



Understanding and Managing Medical Related Leaves

Presented by
Human Resource Services

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WASHINGTON STATE
UNIVERSITY



Objectives

- How to manage medical related leaves
- Avoiding pitfalls

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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 - RA
- Family Care Leave
- Disability Leave
- Military Family Leave
- Family Leave Act - Parental Leave
- Domestic Violence Leave

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Medical Leave

Benefits provided according to

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

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Interplay between Leave Provisions and Leave Types



- Leave Provisions**
 - Family Medical Leave (FML)
 - Disability Leave
 - Family Care Leave (FCL)
 - Leave as a Reasonable Accommodation (RA)
- Leave Types**
 - Leave Accruals
 - Shared Leave
 - Leave Without Pay (LWOP)
- Workers' Comp.**

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Using Leave – General Rules

Questions?

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

Sick leave must be earned before it is used. (WAC 357-31-140)

The supervisor must allow the employee to use accrued sick leave for the reasons specified below, in accordance with WAC 357-31-130:

- Illness, disability, or injury that has incapacitated the employee from performing required duties.
- Exposure of the employee to a contagious disease which might jeopardize the health of others if the employee was present at work.
- Care for a minor/dependent child with a health condition requiring treatment or supervision.

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Interaction of Leaves and Benefits

Leave Provisions
FML, Disability Leave, Extended Leave as an RA, FCL, Parental Leave


Leave Types
Sick leave, Annual leave, Comp time, LWOP, Personal Holiday, Shared leave

Employer Paid Benefits

- FML guarantees benefits regardless of pay status (as long as EE premiums are paid)
- DL - for pregnancy reasons and extended Parental Leave allows EE to use a minimum of 8 hours in the month to keep benefits active
- DL - for non pregnancy reasons allows EE to maintain their benefits by using a minimum of 8 hours leave. However an employee may not move in and out of paid leave
- FCL requires that EE stay in pay status and therefore benefits remain active
- RA has no benefit protections. If EE on full LWOP for entire month will need to COBRA benefits

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

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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

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Family Medical Leave


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

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Family Care Leave

State Provision

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



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Family Leave Act

State Provision

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

Parental Leave

FML and Family Leave Act interaction

The diagram illustrates the interaction of FMLA and Washington FLA. It shows a timeline starting at Birth (0 weeks) and ending at 18 weeks. Key events include: Pregnancy (0-6 weeks), Disability (0-6 weeks), Washington FLA (0-12 weeks), and FMLA (0-12 weeks).

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Paid Sick Leave Temporary Hourly Employees

State Provision

- Temporary hourly employees begin accruing PSL on the first day of a new appointment.
- PSL accrues at the rate of one hour for every forty hours worked, including overtime hours.
- Hours worked do not include PSL hours used
- Notice: Departments are required to provide Notice to employees no later than the first day of the appointment

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Paid Sick Leave Temporary Hourly Employees

State Provision

Usage

- For own or family member's health condition
- When WSU has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason
- For absences that qualify for leave under the domestic violence leave act
- Forward medical documentation to HRS


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 **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)


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 **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

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 **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/my family member's medical condition
- I'm/We're having/adopting a baby
- I am/My family member is going to need surgery

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**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 or other leaves for sick reasons
- Suspicious use of sick leave or other leaves for sick reasons

BPPM 60.56, 60.57

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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

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 meets Shared Leave criteria.

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Shared Leave

- Extraordinary or severe
- Called to Uniformed Services
- Employee is or is spouse of person in uniformed services or is a veteran attending medical appointments
- Emergency volunteer service during state of emergency
- The employee is a victim of domestic violence, sexual assault, or stalking
- Pregnancy disability or Parental leave
- Foster Parent

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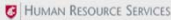
Workers' Compensation

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

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Workers' Compensation

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

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Benefits of Workers' Compensation

- Approved medical care (100%)
- Employee wage replacement (60-75%)
- Return-to-work assistance
- Other long term benefits (partial permanent disability, pensions etc.)

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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

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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

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Filing an L&I Claim

If an employee chooses to file an L&I claim they do so through medical provider, online, or over the phone.

Different process than Incident Report
WSU may question the claim validity if:


- Not covered by law, nor work related, questionable based on situation etc.

Notify HRS immediately if concerns with incident




Workers' Compensation and Leave

- Not 'kept on salary'
- Employees use own accrued leaves to maintain WSU pay
- Must use ≥ 8 hours of pay in a month to maintain benefits under FML and DL leave provisions



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

Dear Department

Human Resources

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

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

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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.

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Reasonable Accommodation

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Reasonable Accommodations (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

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Not a Qualified Disability

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




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Types of Accommodations

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

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Types of Accommodations (cont.)



- Work area equipment purchase
- Work schedule modifications
- Extended leave (consistent with law)
- Reassignment to an open, vacant, recruited position


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RA Process Overview

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

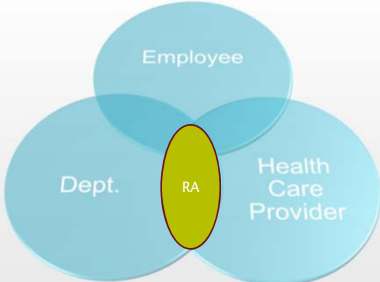
Documentation - medical certification normally required

Accommodation - HRS will work with the department and the employee to review the request and possible options



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RA Interactive Process



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RA Stages - Review

1. In collaboration with department:
 - Capabilities and limitations
 - Position description and job functions
 - Departmental needs
2. HRS contacts and works with other WSU or external partners as needed:
 - Environmental Health and Safety
 - Capital Planning
 - Job coaches

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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

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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.

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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.

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Department Responsibilities

What Not to Do

Do not informally accommodate.
Do not make job changes based on employee provided 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.

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Disability Services Coordination

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

Resources

- BPPM 60.56 and 60.57 Leave
- BPPM 60.21 Reasonable Accommodation
- BPPM 60.58 Shared Leave
- BPPM 60.81 Volunteers
- BPPM 60.43 Paid sick leave for Temp/Hrly
- SPPM 2.24 Reporting Accidental Injuries Illnesses
- Administrative Handbook.
- Faculty Manual
- Collective Bargaining Agreements
- Access Center -Student accommodations
- Office of Equal Opportunity (OEO)
 - EEO/AA compliance
 - Disability discrimination.
 - WSU Accessibility - ADA Coordinator.

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Questions

**Human Resource Services
Disability Services**

hrs.wsu.edu/Disability-Services

509-335-4521 or hrs@wsu.edu

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This has been a
WSU Training
Videoconference

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
