



SICK LEAVE

Directive 4-103

Date of Revision: February, 2016 Amends/Cancel: 4-103 Oct. 2015

I. PURPOSE

The purpose of this Directive is to establish written policy governing sick leave.

II. POLICY

The Department of General Services Maryland Capitol Police (MCP) believes the State's provision of paid sick leave is a valuable benefit to the employee and the Department. It enables an employee to maintain a constant income when they are temporarily prevented from working due to a serious health condition. It also allows MCP to continue the employment of its most essential resource – competent, trained and dedicated employees.

An unmonitored program of paid sick leave, however, can lead to abuse. Abuse could eventually result in a significant reduction or elimination of the benefit, which could harm both the employee and MCP. The Department, therefore, supports a policy to prevent the abuse or potential abuse of sick leave.

III PROCEDURES

A. RESPONSIBILITY

Sick leave is the responsibility of the employee and MCP supervisory personnel at every level.

1. Excessive/abuse of sick leave is strictly monitored, therefore careful consideration should be given to special problems the employees may be experiencing that may cause sick leave usage to be excessive.
2. Absenteeism rests with the first-line supervisor.
3. This program has been developed to assist all levels of management in the monitoring of sick leave usage

B. ELIGIBILITY

In accordance with State law, employees are entitled to sick leave with pay:

1. for illness or disability of the employee;

2. for death, illness, or disability of a member of the employee's immediate family;
3. following the birth of the employee's child;
4. when a child is placed with the employee for adoption; or
5. for a medical appointment of the employee or a member of the employee's immediate family.

"Immediate family" is defined as:

- a. the employee's spouse,
- b. the employee's children including foster and stepchildren,
- c. parents, stepparents, or foster parents of the employee or spouse, or others who took the place of parents,
- d. legal guardians of the employee or spouse,
- e. brothers and sisters of the employee or spouse,
- f. grandparents and grandchildren of the employee or spouse, and
- g. other relatives living as members of the employee's household.

C. REQUIRED NOTIFICATION

1. Should an employee be absent from work due to a serious health condition, the employee must personally notify their immediate supervisor, or the on duty shift supervisor of their assigned Detachment, that the employee will be absent and the probable date of their return to work. Such notice must be made at least one hour before the start of their scheduled shift.
2. If the employee does not know how long he or she may be absent, the supervisor or the on duty shift supervisor of their assigned Detachment, must be notified each day of the continued absence within the time frames described above.
3. When it is not possible for the employee to personally contact the supervisor due to extreme emergency circumstances someone else may call on their behalf.

D. SICK LEAVE OCCURRENCES AND EXCEPTIONS

Except as indicated below, any use of sick leave for an illness or disability of the employee or a member of the employee's immediate family for which the employee does not submit an original certificate of illness or disability will be considered an occurrence. Sick leave that will not count as an occurrence is as follows:

1. Leave that qualifies under the Family Medical Leave Act (FMLA), which includes, but is not limited to, sick leave used after birth or adoption of the employee's child. Further information on FMLA may be found in MCP Directive 4-105.
2. Leave taken by an employee when the employee works less than the employee's full workday due to having to provide care to the employee's child or a member of the employee's immediate family.
3. Leave used for the death of an immediate family member or relative of the employee or spouse.

4. Leave for which an employee submits an original certificate of illness or disability.
5. Leave taken for chronic or recurring illnesses which has been approved for intermittent FMLA.

