

R477. Human Resource Management, Administration.

R477-7. Leave.

R477-7-1. Conditions of Leave.

- (1) An employee shall be eligible for a leave benefit when:
 - (a) in a position designated by the agency as eligible for benefits; and
 - (b) in a position which normally requires working a minimum of 40 hours per pay period.
- (2) An eligible employee shall accrue annual, sick and holiday leave in proportion to the time paid as determined by DHRM.
- (3) An employee shall use leave in no less than quarter hour increments.
- (4) An employee may not use annual or sick leave before accrued. Leave accrued during a pay period may not be used until the following pay period.
- (5) An employee may not use annual leave, converted sick leave used as annual leave, or use excess or compensatory hours without advance approval by management.
- (6) Management may not require employees to maintain a minimum balance of accrued leave.
- (7) An employee may not use any type of leave except military and jury leave to accrue excess hours.
- (8) An employee transferring from one agency to another is entitled to transfer any accrued annual, sick, and converted sick leave to the new agency.
- (9) An employee separating from state service shall be paid in a lump sum for any annual leave and excess hours. An FLSA non-exempt employee shall also be paid in a lump sum for any compensatory hours.
 - (a) An employee separating from state service for reasons other than retirement shall be paid in a lump sum for any converted sick leave.
 - (b) Converted sick leave for a retiring employee shall be subject to Section R477-7-5.
 - (c) Annual, sick, and holiday leave may not be used or accrued after the last day worked, except for:
 - (i) leave without pay;
 - (ii) administrative leave specifically approved by management to be used after the last day worked;
 - (iii) leave granted under the FMLA; or
 - (iv) leave granted for other medical or pregnancy related reasons that was approved prior to the commencement of the leave period.
- (10) After four months cumulative leave in a 24 month period, an employee may be separated from employment regardless of paid leave status unless prohibited by state or federal law. Decisions to separate the employee shall be made by the agency head in consultation with DHRM.
- (11) Contributions to benefits may not be paid on cashed out leave, other than FICA tax, except as it applies to converted sick leave in Subsection R477-7-5(2) and the retirement benefit in Section R477-7-6.

R477-7-2. Holiday Leave.

- (1) The following dates are paid holidays for eligible employees:
 - (a) New Year's Day -- January 1;
 - (b) Dr. Martin Luther King Jr. Day -- third Monday of January;
 - (c) Washington and Lincoln Day -- third Monday of February;
 - (d) Memorial Day -- last Monday of May;
 - (e) Independence Day -- July 4;
 - (f) Pioneer Day -- July 24;
 - (g) Labor Day -- first Monday of September;
 - (h) Columbus Day -- second Monday of October;
 - (i) Veterans' Day -- November 11;
 - (j) Thanksgiving Day -- fourth Thursday of November;
 - (k) Christmas Day -- December 25; and
 - (l) any other day designated as a paid holiday by the Governor.
- (2) If a holiday falls or is observed on a regularly scheduled day off, an eligible employee shall receive equivalent time off, not to exceed eight hours, or shall accrue excess hours.
 - (a) If a holiday falls on a Sunday, the following Monday shall be observed as a holiday.
 - (b) If a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday.
 - (3) If an employee is required to work on an observed holiday, the employee shall receive appropriate holiday leave, or shall accrue excess hours.
 - (4) A new hire shall be in a paid status on or before the holiday in order to receive holiday leave.
 - (5) A separating employee shall be in a paid status on or after the holiday in order to receive holiday leave.

R477-7-3. Annual Leave.

- (1) An eligible employee shall accrue leave based on the following years of benefits-eligible state service:
 - (a) less than 5 years -- four hours per pay period;
 - (b) at least 5 and less than 10 years -- five hours per pay period;
 - (c) at least 10 and less than 20 years -- six hours per pay period; or
 - (d) 20 years or more -- seven hours per pay period.
- (2) The maximum annual leave accrual rate shall be granted to an employee, effective from the day the employee is appointed through the duration of the appointment under the following conditions:
 - (a) an employee in schedule AB, agency deputy directors, and division directors appointed to career service exempt positions; or
 - (b) an employee who is schedule A, FLSA exempt and who has a direct reporting relationship to an executive director, deputy director, commissioner, or board.
- (3) The accrual rate for an employee rehired to a position which receives leave benefits shall be based on any eligible employment in which the employee accrued leave.
- (4) The first eight hours of annual leave used by an employee in the calendar leave year shall be the employee's personal preference day.
- (5) Agency management shall allow every employee the option to use annual leave each year for at least the amount accrued in the year.
- (6) Unused accrued annual leave time in excess of 320 hours shall be forfeited during year end processing for each calendar year.

