

### **61.607 Maximum disability benefit -- Determination.**

Notwithstanding any other provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employee's account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employee's final monthly rate of pay. The maximum disability benefit shall be determined by the following formula:

- (1) Add the monthly benefit payable to the disabled employee from the retirement system, using the monthly disability retirement allowance (not optional plan) but excluding dependent children's allowances, if any, to his monthly benefit, if any, from Social Security, even though these payments may not begin for a period of time as required for qualification under the federal Social Security law, excluding spouse or dependent benefits, and his monthly benefit, if any, from workers' compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workers' compensation, to arrive at a projected combined monthly benefit.
- (2) If the projected combined monthly benefit exceeds one hundred percent (100%) of the disabled employee's final rate of pay or his final compensation, whichever is greater, his disability retirement allowance from the retirement system shall be reduced to an amount which would cause his projected combined monthly benefit to equal one hundred percent (100%) of his final rate of pay or his final compensation, whichever is greater; however, the disability retirement allowance shall not be reduced below an amount which would result from a computation of his disability retirement allowance from the retirement system using the disabled employee's actual total service.
- (3) The system may pay estimated benefits to a disabled employee, upon qualification for disability retirement, based on an estimate of his Social Security and workers' compensation benefits until the amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his account corrected retroactive to his effective retirement date.
- (4) Any increase in Social Security benefits or workers' compensation benefits which becomes law, regardless of their effective date, subsequent to the disabled employee's effective retirement date, shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employee's effective retirement date.
- (5) Any disabled recipient whose potential payments from the system were reduced as provided for in this section shall advise the system if his payments under the Federal Social Security Act or Workers' Compensation Act cease at any time subsequent to his effective retirement date. Upon investigation, if the system determines that the disabled recipient continues to be eligible for disability benefits, the system may increase his retirement allowance by adding to his payment an amount equal to the reduction applied upon the effective retirement date in

accordance with subsection (2) of this section.

**Effective:** July 14, 1992

**History:** Amended 1992 Ky. Acts ch. 240, sec. 31, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 349, sec. 20, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 232, sec. 7, effective July 13, 1984. -- Amended 1976 Ky. Acts ch. 321, sec. 40. -  
- Created 1974 Ky. Acts ch. 128, sec. 31.