income replacement is provided?

*A.* After the seven calendar day waiting period, short-term disability coverage provides income replacement of 60 to 100 percent for up to a maximum of 125 work days, according to length of service and whether or not the employee has any disability credits available, as follows:

Months of State Service	Work Days of Income at 100%	Work Days of Income at 80%	Work Days of Income at 60%
Fewer than 60	5	20	100
60-119	25	25	75
120-179	25	50	50
180 or more	25	75	25

Maternity leave and periodic absences due to a major chronic condition, as defined by the VRS Board or its designee, are covered.

If the disability is due to a work-related injury under the Virginia Workers' Compensation Act, the program provides up to 120 work days of supplemental income after the seven calendar day waiting period in addition to any Worker's Compensation received. The level of income replacement during a period of short-term disability compensable under Workers' Compensation is determined by months of service. Any benefits paid under Workers' Compensation or DPT policy are primary. The VSDP short-term disability is secondary. The program supplements the benefit provided under Workers' Compensation if the benefit is less than the minimum guaranteed income replacement amounts under the VSDP. The table below shows the percentage of income replacement for a work-related disability under the VSDP:

Months of State Service	Work Days of Income at 100%	Work Days of Income at 80%	Work Days of Income at 60%
Fewer than 60	65	20	35
60-119	85	25	10
120-179	85	35	0
180 or more	85	35	0

Note: A technical correction to the statute is required to correct the income replacement periods after 60 months of state service to equal 120 work days rather than 125. It was the intent of the legislation to recognize the initial 7 calendar days (5 work days) of paid leave for a work-related injury or illness that an employee receives, as provided under the Department of Personnel and Training's Workers' Compensation policy.

The maximum combined income payable from Workers' Compensation and supplemental short-term disability is 100% of predisability earnings.

*Q.* When does long-term disability coverage begin?

*A.* Long-term disability benefits begin after a 180-calendar day waiting period which commences on the day following the commencement of the disability. ( This is the 125 work days during which short-term disability payments are being received.) Long-term disability benefits provide income replacement of 60 percent of compensation. Long-term disability continues until normal VRS retirement age.

*Q.* Are there any restrictions on income under long-term disability?

*A.* During the first 12 months on disability, an employee's disability benefits and other wages/compensation cannot exceed 100% of the employee's pre-disability creditable compensation. For example, if Employee A's creditable compensation prior to disability was \$2,000/month. Long-term disability will provide a benefit of 60% of creditable compensation, or \$1,200/month. Employee A has additional earnings of \$800/month, making his total income \$2,000. The long-term disability benefit of \$1,200 will continue unreduced for 12 months provided Employee A does not earn more than the \$800/month. After 12 months, he will continue to receive disability benefits; however, the \$800/month in additional earnings will result in the \$1,200/month disability benefit being reduced by 70% of the additional earnings ( $\$800 \times .70 = \$560$ ). Employee A's total monthly income will become \$1,440 ( $\$1,200 + \$800 - \$560$ ). Other income, such as from investments or private disability coverage, is excluded in this determination.

*Q.* What if an employee returns to work after being on short-term disability and then misses work a short time later for the same disability?

*A.* If the employee is at work for fewer than 14 consecutive calendar days (28 consecutive calendar days if the disability is due to a major chronic condition as defined by the VRS Board or its designee), the employee may again be covered as if it were a continuation of the prior disability. If the employee returns to work for 14 or more consecutive calendar days (28 consecutive calendar days if the disability is due to a major chronic condition as

defined by the VRS Board or its designee), a new short-term disability period would begin following another 7 calendar day waiting period. In the case of a major chronic condition, only one waiting period per calendar year is required.

*Q.* If the employee returns to work and then has to go out again on short-term disability, will the time worked count toward the 180-calendar day waiting period required before long-term disability begins?

*A.* If the employee returns to work for fewer than 14 consecutive calendar days, it is considered a continuation of the same disability and the time worked counts toward the 180-calendar day waiting period. However, if the employee works more than 14 consecutive calendar days (28 consecutive calendar days if the cause of the disability is a major chronic condition as defined by the VRS Board or its designee) it is considered a new disability and the time worked does not count toward satisfying the 180-calendar day waiting period for long-term disability.

*Q.* Will employees on long-term disability get cost-of-living increases?

*A.* Cost-of-living adjustments, as provided by the Code of Virginia, will be available to members on long-term disability as they are to VRS retirees.

*Q.* Does the new Sickness & Disability Program provide any protection for families of members who die while on long-term disability?

*A.* Yes. If a VRS covered employee dies while on long-term disability before reaching retirement age, a Death-in-Service benefit is payable. The VRS group life insurance will also be paid.

*Q.* Will VRS continue to provide disability retirement benefits for employees with permanent disabilities?

*A.* Yes, for those who remain within the current program, payments will be made if the disability is determined likely to be permanent by the VRS Medical Board.

*Q.* How will annual leave be affected by this program?