R477-7-4. Sick Leave.

- (1) An eligible employee shall accrue sick leave, not to exceed four hours per pay period. Sick leave shall accrue without limit.
- (2) Agency management may approve the use of sick leave for:
 - (a) preventive health and dental care;
 - (b) maternity;
 - (c) paternity;
 - (d) adoption care; or
 - (e) absence from duty because of illness, injury or disability of:
 - (i) the employee;
 - (ii) a spouse;
 - (iii) children;
 - (iv) parents;
 - (v) an individual for whom the employee is a legal guardian; or
 - (vi) a qualifying FMLA purposes.
- (3) Agency management may approve the use of sick leave for other unique medical situations.
- (4) When management approves the use of sick leave, an employee may use any combination of Program I, Program II, and Program III sick leave.
 - (5) An employee shall contact management prior to the beginning of the scheduled workday the employee is absent due to illness or injury.
 - (6) Any application for a grant of sick leave to cover an absence that exceeds three consecutive working days shall be supported by administratively acceptable evidence.
 - (7) If there is reason to believe that an employee is using sick leave for reasons not listed in Subsections (2) and (3), a supervisor may require an employee to produce administratively acceptable evidence regardless of the number of sick hours used.
 - (8) Unless retiring, an employee separating from state employment shall forfeit any unused sick leave without compensation.
 - (a) An employee rehired into a benefited position within one year of separation due to a reduction in force shall have forfeited sick leave reinstated to Program I, Program II, and Program III as accrued prior to the reduction in force.
 - (b) An employee rehired with benefits within one year of separation for reasons other than a reduction in force shall have forfeited sick leave reinstated as Program III sick leave.
 - (c) An employee accepting a benefit eligible position within one year of forfeiting unused sick leave for accepting a non-benefit eligible position shall have their sick leave reinstated as Program III.
 - (d) An employee who retires from state service and is rehired may not reinstate forfeited sick leave.

R477-7-5. Converted Sick Leave.

- (1) An employee may not accrue converted sick leave hours on or after January 3, 2014. Converted sick leave hours accrued before January 3, 2014 can be used for retirement under Subsection R477-7-5(6) or cashed out if the employee leaves employment.
 - (a) Converted sick leave hours accrued prior to January 1, 2006 shall remain Program I converted sick leave hours.
 - (b) Converted sick leave hours accrued after January 1, 2006 shall remain Program II converted sick leave hours.
- (2) An employee may use converted sick leave as annual leave or as regular sick leave.
- (3) When management approves the use of converted sick leave, an employee may use any combination of Program I and Program II converted sick leave.
 - (4) Employees retiring from LTD who have converted sick leave balances still intact may use these hours for the unused converted sick leave retirement program at the time they become eligible for retirement.
 - (5) Upon retirement, 25% of the value of the unused converted sick leave, but not to exceed Internal Revenue Service limitations, shall be placed in the employee's 401(k) account as an employer contribution.
 - (a) Converted sick leave hours from Program II shall be placed in the 401(k) account before hours from Program I.
 - (b) The remainder shall be used for:
 - (i) the purchase of health care insurance and life insurance under Subsection R477-7-6(3)(a) if the converted sick leave was accrued in Program I ; or
 - (ii) a contribution into the employee's PEHP health reimbursement account under Subsection R477-7-6(6)(b) if the converted sick leave was accrued in Program II.
 - (6) Upon retirement, Program I converted sick leave hours may not be suspended or deferred for future use. This includes retired employees who reemploy with the state and choose to suspend their defined benefit payments and employees participating in phased retirement.

R477-7-6. Sick Leave Retirement Benefit.

