

Chief Executive Office Risk Management Return To Work Unit



Medical Separation Procedures

Topics Covered

- **Overview**
- **Authority**
 - ◆ Rule 9.07
 - ◆ Rule 9.08
- **Medical Separation: Non-Contributory Plan Members**
- **Disability Retirement: Contributory Plan Members**
- **Medical Separation: Contributory Plan Members**
- **Sample Letters**

Rule 9.07

(Medical Reevaluation)

- The director of personnel may require a medical re-evaluation.
- An employee may request one.
- **OR**, a department, with the consent of the director of personnel, may require a medical re-evaluation.
- If the condition is work-related, the medical re-evaluation must be based on the medical evidence used by the WCAB.

Rule 9.08

(Partially or fully incapacitated employees)

- Is utilized when medical re-evaluation or other competent medical or legal evidence indicates employee is unable to return to their Usual & Customary Job.
- Interactive is conducted, and it is determined that employee is unable to be accommodated.
- Medical Separation vs. Disability Retirement

**Medical Separation for
Employees in a
Non-Contributory Plan
(Plan E)**

Medical Separation for Employees in a Non-Contributory Plan

- Review Civil Service Rule (CSR) 9.08 at:

<http://civilservice.lacountycommissions.info/>

- Engage employee in interactive process.
- Verify the employee is ineligible for LACERA disability retirement.
- Verify employee has been approved by Sedgwick CMS for LTD benefits to age 65.

Medical Separation for Employees in a Non-Contributory Plan Cont...

- Submit written request to:

CEO Risk Management Branch

Attn: Steve Robles, Assistant Chief Executive Officer

- Upon approval from CEO Risk Management Branch, provide written notification to the employee of the Department's intent to Medically Release.

Medical Separation for Employees in a Non-Contributory Plan Cont...

- Consult departmental advocacy/performance management staff. The notice must specify:
 - ◆ Effective date of the proposed release
 - ◆ Facts justifying the release
 - ◆ Timeframe within which the employee may respond orally or in writing

Medical Separation for Employees in a Non-Contributory Plan Cont...

- Provide written notification to the employee of their release from County service (see sample letter). The notice must state:
 - ◆ Release is without prejudice (the employee is eligible for rehire if their condition improves).
 - ◆ Employee has the right to appeal to the Civil Service Commission within 15 business days of notice service.

Medical Separation for Employees in a Non-Contributory Plan Cont...

- The Department's Human Resources Division will request that check be issued to the employee from the Auditor-Controller for any accumulated benefits.

NOTE:

- ◆ If the employee has an open workers' compensation claim, notify the Third-Party Administrator of the employee's release from service.
- ◆ If the Civil Service Commission overturns the release, you may need to reinstate the employee.

**Request to Approve
Medical Release – to CEO
(Sample Letter)**

REQUEST TO APPROVE MEDICAL RELEASE

Sample Letter

[Department Letterhead]

[Date]

Mr. Steven T. Robles
Chief Executive Office
3333 Wilshire Boulevard, Suite 820
Los Angeles, CA 90010

Dear Mr. Robles:

**MEDICAL RELEASE OF [EMPLOYEE'S NAME]
EMPLOYEE NUMBER:**

This is to request approval to medically separate [Employee Name] from County service. The following is a summary of the facts:

- [Employee's Name]'s condition meets Social Security Disability criteria per Sedgwick letter dated [Date], (Attachment).
- [Employee's Name] is in Retirement Plan E.
- [Employee's Name] has been on medical leave from work since [Date].
- Our department has recently attempted to interact with employee, per certified letter [Date], and employee has indicated no interest in meeting/accommodation.
- [Employee's Name]'s treating physician has indicated that he/she will probably never be able to return to gainful employment.

If you have any questions, please contact [Dept. RTW Contact Name and Section], at [Phone number].