E. REQUIRED DOCUMENTATION FOR ABSENCES FOR FIVE OR MORE CONSECUTIVE DAYS

1. State law provides that an employee may not be paid for any absence due to personal illness of five or more consecutive workdays unless the employee provides the supervisor with an **original medical certificate, signed** by a licensed health care provider. The documentation must include the period of absence, verify the employee is unable to work and provide an expected date of return to work. A statement documenting the period of absence is required, e.g., “John Doe has been under my care and has been unable to work from _____ to _____.” This documentation will also be required for an absence of five or more consecutive workdays for the illness of an immediate family member.
2. Acceptable medical documentation will consist of either:
 - a. an original Form 175 signed by an authorized health care provider; or
 - b. another form of an original certificate of illness or disability in lieu of the Form 175 that is signed by an authorized health care provider and authenticates the employee’s or the employee’s immediate family member’s illness or disability and the absence from the workplace.
 - c. This form must also include a prognosis about the employee’s ability to return to work.
 - d. Photocopies will not be accepted.
3. The certificate required by this section shall be signed by one of the following:
 - a. A medical doctor who is authorized to practice medicine or surgery by the state in which the doctor practices.
 - b. If authorized to practice in a state and performing within the scope of that authority:
 - 1) a chiropractor;
 - 2) a clinical psychologist;
 - 3) a dentist;
 - 4) a licensed certified social worker – clinical;
 - 5) a nurse midwife;
 - 6) a nurse practitioner;
 - 7) an oral surgeon;
 - 8) an optometrist;
 - 9) a physical therapist;
 - 10) a podiatrist;
 - 11) an accredited Christian Science practitioner; or
 - 12) a health care provider as defined by the federal Family Medical Leave Act.

D. DOCUMENTATION FOR ILLNESSES OF LESS THAN 5 CONSECUTIVE WORK DAYS

1. A certificate from a health care provider that the employee (or member of the employee's immediate family) visited the office and/or the employee was unavailable for duty for the reasons specified in section A on the day or dates of absence.
2. For absences of **four (4) hours** or less, at the employee's option, he or she may submit a copy of the universal health insurance claim form or similar document from the health care provider's office showing the name of the provider, the date of treatment and address and telephone number of the provider.
3. An employee who works less than his/her full work day due to having to provide care to the employee's child or member of his/her immediate family shall not be required to provide medical certification unless management has a basis to believe sick leave is being used for a purpose other than described in paragraph B above. Sick leave use in such circumstances shall not be counted as an occurrence.

E. DOCUMENTATION SUBMISSION

1. The original certificate of illness or disability must be submitted to the employee's supervisor by the end of the pay period in which the sick leave occurs.
2. For occurrences of five or more days, the certificate of illness or disability must be submitted by the end of the pay period in which the 5th consecutive workday of sick leave occurs, and then every 30 calendar days thereafter or until the employee returns to work.
3. The employee's supervisor will review and approve the original certificate of illness or disability and then immediately forward it to the Headquarters.
3. For an absence of 60 or more calendar days due to the employee's own illness or disability, the employee may be required to be examined by the State Medical Director to obtain clearance to return to work.

F. REQUIRED CERTIFICATE OF ILLNESS FOR ABSENCES OF LESS THAN FIVE CONSECUTIVE DAYS

MCP may require employee's to submit documentation of sick leave use on the following conditions:

1. When an employee has a consistent pattern of maintaining a zero or near zero sick leave balance without documentation of the need for such relatively high utilization; or
2. When an employee has six occurrences of undocumented sick leave within a twelve month period, they will be placed on the one-day sick certificate requirement. Beginning with the date the employee is placed on a one-day sick certificate requirement and for six (6) months thereafter, the employee must provide an original certificate of illness or disability for any absence due to illness or disability of

the employee or the employee's family member.

3. After the first instance of an employee being absent for more than four (4) consecutive days without documentation, the Employer may place the employee on notice that future absences of more than three (3) days, within a rolling twelve (12) month period, will require documentation.
4. When an illness of one or more days occurs during a period of approved annual or personal leave, sick leave may be granted if the employee submits a certificate of illness.

G. PROCEDURES FOR CERTIFICATION REQUIREMENT

To prevent the abuse of sick leave and to ensure employees and their immediate family members are receiving necessary medical attention, the Agency may place an employee in a special sick leave reporting status:

1. Prior to imposing a requirement on an employee for documentation of sick leave use, the supervisor shall counsel the employee when the employee has five undocumented sick leave occurrences within a period of 12 months or when the employee has a pattern of maintaining a zero or near zero sick leave balance.
2. The supervisor will inform the employee that future undocumented sick leave absences may trigger a requirement for certification of future instances of sick leave.
3. If the employee has another undocumented absence within the 12 month period, the supervisor will place the employee in a special sick leave reporting status for a period of six months. The supervisor will provide the employee with written notice of the one-day sick certificate requirement which states the beginning and ending date of the period for which the medical documentation must be provided.
4. The employee on the special sick leave reporting status must provide an original certificate of illness or disability for each occurrence upon returning to work but in no case later than the end of the pay period in which the absence occurred.
5. At the conclusion of the six months, the certification requirement will be rescinded provided the employee has complied with the certification requirement. If the employee has not complied with the certification requirement, the requirement shall be extended for six months from the date of the lack of compliance with the requirement.

