
EMPLOYEE MANUAL

Topic: Personnel Policies

Subtopic: Leave Policies

Section: 2.3

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General

Employees of the Mississippi Division of Medicaid (DOM) earn two types of leave, personal leave and major medical (sick) leave. Other types of leave described in this section which may be available to employees, in accordance with the policies established by the State Legislature and the Mississippi State Personnel Board (MSPB), are:

- Bereavement, Administrative, Compensatory, Military, Leave of Absence, Leave Without Pay (LWOP), Educational Leave, leave under the Family and Medical Leave Act (FMLA), Donated Leave, and Organ Donor Leave.

In addition, leave may be given for disciplinary reasons in the form of suspension. The categories of leave listed above and their uses are detailed in the [Mississippi State Employee Handbook](#).

Types and Uses of Leave

I. Personal Leave

Personal leave shall be administered as provided in Mississippi Code Annotated §§ 25-3-93 and 25-3-97.

Employees earn and accumulate personal leave upon completion of one month of continuous service. Each full time and part time employee and appointed officer of the State of Mississippi shall earn personal leave as follows:

CONTINUOUS SERVICE	ACCRUAL RATE (Monthly)	ACCRUAL RATE (Annually)
1 month to 3 years	12 hours	18 days
37 months to 8 years	14 hours	21 days
97 months to 15 years	16 hours	24 days
Over 15 years	18 hours	27 days

Part-time and temporary employees earn personal leave on a pro rata basis.

The time for taking personal leave, except when such leave is taken due to an illness, shall be determined by the appointing authority of which such employees are employed.

The earned personal leave of each employee shall be credited monthly after the completion of each calendar month of service, and the appointing authority shall not increase the amount of personal leave to an employee's credit. It shall be unlawful for an appointing authority to grant personal leave in an amount greater than was earned and accumulated.

Employees are encouraged to use earned personal leave. Personal leave may be used for vacations and personal business as approved by the appointing authority and shall be used for illnesses of the employee requiring absences of one day or less. Accrued personal or compensatory leave shall be used for the first day of an employee's illness requiring his/her absence of more than one day. Accrued personal or compensatory leave may also be used for an illness in the employee's immediate family as defined in Mississippi Code Annotated § 25-3-95. There shall be no limit to the accumulation of personal leave. Upon termination of employment, each employee shall be paid for not more than 30 days of accumulated personal leave. Unused personal leave in excess of 30 days shall be counted as creditable service for the purpose of the retirement system as provided in Mississippi Code Annotated §§ 25-11-103 and 25-13-5.

The beneficiary of an employee who dies with unused personal leave shall receive payment for all personal leave accumulated but not used by the employee. See Mississippi Code Annotated § 25-3-97.

II. Major Medical Leave

Major medical leave shall be administered as provided in Mississippi Code Annotated §§ 25-3-95 and 25-3-97. All full-time employees and appointed officers of the State of Mississippi shall accrue major medical leave as follows:

CONTINUOUS SERVICE	ACCRUAL RATE (Monthly)	ACCRUAL RATE (Annually)
1 month to 3 years	8 hours	12 days
37 months to 8 years	7 hours	10.5 days
97 months to 15 years	6 hours	9 days
Over 15 years	5 hours	7.5 days

Part-time employees shall accrue major medical leave on a pro rata basis. There shall be no maximum limit to major medical leave accumulation. All unused major medical leave shall be counted as creditable service for the purposes of the retirement system as provided in Mississippi Code Annotated §§ 25-11-103 and 25-13-5.

The earned major medical leave of each employee shall be credited monthly after the completion of each calendar month, and the appointing authority shall not increase the amount of major medical to an employee's credit. It shall be unlawful for an appointing authority to grant major medical leave in an amount greater than was earned and accumulated by the officer or employee.

Major medical leave may be used for the illness or injury of an employee or member of the employee's immediate family as defined in Mississippi Code Annotated § 25-3-95, only after the employee has used one day of accrued personal or compensatory leave for each absence due to illness, or LWOP if the employee has no accrued personal or compensatory leave. In order to continue insurance coverage while on LWOP, the employee should contact the Human Resources Director and make arrangements to pay the insurance premiums.

However, major medical leave may be used without prior use of personal leave to cover regularly scheduled visits to a doctor's office or a hospital for the continuing treatment of a chronic disease, as certified in advance by a physician. Physician means a doctor of medicine, osteopathy, dental medicine, podiatry, or chiropractic. For each absence due to illness of thirty- two consecutive working hours (combined personal leave and major medical leave), major medical leave shall be authorized only when certified by the attending physician.

A. Immediate Family Member

Mississippi Code Annotated § Section 25-3-95, defines the immediate family as spouse, parent, step-parent, sibling, child, step-child, grandchild, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law. Child means a biological, adopted or foster child, or a child for whom the individual stands or stood in loco parentis.

B. Major Medical Leave for Bereavement

An employee may use up to three days of earned major medical leave for each occurrence of death in the immediate family requiring the employee's absence from work. No qualifying time or use of personal leave will be required prior to use of major medical leave for this purpose.