- Upon retirement from active employment, including when a retirement eligible employee passes away, an employee or surviving spouse shall receive an unused sick leave retirement benefit under Sections 67-19-14.2 and 67-19-14.4.
- (1) An employee in the Tier I retirement system or the Tier II hybrid retirement system shall become eligible for this benefit when actively retiring with Utah Retirement Systems.
 - (2) An employee in the Tier II defined contribution system shall become eligible when terminating employment on or after the retirement date established by the Utah Retirement Systems. This date reflects service time accrued by the employee as if the employee were in the Tier II hybrid retirement system.
 - (3)(a) Sick leave hours accrued prior to January 1, 2006 shall be Program I sick leave hours.
 - (b) Sick leave hours accrued on or after January 1, 2006, but before January 4, 2014, shall be Program II sick leave hours.
 - (c) Sick leave hours accrued on or after January 4, 2014, shall be Program III sick leave hours, which shall have no benefit upon retirement.
 - (4) An agency may offer the Unused Sick Leave Retirement Option Program I to an employee who is eligible to receive retirement benefits. However, any decision whether or not to participate in this program shall be agency wide and shall be consistent through an entire fiscal year.
 - (a) If an agency decides to withdraw for the next fiscal year after initially deciding to participate, the agency shall notify its employees at least 60 days before the new fiscal year begins.
 - (5) An employee in a participating agency shall receive the following benefit provided by the Unused Sick Leave Retirement Options Program I.

(a) 25% of the value of the unused sick leave and converted sick leave, but not to exceed Internal Revenue Service limitations, shall be placed in the employee's 401(k) account as an employer contribution.

(i) Sick leave hours from Program II shall be placed in the 401(k) account before hours from Program I.

(ii) After the 401(k) contribution is made, the remaining Program I sick leave hours and converted sick leave hours from Subsection R477-7-5(5)(b)(i) shall be used to provide the following benefit.

(iii) The purchase of PEHP health insurance, or a state approved program, and life insurance coverage for the employee until the employee reaches the age eligible for Medicare.

(A) Health insurance shall be the same plan carried by the employee at the time of retirement.

(B) The purchase rate shall be eight hours of sick leave or converted sick leave for the state paid portion of one month's premium.

(C) The employee shall pay the same percentage of the premium as a current employee on the same plan. The premium amount shall be determined from the approved PEHP retiree rate and not the active employee rates.

(D) Life insurance provided shall be the minimum authorized coverage provided for state employees at the time the employee retires.

(iv) When the employee becomes eligible for Medicare, a Medicare supplement policy provided by PEHP may be purchased at the rate of eight hours of sick leave or converted sick leave for one month's premium.

(v) When the employee becomes eligible for Medicare, a PEHP health insurance policy, or another state approved policy, may be purchased for a spouse until the spouse is eligible for Medicare.

(A) The purchase rate shall be eight hours of sick leave or converted sick leave for one month's premium.

(B) The employee shall pay the same percentage of the premium as a current employee on the same plan. The premium amount shall be determined from the approved PEHP retiree rate and not the active employee rates.

(vi) When the spouse reaches the age eligible for Medicare, the employee may purchase a Medicare supplement policy provided by PEHP for the spouse at the rate of eight hours of sick leave or converted sick leave for one month's premium.

(vii) In the event an employee is killed in the line of duty, the employee's spouse shall be eligible to use the employee's available sick leave hours for the purchase of additional medical coverage under Section 67-19-14.3.

(b) Employees retiring from LTD who have sick leave balances still intact may use these hours for the unused sick leave retirement program at the time they become eligible for retirement.

(c) Upon retirement, Program I sick leave hours may not be suspended or deferred for future use. This includes retired employees who reemploy with the state and choose to suspend their defined benefit payments and employees participating in phased retirement.

(6) An employee shall receive the following benefit provided by the Unused Sick Leave Retirement Option Program II.

(a) 25% of the value of the unused sick leave and converted sick leave, but not to exceed Internal Revenue Service limitations, shall be placed in the employee's 401(k) account as an employer contribution.

(b) After the 401(k) contribution the remaining sick leave hours and the converted sick leave hours from Subsection R477-7-5(5)(b)(ii) shall be deposited in the employee's PEHP health reimbursement account at the greater of:

(i) the employee's rate of pay at retirement, or

(ii) the average rate of pay of state employees who retired in the same retirement system in the previous calendar year.

(c) A retired employee who is reemployed in a benefited position with the state shall have a benefit calculated on any Program II sick leave hours if:

(i) the employee chooses to suspend pension;

(ii) the employee was separated for one year or more;

(iii) the employee was reemployed before January 2, 2014; and

(iv) the employee must work for two years or more to receive this benefit.

(7) A retired employee who is reemployed in a benefited position with the state after January 3, 2014 shall accrue Program III sick leave, which shall have no benefit upon subsequent retirement.