*A.* Annual leave rates and accruals are the same whether the member enrolls in the VSDP or stays in the current program.

*Q.* How will employer-provided health insurance be affected by this program?

*A.* State health insurance coverage continues without interruption during short and long-term disability. The State pays the employer share of the premium while the member is on short-term disability. The employee must pay the full cost of the premium during long-term disability. The maximum health insurance credit not to exceed the cost of individual coverage will be payable during periods of long-term disability.

*Q.* Are the benefits under the VSDP taxable?

*A.* Both short term and long term disability payments are subject to income tax unless the disability is work related. Sick leave payments, regardless of the cause of the leave are subject to income tax.

*Q.* Does an employee receiving payments under the VSDP earn VRS service credit?

*A.* Yes. VRS service credit is earned at the rate of one month for each month the employee is receiving VSDP payments provided the employee is a full-time employee covered under VSDP. Part-time classified employees covered under the program do not earn VRS service credit during periods of disability under VSDP.

*Q.* Does my agency hold my position open while I am receiving benefits under the VSDP?

*A.* While an employee is on short term disability, the position is held open. During long term disability the agency is not required to hold the job open, however, someone who becomes able to return to work will be given preferential treatment in state hiring.

*Q.* If I enroll in the VSDP, convert my sick leave balance to VRS service credit and immediately retire, when can I expect to receive my first retirement payment?

*A.* Due to the time required to process the sick leave conversion both at the employer and at VRS, members should expect a delay of up to 60 days after the date of election in the program. Members may prefile the retirement application by sending an otherwise complete retirement application to VRS with a cover letter indicating that you are planning to add service credit based on sick leave conversion. Retirement payments will be retroactive to the retirement date. The earliest retirement date is February 1, 1999 if the election in VSDP takes place between January 1-9, 1999.

Q. If I enroll in the VSDP when will my coverage begin?

A. The date your coverage begins is determined by the date on which you enroll.

Q. Do benefits under VSDP continue for my life time?

A. No, at age 65 (age 60 for state police officers) benefits cease under VSDP and full-time employees must transition to VRS service retirement. The benefit received in service retirement will be calculated based on the total service earned prior to the disability and during the disability and the average final compensation based on the indexed pre-disability creditable compensation for the individual.

Part-time classified employees drawing long-term disability benefits until age 65 will have the disability benefit cease. Someone in this classification is not eligible for conversion to VRS service retirement at the conclusion of disability payments at age 65.

Q. If a full-time employee begins receiving VSDP benefits after age 60, what is the person's status at age 65 under VSDP?

A. The Age Discrimination in Employment Act (ADEA) requires that an individual who begins drawing disability benefits after age 60 be allowed to continue those benefits for a period of 5 years. After the five year period the full-time employee would be converted to VRS service retirement.

Q. What happens to a part-time classified employee's disability benefits at age 65?

A. A part-time classified employee enrolled in VSDP may receive disability benefits up to age 65. At age 65 benefits under the program cease. A part-time classified employees is not eligible for conversion to VRS service retirement at age 65. If the part-time employee is an inactive vested member of VRS, the person may retire at any time once retirement age is reached. Service retirement benefits, however, will be based on the service and salary at the time the person became an inactive VRS member.

Q. How do the choices available to college faculty differ from those available to college classified employees?

A. Current faculty members who are members of VRS have a choice between VRS disability retirement and the VSDP or the college or university's sponsored plan. Current classified employees have a choice between VRS disability retirement and the VSDP.

Faculty members who are members of the Optional Retirement Plan are not eligible for the VSDP, but may be covered under their college or university's plan. After January 1, 1999, all new faculty members enrolled in VRS and classified employees will have a choice of the VSDP or their college or university's plan. They will not be eligible for VRS' disability retirement plan.

### **Current college & university members and members hired before January 1, 1999**

<b>Status</b>	<b>Choices</b>
Faculty in VRS	<ul style="list-style-type: none"><li>• VRS Disability Retirement, or</li><li>• VSDP, or</li><li>• College or university sponsored plan</li></ul>
ORP Faculty	<ul style="list-style-type: none"><li>• College or university sponsored plan</li></ul>
Classified	<ul style="list-style-type: none"><li>• VRS Disability Retirement, or</li><li>• VSDP</li></ul>

### **College and university personnel hired after January 1, 1999**

<b>Status</b>	<b>Choices</b>
Faculty in VRS	<ul style="list-style-type: none"><li>• VSDP, or</li><li>• College or university sponsored plan</li></ul>
ORP Faculty	<ul style="list-style-type: none"><li>• College or university sponsored plan</li></ul>
Classified	<ul style="list-style-type: none"><li>• VSDP, and</li><li>• College or university sponsored plan</li></ul>

These Q&As are intended to provide a summary of the basic provisions of the new Sickness & Disability Program as governed by Title 51.1., chapter 11, of the Code of Virginia. Details of program design will not be available until later this year.