C. Exhaustion of Major Medical Leave

An employee is entitled to use all accrued major medical leave for recuperation from illness. In cases of illness or disability exhausting available major medical leave, the employee may be allowed to charge the excess days against accumulated personal leave or compensatory time earned by the employee. If all accumulated major medical leave and personal leave or compensatory time has been used, employees are subject to a pro rata deduction from their salaries for the length of time or number of days in excess of

accumulated leave. Please refer to the policies and procedures regarding LWOP in this section of the Employee Manual.

D. Major Medical Leave, Termination, and Death

Unused major medical leave is counted as creditable service for purposes of the retirement system when an employee terminates from state service. Should an employee die having accumulated major medical leave, such leave is counted as creditable service. There is no statutory authority to pay an employee's beneficiary for unused major medical leave in the event of an employee's death.

III. Leave Requests

Requests for any type of leave must be made in advance utilizing Workday. The employee is required to receive prior approval of the leave request from his or her supervisor or designee before being absent from work. Leave requests must be made for at least 30 minute increments. Leave should be requested from the supervisor with as much advance notice as possible; if more than three days of consecutive personal leave is requested, notice should be made two weeks in advance. Leave requested under the provisions of the FMLA, requires a 30 days' notice when the need for the leave is foreseeable.

Employees are encouraged to use earned personal leave for vacations and personal business. However, all requests for personal leave, except when taken due to an illness, are approved at the agency's discretion.

Employees shall report personal leave involving illnesses and major medical leave to their immediate supervisor or his or her designee as soon as possible. Employees shall continue to report an illness on each workday missed.

A physician's statement is required for the following medical leave:

- When major medical leave is a necessity as defined by the FMLA;
- When major medical leave is used in conjunction with personal leave for 32 consecutive working hours;
- When regularly scheduled visits to a doctor's office or hospital are required for the continuing treatment of an on-going illness.

When a request is submitted for medical leave due to an on-going illness, a statement must be submitted from the attending physician or a "Certification of Health Care Provider" form for the employee to receive medical leave without using any additional hours of personal leave. If treatment for an on-going illness continues beyond a year, an updated physician's statement or "Certification of Health Care Provider" form must be filed each year from the date the first physician's statement was filed with the Office of Human Resources.

When an employee has been on medical leave because of a serious contagious disease, including but not limited to, Hepatitis B, chicken pox, measles, pink eye, or mumps, DOM will require a physician's certificate that the employee is able to return to work and that the employee is no longer contagious.

To take accumulated leave, prior approval must be received from the immediate supervisor whenever possible, unless a documented emergency exists. Requests for leave in unforeseen circumstances which do not receive advanced approval must be completed immediately upon returning to work.

It is the responsibility of the supervisor to approve or disapprove all pending leave in the eLeave system by the 5th of the following month.

IV. Administrative Leave

State employees may be granted administrative leave with pay. For the purposes of this section, "administrative leave" means discretionary leave with pay, other than personal leave or major medical leave.

- The appointing authority may grant administrative leave to any employee serving as a witness or juror or party litigant, as verified by the clerk of the court, in addition to any fees paid for such services, and such services or necessary appearance in any court shall not be counted as personal leave.
- The Governor or the appointing authority may grant administrative leave with pay to State employees on a local or statewide basis in the event of extreme weather conditions or in the event of a man-made, technological, or natural disaster or emergency.
- The appointing authority may grant administrative leave with pay to any employee who is a certified disaster service volunteer of the American Red Cross (ARC) and who participates in specialized disaster relief services for the ARC in this State and in states contiguous to this State when the ARC requests the employee's participation. Administrative leave granted under this paragraph cannot exceed twenty days in any twelve-month period. An employee on leave under this paragraph is not considered to be an employee of the State for the purposes of workers' compensation or for purposes of claims against the State. As used in this paragraph, the term "disaster" includes disasters designated at level II and above in the ARC national regulations and procedures.

V. Family and Medical Leave Act (FMLA)

The regulations regarding FMLA for state employees are set out in Chapter 3 of the Mississippi State Employee Handbook. In addition to these regulations, DOM has adopted the following policy:

A. Eligibility

To be eligible for FMLA leave, an employee must:

- A. Have worked for the State for a total of twelve months; and
- B. Have worked for the State for 1,250 hours in the twelve-month period immediately preceding the commencement of the leave.

B. Entitlement

Under this policy, DOM provides eligible employees with: (1) up to 12 workweeks of unpaid, job-protected leave in a twelve-month period for certain family and medical reasons; or (2) up to 26 workweeks of leave for eligible employees to care for a covered service member with a serious illness or injury.

Eligible employees can take FMLA leave for any of the following reasons:

- A. For the birth of the employee's son or daughter, and to care for the newborn child;
- B. The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;
- C. To care for an immediate family member with a serious health condition;
- D. Because of a serious health condition that renders the employee unable to perform one or more of the essential functions of his or her job.