Very truly yours,

[Dept. Head Name]
[Title]

[Chief Name], Chief
[Section]

[Code]

c: [HR contact name]
Employee Disability File

**Notice of Intent to
Medically Separate
(Sample Letter)**

NOTICE OF INTENT TO MEDICALLY SEPARATE

Sample Letter

[Department Letterhead]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

CONFIDENTIAL

(Date)

(Employee Name)
(Address)

NOTICE OF INTENT TO MEDICALLY RELEASE

Dear Ms./Mr. (Name):

This letter is to notify you of our intent to medically release you from your permanent position of (Position Title) with (Department Name) and from County service.

The reasons for the proposed action are:

- Medical Release without prejudice, under Civil Service rule 9.08

FACTS

The specific facts supporting this proposed action are:

1. Our records indicate that you have been off work due to your disability since (Date).
2. There is no suitable position in which you can perform satisfactorily.
3. In a letter dated (Date), the County of Los Angeles Risk Management Branch of the Chief Executive Office (CEO) concurred that your release is appropriate under provision of Civil Service Rule 9.08 (Exhibit A) based on the following:
 - It has been determined that you meet the Federal Social Security criteria for total disability per the Sedgwick, CMS, letter dated (Date) (Exhibit B).
 - You have been receiving Long Term disability (LTD) and will continue receiving this benefit until age 65, as long as you continue to meet the plan requirements.
 - As a member of Retirement Plan E, you are ineligible for service-connected disability retirement (SCDR), but will receive service credit until age 65 as long as you are totally disabled and receiving LTD benefits.

CONCLUSION

In view of your incapacity to work and the (Date) letter of concurrence from the County of Los Angeles Risk Management Branch of the CEO, the Department intends to medically release you from your position without prejudice.

As a member of Retirement Plan E, you are ineligible for service-connected disability retirement. You may contact (Name) with Sedgwick, CMS, at (555) 555-5555 or (888) 888-8888 regarding your eligibility for LTD.

RIGHT TO RESPOND

All written materials, reports, and documents upon which this action is based are available for your review. If you wish to see them or obtain copies, please contact (Name), (Title) at (555)555-5555.

You have the right to respond to this action, either orally, in writing, or both. If you choose to respond in writing, send your response to the facts contained in this letter to (Name), Deputy Director (Department Name) (Address). If you wish to respond personally, you and your representative, if you choose to be represented, may schedule a meeting with (Name of last person above). For an appointment, call (Name of person above) secretary at (555) 555-5555.

If you do not respond to this letter in writing by (Date) or arrange to meet with (Name of above person), you will have waived your right to respond and the Department will proceed with the proposed action.

If you have any questions, please contact [Dept. RTW Contact Name and Section], at (555) 555-5555.

Sincerely,

[Dept. Head Name]
[Title]

[Chief Name], Chief
[Section]

c: [HR contact name]
Employee Disability File

**Notice of Medical Release
from Service
(Sample letter)**

NOTICE OF MEDICAL RELEASE

Sample Letter

Department Letterhead

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

CONFIDENTIAL

(Date)

(Employee Name)
(Address)

Dear Ms./Mr. (Name):

NOTICE OF MEDICAL RELEASE FROM SERVICE

This is to notify you of your medical release, effective (Date), from your permanent position of (Position Title) with (Department Name) and from County service.

The reasons for the action are:

- Medical Release without prejudice, under Civil Service rule 9.08

FACTS

The specific facts supporting this proposed action are:

1. Our records indicate that you have been off work due to your disability since (Date).
2. There is no suitable position in which you can perform satisfactorily.
3. In a letter dated (Date), the County of Los Angeles Risk Management Branch of the Chief Executive Office (CEO) concurred that your release is appropriate under provision of Civil Service Rule 9.08 (Exhibit A) based on the following:
 - It has been determined that you meet the Federal Social Security criteria for total disability per the Sedgwick, CMS, letter dated (Date) (Exhibit B).
 - You have been receiving Long Term disability (LTD) and will continue receiving this benefit until age 65, as long as you continue to meet the plan requirements.
 - As a member of Retirement Plan E, you are ineligible for service-connected disability retirement (SCDR), but will receive service credit until age 65 as long as you are totally disabled and receiving LTD benefits.

4. On (date), we informed you of our intent to medically release you, of the specific grounds for the release, and of your right to obtain copies of the materials upon which this action is based. We also informed you of your right to respond to the proposed medical release by (Date).