R477-7-7. Administrative Leave.

(1) Administrative leave may be granted consistent with agency policy for the following reasons:

(a) administrative;

(i) governor approved holiday leave;

(ii) during management decisions that benefit the organization;

(iii) when no work is available due to unavoidable conditions or influences; or

(iv) other reasons consistent with agency policy;

(b) protected;

(i) suspension with pay pending hearing results;

(ii) personnel decision making prior to discipline;

(iii) removal from adverse or hostile work environment situations;

(iv) fitness for duty or employee assistance; or

(v) other reasons consistent with agency policy;

(c) reward in lieu of cash;

(i) the agency head or designee may grant paid administrative leave up to one day per occurrence;

(ii) administrative leave in excess of one day may be granted with written approval by the agency head;

(iii) administrative leave given as a reward in lieu of cash may not exceed 40 hours in a fiscal year;

(iv) administrative leave given as a reward in lieu of cash may be given from one agency to employees of another agency if both agency heads agree in advance; or

(d) employee education assistance.

(2) An employee shall be granted up to two hours of administrative leave to vote in an official election if the employee has fewer than three total hours off the job between the time the polls open and close, and the employee applies for the leave at least 24 hours in advance. Management may specify the hours when the employee may be absent.

(3) Administrative leave shall be given for non-performance based purposes to employees who are on Family and Medical Leave or a military leave of absence if the leave would have been given had the employee been in a working status.

(4) With the exception of administrative leave used as a reward under Subsection R477-7-7(1)(c), only the agency head or designee may grant paid administrative leave.

(5) Administrative leave taken shall be documented in the employee's leave record.

(6) Administrative leave is not an employee right and management may grant it disparately within its workforce depending on agency needs.

R477-7-8. Witness and Jury Leave.

(1) An employee is entitled to a leave of absence from a regularly scheduled work day with full pay when, in obedience to a subpoena or direction by proper authority, the employee is required to:

(a) appear as a witness as part of the employee's position for the federal government, the State of Utah, or a political subdivision of the state;

(b) serve as a witness in a grievance hearing under Section 67-19-31 and Title 67, Chapter 19a, Grievance Procedures; or

(c) serve on a jury.

(2) An employee on jury leave may accrue excess hours in the same pay period during which the jury leave is used.

(3) An employee choosing to use accrued leave while on jury duty shall be entitled to keep juror's fees; otherwise, juror's fees received shall be returned to agency finance or agency payroll staff for deposit with the State Treasurer.

(4) An employee who is absent in order to litigate matters unrelated to state employment shall use eligible accrued leave or leave without pay.

R477-7-9. Bereavement Leave.

An employee may receive a maximum of three work days bereavement leave per occurrence with pay, at management's discretion, following the death of a member of the employee's immediate family. Bereavement leave may not be charged against accrued sick or annual leave.

(1) The immediate family means relatives of the employee or spouse including in-laws, step-relatives, or equivalent relationship as follows:

(a) spouse;

(b) parents;

(c) siblings;

(d) children;

(e) any level of grandparents; or

(f) any level of grandchildren.

(2) Agency management may grant bereavement leave for other unique family relationships.

R477-7-10. Military Leave.

A benefited or non-benefited employee who is a member of the National Guard or Military Reserves and is on official military orders is entitled to paid military leave not to exceed 120 hours each calendar year, including travel time, under Section 39-3-2. Military leave for part-time employees shall be based on a prorated basis that is no more than the average hours worked in the last 12 months, or if employed less than 12 months, the average hours worked since the date of hire.

(1) An employee may use any combination of military leave, accrued leave or leave without pay under Section R477-7-13.

(2) Accrued sick leave may only be used if the reason for leave meets the conditions in Section R477-7-4.

(3) An employee on military leave is eligible for any service awards or non-performance administrative leave the employee would otherwise be eligible to receive.

(4) An employee shall give notice of official military orders as soon as possible.

(5) Upon release from official military orders under honorable conditions, an employee shall be placed in a position in the following order of priority.

(a) If the period of service was for less than 91 days, the employee shall be placed:

(i) in the same position the employee held on the date of the commencement of the service in the uniformed services; or

(ii) in the same position the employee would have held if the continuous employment of the employee had not been interrupted by the service.

