

Can I Receive Minnesota Workers' Compensation and PERA Duty Disability at the Same Time?

Yes! In most cases, you can receive PERA disability benefits and workers' compensation benefits at the same time.

Police officers, firefighters, corrections officers, and other public employees who receive PERA disability pension benefits are usually also entitled to workers' compensation benefits.

PERA allows a disabled firefighter, police officer, or corrections officer to receive duty disability benefits plus re-employment earnings plus workers' compensation wage loss benefits, up to a total of his or her salary at the time of the disability.

If a firefighter, police officer, corrections officer, or other public employee sustains an injury or a combination of injuries that prevents that person from returning to his or her former career, he or she may be entitled to both workers' compensation benefits and disability pension benefits under the Public Employees' Retirement Association (PERA), the Minneapolis Firefighters Relief Association (MFRA), the Minneapolis Employees Retirement Fund (MERF), the Minnesota State Retirement System (MSRS), and any other local retirement association.

If you're a firefighter, police officer, or corrections officer, and you sustained an injury in the course and scope of your duties that will keep you from returning to your former position for a period of at least a year, you should consider applying for duty disability benefits.

Unfortunately, if you're a member of PERA, MSRS, or any other local or state retirement association, you're probably keenly aware of the fact that these pension funds are woefully under-funded. Because of this issue, in the past few years, the Minnesota legislature has drastically changed the requirements to qualify for duty disability benefits.

In years past, if you had a career-ending work-related injury, you would almost certainly qualify for duty disability benefits under PERA, any of the local relief associations, and under MSRS. Under the most recent law changes, however, you now need to show that your disability *"is the direct result of an injury incurred during, or a disease arising out of, the performance of normal duties or the actual performance of less frequent duties, either of which are specific to protecting the property and personal safety of others and that present inherent dangers that are specific to the positions covered by the public employees police and fire plan."* Minn. Stat. §353.01, Subd. 45 (2009). The requirements for duty disability under the PERA corrections plan, MFRA, MSRS, and other local plans are virtually identical to the requirements under the police and fire plan.

In plain English, what this means is that a disabled police officer, firefighter, or corrections officer must now prove not only that the injury occurred in the line of duty, but that the injury occurred during the performance of duties that involve protecting

property or safety, and that are inherently dangerous. What does that mean? In all honesty, no one is entirely certain. This version of the law hasn't been around long enough for any cases to make their way through Minnesota's higher courts.

What we can say is that in reviewing duty disability applications, PERA and MSRS are taking a very strict reading of the statute, which basically means that they are frequently denying applicants who are injured performing duties that are not "hazardous" enough. Obviously, if you are shot by a suspect, or burned in a fire, those are hazardous duties. And, slipping and falling on a patch of ice on the way into work is probably not hazardous enough. But there's a lot of room between those two extremes.

Here are some examples of police officers, firefighters, and corrections officers we've assisted with applications and appeals for PERA and MSRS duty disability benefits:

- A corrections officer suffered a torn rotator cuff in her shoulder while hanging up an evidence bag doing intake of an inmate. She was initially denied duty disability benefits. We appealed, and PERA reversed its decision and awarded her duty disability benefits.
- A firefighter injured a disc in her low back while lifting a heavy patient on a stretcher. She returned to work, but re-injured her back when she fell off a fire truck while doing inventory. PERA initially denied her application for duty disability benefits, but reversed its decision when we appealed and awarded her duty disability benefits.
- MSRS denied duty disability benefits to a corrections officer who developed Post-Traumatic Stress Disorder (PTSD) after witnessing a traumatic incident involving prisoners. We appealed, and MSRS reversed its decision and awarded her duty disability benefits.
- A firefighter suffered several knee injuries over the years, the last of which was sustained while he was carrying heavy fans around at the scene of a fire. We completed his application for benefits, and PERA awarded him duty disability benefits.

So why does it matter? Under PERA, MSRS, and other relief associations, the rate of pay for duty disability benefits is significantly higher than "regular" disability benefits. Over the course of several years, this can add up to tens or hundreds of thousands of dollars. In addition, people who are awarded duty disability benefits under PERA, MSRS, or a local plan are entitled to continuation of healthcare coverage, which means your employer continues to pay their share of your healthcare premiums. That's a huge financial benefit!

At [Meuser & Associates](#), we believe that the vast majority of duties performed by police officers, firefighters, and corrections officers are hazardous, and we've successfully represented a number of police officers, firefighters, and corrections officers in both their

workers' compensation cases and for PERA and MSRS duty disability applications and appeals.

It is important that your workers' compensation lawyer is familiar with the duty disability laws under PERA, MSRS, and other local retirement associations, otherwise, you could be leaving thousands of dollars in benefits on the table.

When we meet with a new client who is a firefighter, police officer, or corrections officer, we evaluate not only their workers' compensation case, but we also evaluate any potential claims for PERA or MSRS disability benefits. We will give you an honest assessment on the likelihood of succeeding both on your claim for workers' compensation benefits and your claim for disability benefits.

At [Meuser & Associates](#), when we evaluate your claim for duty disability benefits, we always give you the option of preparing the application on your own. We're happy to provide you with guidance to give you the best chance of succeeding on your application, while allowing you to complete it on your own. Alternatively, we can prepare your application and all necessary documentation for you. If you've been denied, we can also assist you with an appeal. If you applied on your own and received notice that your application for duty disability benefits was denied, **you need to act fast!** There's a very limited time within which to complete an appeal.

[Meuser & Associates, P.A.](#) provides assistance with disability pension benefits on an hourly fee basis. For a **FREE** consultation, [click here to send us an email](#), or call us at 877-746-568 to speak with attorneys Ron or Jen.

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