Understanding and Managing Medical Related Leaves

Presented by Human Resource Services

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Objectives

• How to manage medical related leaves

• Avoiding pitfalls

Leave Types Available

• Annual Leave.
• Sick Leave.
• Leave Without Pay (LWOP).
• Compensatory Time.
• Personal Holiday.
• Shared Leave.

Leave Provisions Available

• Family Medical Leave.
• Extended Leave as RA.
• Family Care Leave.
• Disability Leave.
• Military Family Leave.
• Parental Leave.
• Domestic Violence Leave.
Medical Leave
Benefits provided according to

- Federal Law
- State Law (RCW)
- WAC/Collective Bargaining Agreements
- University Policy
  - AP Handbook / Faculty Manual

Interplay between Leave Provisions and Leave Types

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Using Leave – General Rules

Questions?

- Check the appropriate Policies
  - Sample: BPPM 60.56 & 60.57
Medical Leaves

Triggers for medical leave provisions:

• Out three+ days for medical reasons.
  • WSU may request medical certification and/or release before return.
• Hospitalization.
• Consistent use of sick leave.
• Suspicious use of sick leave.

Family Medical Leave

Federal Provision

• Job and Benefits protected leave.
• 12 weeks/480 hours of leave, in a rolling 12 month period, for a full-time employee for qualifying event.
• HRS determines eligibility

Family Medical Leave

Qualifying Events:

• Employee’s serious health condition.
• Birth, adoption, or placement of a child (Parental Leave).
• Care for a qualifying family member (child, parent, spouse) with a serious health condition.
Family Medical Leave

• Employee chooses how to use accrued leave.
• Leave can be for a block of time, reduced work schedule, or used intermittently.
• All based on supporting medical documentation.

Family Care Leave

State Provision

• Care for an eligible family member.
• Extends only as long as paid leave is available. Have to be in full-pay status.
• Eligible Family Members include: spouse, child, parent, parent-in-law, and grandparent.

Parental Leave

• Parental Leave is for non-medical ‘baby bonding.’
• Up to 12 weeks of Parental Leave.
• May be used within the first year after birth, adoption, or placement of a child.
• FLA is only available to FML eligible employees.
• FLA may be denied by a department on the basis of business necessity, (consult HRS DS).
Parental Leave

• FML and Family Leave Act interaction:

Domestic Violence Leave

State Provision
Allows victims of domestic violence, sexual assault, or stalking to take reasonable leave from work:
• To take care of legal or law enforcement needs and obtain health care.
• Family members may take leave to help victim obtain help.
• Paid or unpaid.

Disability Leave

University Provision
• Non-FML eligible employees: FULL-TIME leave for their own condition, up to total of 4 months.
• FML eligible employees: Additional month of insurance benefits beyond FML period when an employee is out full time (4th month).
• Minimum 8 hours paid leave.
Medical Leave Requests

Your responsibility as a supervisor is to:
• Identify a request, or potential need

Sample notice triggers to refer employee to HRS are:
• I need to be out every now and then for my medical condition.
• I'm having a baby.
• I am going to need surgery.

Medical Leave Other Notice Triggers

Other Medical leave needs triggers
• Employee calls out for over three days.
• Employee was hospitalized.
• Consistent use of sick leave.
• Suspicious use of sick leave.

BPPM 60.56, 60.57

Leave Types

Shared Leave

RCW 41.04.660
BPPM 60.58

Allows state employees to donate their annual leave, sick leave, or personal holidays to another state employee who meet Shared Leave criteria.
Shared Leave

- As a supervisor, if your employee decides to donate leave to another Washington State employee, you will be asked to sign the Request to Donate Shared Leave Form
- Form allows for the transfer of annual, sick and/or personal holiday.

FML: What you Can and Can’t Say

Can
- Ask them if time is for FML

Can’t
- Deny leave at any time
- Put on notice, do nothing
- Ask what condition is, specifics
- Retaliation, off-hand comments

Workers’ Compensation
Work Related Injury/Illness

• Injury or Occupational Disease that has a . . .
• Proximate Cause which occurred during . . .
• Course of Employment

Workers’ Compensation

• Washington State Department of Labor and Industries (L&I).
• No fault insurance.
• Priority is placed upon returning to work in any capacity.

Benefits of Workers’ Compensation

• Approved Medical Care (100%).
• Wage Replacement (60-75%).
• Return-to-Work Assistance.
• Other long term benefits (partial permanent disability, pensions etc.).
**Supervisor / Department Responsibilities**

- Ensure first-aid and/or medical treatment is provided.
  - If required - Call 911.
  - Arrange for ride to hospital/doctor as necessary.
- Have WSU Online Incident Report completed within 24 hrs.
- Refer to HRS DS.