(b) If the period of service was for more than 90 days, the employee shall be placed:

(i) in a position of like seniority, status, and salary, of the position the employee held on the date of the commencement of the service in the uniformed services; or

(ii) in a position of like seniority, status, and salary the employee would have held if the continuous employment of the employee had not been interrupted by the service.

(c) When a disability is incurred or aggravated while on official military orders, the employing agency shall adhere to the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301, et seq.

(d) The cumulative length of time allowed for reemployment may not exceed five years. This rule incorporates by reference 20 CFR 1002.103 for the purposes of calculating cumulative time.

(e) An employee is entitled to reemployment rights and benefits including increased pension and leave accrual to which the employee would have been entitled had the employee not been absent due to military service. An employee entering military leave may elect to have payment for annual leave deferred.

(6) In order to be reemployed, an employee shall present evidence of military service, and:

(a) for service less than 31 days, return at the beginning of the next regularly scheduled work period on the first full day after release from service unless impossible or unreasonable through no fault of the employee;

(b) for service of more than 30 days but less than 181 days, submit a request for reemployment within 14 days of release from service, unless impossible or unreasonable through no fault of the employee; or

(c) for service of more than 180 days, submit a request for reemployment within 90 days of release from service.

R477-7-11. Disaster Relief Volunteer Leave.

(1) An employee may be granted leave from work with pay, by the agency head or designee, for an aggregate of 15 working days in any 12-month period to participate in disaster relief services for a non-governmental disaster relief organization. To request this leave an employee shall be a certified disaster relief volunteer and file a written request with the employing agency. The request shall include:

(a) a copy of a written request for the employee's services from an official of the disaster relief organization;

(b) the anticipated duration of the absence;

(c) the type of service the employee is to provide; and

(d) the nature and location of the disaster where the employee's services will be provided.

(2) An employee who is absent from or late to work may not be dismissed if the absence or tardiness was a result of the employee acting as an emergency services volunteer as defined in Section 34-55-102.

(a) Management may request a written statement to verify the employee's status as an emergency services volunteer.

(b) An emergency services volunteer is not entitled to paid leave except as provided in Subsection (1), but may use their own accrued leave or leave without pay.

R477-7-12. Organ Donor Leave.

An employee who serves as a bone marrow or human organ donor shall be granted paid leave for the donation and recovery.

(1) An employee who donates bone marrow shall be granted up to seven days of paid leave.

(2) An employee who donates a human organ shall be granted up to 30 days of paid leave.

R477-7-13. Leave of Absence Without Pay.

(1) An employee shall apply in writing to agency management and be approved before taking a leave of absence without pay.

(2) Leave without pay may be granted only when there is an expectation that the employee will return to work.

(3) A leave of absence may be denied when documentation from one or more qualified healthcare providers clearly establishes that the employee has a permanent condition preventing the employee from returning to the last held regular position unless prohibited by state or federal law.

(4) An employee who receives no compensation for a complete pay period shall be responsible for payment of the full premium of state provided benefits.

(5) An employee who returns to work on or before the expiration of leave without pay shall be placed in a position with comparable pay and seniority to the previously held position.

(6) Upon request, an employee who is granted this leave shall provide a monthly return to work status update to the employee's supervisor.

R477-7-14. Furlough.

Agency management may furlough employees as a means of saving salary costs in lieu of or in addition to a reduction in force. Furlough plans are subject to the approval of the agency head and the following conditions:

(1) Furlough hours shall be counted for purposes of annual, sick, and holiday leave accrual.

(2) Payment of any state paid benefits shall continue at the agency's expense.

(a) Benefits that have fixed costs shall be paid at the full rate regardless of how many days an employee is furloughed.

(b) Benefits that are paid as a percentage of actual wages shall continue to be paid as a percentage of actual wages if the furlough is less than one pay period. Employees who are furloughed for a full pay period shall have no percentage based benefits paid.

(3) An employee who is furloughed shall continue to pay the employee portion of any benefits. Voluntary benefits shall remain entirely at the employee's expense.

(4) An employee shall return to the current position.

(5) Furlough is applied equitably to any person in a given class, program staff, or organization.

R477-7-15. Family and Medical Leave.

(1) An eligible employee is allowed up to 12 workweeks of family and medical leave each calendar year for any of the following reasons:

(a) birth of a child;

(b) adoption of a child;

(c) placement of a foster child;

(d) a serious health condition of the employee;

(e) care of a spouse, child, or parent with a serious medical condition; or

(f) a qualifying exigency arising as a result of a spouse, son, daughter or parent being on active duty or having been notified of an impending call or order to active duty in the Armed Forces.

