

**78.5530 Maximum disability benefit -- Determination -- Information to be filed by disability recipient.**

Notwithstanding any other provisions of KRS 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 or monthly average pay. The maximum disability benefit shall be determined by the following formula:

- (1) Add the monthly benefit payable to the disabled employee from the County Employees Retirement System and the Kentucky Retirement Systems, using the monthly disability retirement allowance without any reduction due to the selection of an optional payment plan under KRS 61.635 but excluding dependent children's allowances, if any, to his or her 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 or her 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 or her final compensation, whichever is greater, his or her disability retirement allowance from the County Employees Retirement System and the Kentucky Retirement Systems shall be reduced to an amount which would cause his or her projected combined monthly benefit to equal one hundred percent (100%) of his or her final rate of pay or his or her 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 or her disability retirement allowance from the County Employees Retirement System and the Kentucky Retirement Systems 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 or her 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 or her account corrected retroactive to his or her 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 Authority if his or her payments under the federal Social Security Act or Workers' Compensation Act cease at any time subsequent to his or her 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 or her retirement allowance by adding to his or her payment an amount equal to the reduction applied upon the effective retirement date in accordance with subsection (2) of this section.

- (6) The amount of combined disability benefit payments made to an individual on or after April 1 2021, from the Kentucky Retirement Systems and the County Employees Retirement System shall not be increased as a result of the passage of 2021 Ky. Acts ch. 102.
- (7) Subsequent to his or her effective retirement date, each disability recipient who is still eligible to receive disability payments based upon a total and permanent disability that occurred as a direct result of an act in line of duty as defined in KRS 78.510 or a disablement that occurred as a result of a duty-related injury as defined in KRS 61.621 shall annually file, on a form or via an electronic method established by the Authority, information on whether payments to the recipient have ceased or begun under the federal Social Security Act or Workers' Compensation Act, and the Authority shall make any necessary adjustments as provided by this section.

**Effective:** April 14, 2022

**History:** Amended 2022 Ky. Acts ch. 216, sec. 22, effective April 14, 2022. --  
Created 2021 Ky. Acts ch. 102, sec. 11, effective April 1, 2021.