**Supervisor / Department Responsibilities**

- **Immediately** report accidents which result in death, amputation, or serious injury according to policy (SPPM 2.24)
- Interview the injured worker and any witnesses ASAP.

**Filing a L&I Claim**

If an employee chooses to file an L&I claim they do so

1. Through medical provider, online or over the phone.
   (Different process than Incident Rpt.)
   WSU may question the claim validity if:
   - Not covered by law, nor work related, questionable based on situation etc.

*All L&I paperwork goes through HRS Pullman.*
Worker’s Compensation and Leave

- Not ‘kept on salary’.
- Employees use own accrued leaves to maintain WSU pay.
- Must use $\geq 8$ hours of pay in a month to maintain benefits.

Return To Work Coordination

- Goal is to return injured workers to the workforce asap.
- HRS Pullman coordinates WSU portion of all claims.

Return To Work Coordination

NOTE: Duties reviewed are from position descriptions on file with HRS. It is imperative these are accurate.

Do not change job duties due to illness or injury. Could potentially informally accommodate. Talk to HRS.
Temporary Modified Duties

• If normal job is impacted by limitations, can the job be temporarily modified?
• Examples of Temporary Modified Duties:
  • Part-time/alternate schedule.
  • New duties - same knowledge.
  • Change building or location.
  • Different equipment or work methods.
  • Special projects.
  • Other duties within position description.

Reasonable Accommodation (RA)

• WSU will provide RA for a known physical, mental, or sensory limitation.
• Employee must be able to perform the essential functions of the position with or without an RA.
Not a Qualified Disability

- Non-chronic condition.
- Sprain, broken limb, flu.
- Current *illegal* drug use.
- Active alcoholism or abuse.

Types of Accommodations

- Facility modifications or location change.
- Work space modifications.
- Acquiring or modifying equipment or devices.

Types of Accommodations (cont.)

- Work schedule modifications.
- Extended leave (consistent with law).
- Reassignment to an open, vacant, recruited position.
RA Process Overview

**Identification** - by the employee, the supervisor or a health care provider.

**Documentation** - medical certification normally required.

**Accommodation** - HRS will work with the department and the employee to review the request and possible options.
- RA: Yes, No, Maybe

Process Overview

Equal Employment Opportunity Commission’s (EEOC) Best Practices for RA.
- RA Procedures.
- Timelines.
- Documenting and Tracking Requests.
- Confidentiality of Medical Information.
- Denial of RA.

RA Interactive Process
RA Stages - Receipt

1. HRS receives request.

2. HRS seeks clarification if needed (employee, health care provider etc.).

3. HRS communicates receipt to employee and department.

   - In collaboration with department:
     - Capabilities and limitations
     - Position description and job functions
     - Departmental needs

   - HRS contacts and works with other WSU or external partners as needed:
     - Environmental Health and Safety
     - Capital Planning
     - Job coaches
RA Stages - Decision
If an RA is identified:
1. Appointing Authority approves the RA.
2. HRS documents accommodation.
3. Review date established.
If no RA is identified:
1. Full review and vetting process.
2. HRS determines next steps in accordance with laws, rules and University policies.

Undue Hardship
- Not based solely on departmental funds, it is more global.
- No central funds for accommodations.
- Light duty and/or extended medical leave are RARELY undue hardships.

Department Responsibilities
What to do
- Notify HRS of the possible need for leave/RA.
- Keep conversations “private.”
- Be an active, constructive participant in the leave and RA processes.
- Accommodate through the official RA process.
Department Responsibilities

What Not to Do

Do not informally accommodate.
Do not make job changes based on employees information regarding a “medical condition” without engaging HRS.

General Examples:
• Changing the employee’s essential functions.
  (Over time or even if identified as temporary)
• Providing equipment.
• Moving their office.
• Adjusting their schedule/work structure.

Disability Services Coordination

Interplay between these leaves is complicated. HRS is here to help you manage the process.

Resources

• BPPM 60.21 (Reasonable Accommodation).
• BPPM 60.56 and 60.57 (Leave).
• Administrative Handbook.
• Faculty Manual.
• Collective Bargaining Agreements.
• Access Center.
  • Student accommodation issues.
• Office of Equal Opportunity (OEO).
  • EEO/AA compliance.
  • Disability discrimination.
• WSU Accessibility - ADA Coordinator.
Questions

Human Resource Services
Disability Services

hrs.wsu.edu/Disability-Services

509-335-4521 or hrs@wsu.edu

If you attended this live training session and wish to have your attendance documented in your training history, please notify Human Resource Services within 24 hours of today's date:

hrstraining@wsu.edu

This has been a WSU Training Videoconference