5. On (Date), at (time), you met with me and (Name), (Title) (Discipline or other Section Name that handles your department separation process), in the Skelly meeting for this matter. During the meeting, you expressed concern regarding LTD and Retirement Allowance after the medical release. I recommended that you schedule an appointment with LACERA to discuss options for retirement and medical insurance coverage.

CONCLUSION

In view of your incapacity to work and the (Date), letter of concurrence from the County of Los Angeles Risk Management Branch of the Chief Executive Office, the Department is medically releasing you from your position without prejudice.

EMPLOYEE RIGHTS

Civil Service Rules give you the right to appeal this action and request a hearing before the Los Angeles County Civil Service Commission within fifteen (15) business days from the date on which this letter was mailed or hand-delivered to you. Your request for a hearing must be in writing, signed by you or your representative, and state the ruling or action you are appealing. In your letter, you must provide your mailing address and describe in plain language, and in detail, sufficient specific facts and reasons upon which you base your appeal.

Your written response and request for a hearing must be sent to the Los Angeles County Civil Service Commission, 522 Kenneth Hahn Hall of Administration, 222 North Grand Avenue, Los Angeles, CA 90012. A copy should also be sent to (Department Contact Name, Title and address).

Very truly yours,

(Department Head Name)
[Title]

[Manager Name], Manager
[Section]

c: [HR contact name]
Employee Disability File

Contributory Plan members Eligible for Disability Retirement

Eligibility Criteria

- ◆ Service Connected Disability (work related)
- ◆ Non-Service Connected Disability: After a minimum of 5 years employment
- ◆ Transfers from Plan E to Contributory Plan: Eligible after two years minimum, active service

NOTE: If employee is eligible to apply, you cannot medically separate. Either EE or department can apply for Disability Retirement (CGC) Section 31721.

Contributory Plan members Eligible for Disability Retirement Cont...

➤ If Disability Retirement is Denied; LACERA finds employee is not disabled, employer is obligated to return them to suitable work

◆ CGC Section 31725 as amended in 1970

◆ Gladys McGriff Vs. County of Los Angeles (1973)

If employee is not disabled, but refuses to return to suitable work, they should be released for cause.

Begin Skelly Process for Cause

**Contributory Plan Member;
not eligible for Disability Retirement**

**Proceed with Medical Release procedures
as indicated for Non-Contributory
Plan members.**

Medical Separation for Contributory Plan Employees

Medical Separation for Contributory Plan Employees

- Medical release for a member of a contributory retirement plan (Plans A through D and G) only if:
 - ◆ The department has clear and undisputed medical evidence that the employee is permanently unable to perform the essential duties of their job; AND
 - ◆ The department has complied with Civil Service Rule 9.08 and has clear, convincing, and complete documentation that there is no suitable, alternative or modified work available that can be provided for the employee on a permanent basis; AND

Medical Separation for Contributory Plan Employees Cont...

- ◆ The department has filed an application for disability retirement on behalf of the employee because the employee is unwilling or unable to file such application; AND
- ◆ The department has received written notice from the Retirement Board that no decision on the retirement application can be made because the employee has refused to complete the required steps of the disability retirement process.

Medical Separation for Contributory Plan Employees Cont...

- If all the above items are present, the department should request concurrence from the CEO Risk Management Branch that medical release is the only appropriate, remaining alternative.

Medical Separation for Contributory Plan Employees Cont...

- When written concurrence is received, the department may proceed with the medical release in accordance with Rule 9.08 paragraph C. The following elements form the basis of the separation:
 - ◆ There is clear medical information that the employee is medically precluded on a permanent basis from performing the essential duties of their job.
 - ◆ No suitable alternative or modified permanent work is available.

Medical Separation for Contributory Plan Employees Cont...

- The department filed an application for disability retirement on the employee's behalf in compliance with the County Retirement Act.
- The Retirement Board has notified the department that because of the employee's refusal to cooperate in the required disability retirement process, the process has been suspended and no decision can be made on the retirement application.

QUESTIONS???