(2) An employee is allowed up to 26 workweeks of family and medical leave during a 12-month period to care for a spouse, son, daughter, parent or next of kin who is a covered servicemember as defined by the National Defense Authorization Act.

(3) An employee on FMLA leave shall continue to receive the same health insurance benefits the employee was receiving prior to the commencement of FMLA leave provided the employee pays the employee share of the health insurance premium.

(4) An employee on FMLA leave shall receive any administrative leave given for non-performance based reasons if the leave would have been given had the employee been in a working status.

(5) To be eligible for family and medical leave, the employee shall:

(a) be employed by the state for at least 12 months; and

(b) be employed by the state for a minimum of 1,250 hours worked, as determined under FMLA, during the 12-month period immediately preceding the commencement of leave.

(6) To request FMLA leave, the employee or an appropriate spokesperson shall notify management of the need for leave:

(a) thirty days in advance for foreseeable needs; or

(b) as soon as practicable in emergencies.

(7) An employee may use accrued annual leave, sick leave, converted sick leave, excess hours and compensatory time prior to going into leave without pay status for the designated period of family and medical leave.

(a) An employee who chooses to use accrued annual leave, sick leave, converted sick leave, excess hours, and compensatory time prior to going into leave without pay status for the family and medical leave period shall notify the agency.

(b) If an employee fails to notify the agency under this Subsection, accrued leave will be used to pay the employee's payroll deductions in the following order:

(i) Program III sick leave;

(ii)(A) compensatory time;

(B) excess leave; or

(C) annual leave;

(iii)(A) converted sick leave;

- (B) Program II sick leave; or
- (C) Program I sick leave.
- (8) When an employee chooses to use FMLA leave, the employing agency shall designate as FMLA leave any absences related to that qualifying event.
- (9) An FMLA eligible employee with a serious health condition covered under workers' compensation may use FMLA leave concurrently with the workers' compensation benefit.
- (10) If an employee has gone into leave without pay status and fails to return to work after FMLA leave has ended, an agency may recover, with certain exceptions under 29 CFR 825.213, the health insurance premiums paid by the agency on the employee's behalf. An employee is considered to have returned to work if the employee returns for at least 30 calendar days.
- (11) Leave taken after childbirth or placement of a healthy child for adoption or foster care may not be taken intermittently or on a reduced leave schedule unless the employee and employer mutually agree.
- (12) Medical records created for purposes of FMLA and the Americans with Disabilities Act, 42 U.S.C. 12102 shall be maintained in accordance with confidentiality requirements of Section R477-2-5.

R477-7-16. Workers Compensation Leave.

- (1) An employee may use accrued leave benefits to supplement the workers compensation benefit.
- (a) The combination of leave benefit, wages, and workers compensation benefit may not exceed the employee's gross salary. Leave benefits shall only be used in increments of one hour in making up any difference.
- (b) The use of accrued leave to supplement the worker compensation benefit shall be terminated if the:
 - (i) employee is declared medically stable by a licensed medical authority;
 - (ii) workers compensation fund terminates the benefit;
 - (iii) employee refuses to accept appropriate employment offered by the state; or
 - (iv) employee is notified of approval for Long Term Disability or Social Security Disability benefits.
- (c) The employee shall refund to the state any accrued leave paid which exceeds the employee's gross salary for the period for which the benefit was received.
- (2) Workers compensation hours shall be counted for purposes of annual, sick, and holiday leave accrual while the employee is receiving a workers compensation time loss benefit for up to six months from the last day worked in the regular position.
- (3) Health insurance benefits shall continue for an employee on leave without pay while receiving workers compensation benefits. The employee is responsible for the payment of the employee share of the premium.
- (4) If the employee is able to return to work in the employee's regular position, the agency shall place the employee in the previously held position or a similar position at a comparable salary range.
- (5) If the employee is unable to return to work in the regular position, or if documentation from one or more qualified health care providers clearly establishes that the employee has a permanent condition preventing the employee from returning to the last held regular position, the employee may be separated from state employment unless prohibited by state or federal law. Exceptions may be granted by the agency head in consultation with DHRM.
- (6) An employee who files a fraudulent workers compensation claim shall be disciplined under Rule R477-11.