H. CHRONIC CONDITIONS

1. Employees who suffer from chronic or recurring illnesses or disabling conditions that do not require a visit to a health care provider each time the condition is manifested, shall not be required to provide certification for each absence, provided that they have been approved by DGS - Human Resources Division (HRD) for intermittent FMLA.
2. If the employee is out for 5 or more consecutive workdays as a result of the chronic or recurring illness or disabling condition, the employee will furnish an original certificate of illness or disability.

3. Unless the employee has a condition identified as a permanent disabling condition by the State Medical Director, the certification will be updated every six months.

I. BIRTHS AND ADOPTIONS

1. An employee who is responsible for the care and nurturing of a child may use, without a certificate of illness or disability, up to 30 days of accrued sick leave to care for the child during the period immediately following either:
 - a. the birth of the employee's child; or
 - b. the placement of the child with the employee for adoption.
2. If eligible, an employee requesting birth or adoption leave will be designated with Family Medical Leave Act (FMLA) by HRD.
3. If two State employees are responsible for the care and nurturing of a child, both employees in aggregate may use, without a certificate of illness or disability, up to 40 days, not to exceed 30 days for one employee, of accrued sick leave to care for the child during the period immediately following either:
 - a. the birth of the employee's child; or
 - b. the placement of the child with the employee for adoption.
4. The employee will immediately notify their commander and submit a written request for nurturing leave along with proof of birth or copy of adoption documents.
5. The Commander will evaluate the request and submit a recommendation for approval or disapproval along with the request to HRD.

J. EXTENDED SICK LEAVE

1. An employee on a lengthy absence due to illness must submit medical documentation as described above at least once a month (every 20 workdays) unless the documentation first submitted specifically states a return to work date. Such documentation must be received by the supervisor within five workdays of the first day of absence.
2. Whenever an employee is absent for an excessive amount of time, the employees commander, through the Human Resources Division, may refer the employee to the State Medical Director for the purpose of determining whether the employee has a condition which would prevent proper performance of his or her duties. Such a request must be accompanied by a listing of the undocumented absences and an essential duties checklist completed by the employee's physician.
4. In situations where there is also a deterioration of the employee's work performance, a referral to the Employee Assistance Program may be initiated in the same manner. This request must be accompanied by a detailed statement of the observed behaviors which are affecting work performance.

5. The employee's commander may request the Human Resources Division to consult with the State Medical Director of the medical condition of an employee's immediate family member if the use of sick leave for this purpose does not appear to be in proportion of the severity of the family member's illness.

K. PROGRESSIVE DISCIPLINARY ACTIONS

1. MCP may take appropriate progressive disciplinary action against an employee for using sick leave for purposes other than described in law, regulation, this policy, or an applicable Memorandum of Understanding (MOU) for failing to properly notify the employer of the use of sick leave; or the failure to provide appropriate documentation when properly required to do so.
2. MCP may not penalize an employee with regard to scheduling, overtime eligibility, performance evaluations or other right or benefit for sick leave usage, for being subject to a documentation requirement.
3. This does not preclude appropriate disciplinary action for use of sick leave for purposes other than described in Section B.

L. POLICE OFFICERS ON EXTENDED SICK LEAVE

1. Police Officers who are on sick leave for more than 30 consecutive calendar days will have their police powers suspended and must turn in their MCP identification card, 2 issued Badges, MPCTC card, issued firearm, 3 magazines, and issued weapon carrying case.
2. Police Officers who have the potential of being on sick leave for more than 30 consecutive calendar days must turn in their MCP identification card, 2 issued Badges, MPCTC card, issued firearm, 3 magazines, and issued weapon carrying case.
3. Detachment Commanders or their designees will be responsible for collecting the aforementioned equipment and returning it to Special Services Division for storage.