R477-7-17. Long Term Disability Leave.

- (1) Upon approval of an LTD claim:
 - (a) Biweekly salary payments that the employee may be receiving shall cease. If the employee received any salary payments after the three month waiting period, the LTD benefit shall be offset by the amount received.
 - (b) The employee shall be paid for remaining balances of annual leave, excess hours, and compensatory hours earned by FLSA non-exempt employees in a lump sum payment. This payment shall be made at the time LTD is approved unless the employee requests in writing to receive it upon separation from state employment. No reduction of the LTD payment shall be made to offset this payment. Upon return to work from an approved leave of absence, the employee has the option of buying back annual leave at the current hourly rate.
 - (c) An employee with a converted sick leave balance at the time of LTD eligibility shall have the option to receive a lump sum payout of any part of the balance or to keep the balance intact to pay for health and life insurance upon retirement. The payout shall be at the rate at the time of LTD eligibility.
 - (d) An employee who retires from state government directly from LTD may be eligible for health and life insurance under Section 67-19-14.
 - (e) Unused sick leave balance shall remain intact until the employee retires. At retirement, the employee shall be eligible for the 401(k) contribution and the purchase of health and life insurance under Section 67-19-14.2.
- (2) An employee in the Tier I retirement system shall continue to accrue service credit for retirement purposes while receiving long term disability benefits.
- (3) An employee who was not separated from employment may return to work following long term disability when they provide an administratively acceptable medical release allowing a return to work.
- (4) Long term disability benefits are provided to eligible employees under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

R477-7-18. Disabled Law Enforcement Officer Amendments.

- (1) A law enforcement officer or state correctional officer, as defined in Section 67-19-27, who is injured in the course of employment, as defined in Section 67-19-27, shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits, either:
 - (a) during the period the employee has a temporary disability; or
 - (b) in the case of a total disability, until the employee is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act or reaches the retirement age of 62 years, whichever occurs first.
- (2) The eligible employee shall disclose to the agency any time-loss benefit amounts received by, or payable to, the employee, from outside sources, as soon as the employee is made aware. These amounts do not include benefits received from sources in which the employee pays the full premium.
- (3) The agency shall apply Section R477-7-16, workers compensation leave, and Section R477-7-17, long term disability leave rules first. They then must consider any benefit amounts received under (2). If the total of these benefits is less than 100% of the employee's monthly salary and benefits, the agency shall make arrangements through payroll to pay the employee the difference.
- (4) DHRM shall work with the Division of Risk Management, Workers' Compensation, and the Public Employee's Health Program on a periodic and case-by-case basis to assure that eligible employees receive full benefits. If at any time it is discovered that the employee is receiving less than 100% of their regular monthly salary and benefits, the agency shall make up the difference to the employee.

(5) If an employee discloses other time-loss benefits received under (2) after these additional payments by the agency have been made, the employee shall reimburse the agency for salary and benefits paid in overage.

R477-7-19. Leave Bank.

With the approval of the agency head, agencies may establish a leave bank program.

(1) A leave bank program shall include a policy with the following provisions.

(a) Access to a leave bank is not an employee right and shall be authorized at management discretion.

(b) Any application for a leave bank program shall be supported by administratively acceptable medical documentation.

(c) An approval process that prohibits leave donors, supervisors, managers, or management teams from reviewing any employee's medical certifications or physician statements.

(d) An employee may not receive donated leave until any individually accrued leave is exhausted.

(e) Leave shall be accrued if an employee is on sick leave donated from an approved leave bank program.

(f) Employees using donated leave may not work a second job without written consent of the agency head.

(g) Only compensatory time earned by an FLSA non-exempt employee, annual leave, excess hours, and converted sick leave hours may be donated to a leave bank.

(h) Only employees of agencies with approved leave bank programs may donate leave hours to another agency with a leave bank program, if mutually agreed on by both agencies.

(2) Any medical records created for the purpose of a leave bank, shall be maintained in accordance with confidentiality requirements of Section R477-2-5.

KEY: holidays, leave benefits, vacations

Date of Enactment or Last Substantive Amendment: August 21, 2020

Notice of Continuation: April 27, 2017

Authorizing, and Implemented or Interpreted Law: 34-43-103; 39-3-1; 63G-1-301; 67-19-6; 67-19-12.9; 67-19-14