Entitlement to leave under (1) and (2) above shall expire at the end of the twelve-month period beginning on the date of such birth or placement. The twelve-month period under (3) and (4) above will begin on the date of the employee's first FMLA leave.

Spouses employed by any State agency are jointly entitled to a combined total of twelve workweeks of family leave for the birth or placement of a child for adoption or foster care, or to care for a sick parent (but not a parent "in-law") who has a serious health condition. However, if the leave is to care for a sick child or the serious health condition of each other or for the employee's own serious illness, this limitation does not apply. Husbands and wives who are both employed by any State agency are limited to a combined 26 workweeks of leave during the twelve-month period to care for a covered service member.

C. Military Leave Entitlements

Eligible employees are entitled to two different kinds of leave as a result of either being in the military or having family members in the military:

Qualifying Exigency

- Eligible employees are entitled to up to twelve weeks of FMLA leave

because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is a member of the Armed Forces and/or reserve component of the Armed Forces on covered active duty, or has been notified of an impending call to covered active duty status.

- Qualifying exigencies may include any one or more of the following: (1) attending to issues arising from a short notice (seven days or less) of deployment, with FMLA leave entitlement lasting up to seven days from the notice; (2) attending certain military events; (3) attending certain childcare and school activities related to the military duty; (4) addressing certain financial and legal arrangements; (5) attending certain counseling sessions; (6) taking up to fifteen days to spend with a military member who is on short-term, temporary rest and recuperation leave; (7) attending post-deployment reintegration briefings; or (8) parental care leave, when a military member's parent is incapable of self-care when the care is necessitated by the member's covered active duty; or (9) other activities agreed to by the agency and the employee.
- Eligible employees must provide notice of the need for such leave as soon as is reasonable and practicable using the "Request for Qualifying Exigency Leave" form located on the DOM intranet under Appendix F or from the Office of Human Resources.
- This kind of leave may be taken intermittently or on a reduced schedule.
- Upon request, eligible employees must provide documentation to support any request for leave.

Military Caregiver Leave

- Eligible employees may take up to 26 weeks of leave during a single twelve-month period to care for a “military member” who is the employee’s spouse, son, daughter, parent, or next of kin (nearest blood relative or designated as such). A military member is a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness; or a veteran who was discharged or released under conditions other than dishonorable; who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, as set forth in the FMLA regulations.
- Eligible employees must provide notice of the need for such leave as soon as is reasonable and practicable using the “Request for Military Caregiver Leave”.
- This kind of leave may be taken intermittently or on a reduced schedule where medically necessary.
- This 26 week leave entitlement will include all other permissible FMLA leave.

D. Intermittent/Reduced Schedule Leave

The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances:

- Intermittent/reduced schedule leave may be taken when medically necessary to care for a seriously ill family member or because of the employee’s serious health condition.
- Intermittent/reduced schedule leave may be taken to care for a newborn or newly placed adopted or foster care child only with the Executive Director’s approval.

Only the amount of leave actually taken while on intermittent/reduced leave may be charged as FMLA leave. Employees are not required to take more FMLA leave than necessary to address the circumstances that cause the need for leave. Subject to the approval of the employee's health care provider, employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with their immediate supervisor and Office Director to schedule the leave so as not to unduly disrupt the operations of the Office. In such cases, employees may be temporarily transferred to an alternative job with equivalent pay and benefits that better accommodates recurring periods of leave than the employee's regular job.

E. Substitution of Paid Leave

The agency requires that employees who apply for FMLA leave use accrued major medical leave and accrued personal leave as part of their FMLA leave. When accrued leave is used up during FMLA leave, the employee will then go into LWOP for the remainder of the FMLA leave taken. Because the agency requires that accrued paid leave be used concurrently with FMLA leave, the agency's policies governing the use of accrued paid leave apply to FMLA leave.

F. Serious Health Condition

A "serious health condition" is defined as an illness, injury, or physical or mental condition that involves:

- In-patient care (an overnight stay) in a hospital, hospice, or residential care facility, including a period of incapacity or treatment related to the inpatient care; or
- A period of incapacity of more than three consecutive calendar days, with two or more visits to a health care provider, one occurring within seven days of the onset of incapacity, and the second within 30 days of the onset (unless extenuating circumstances exist); or
- A period of incapacity of more than three consecutive calendar days, with one or more visits to a health care provider, the first occurring within seven days of the onset of the incapacity, and which results in a regimen of continuing treatment under the supervision of the health care provider (*example: four day absence, one doctor's visit, and prescription medication*); or
- Any period of incapacity due to pregnancy, for prenatal care, or childbirth; or
- Treatment for or incapacity due to a chronic serious health condition (*examples: diabetes or epilepsy*), which requires periodic visits (at least two per year) for treatment by a health care provider; or

- Incapacity which is permanent or long-term for which treatment may be ineffective (*examples: Alzheimer's disease, stroke, terminal diseases, etc.*); or
- Any absence to receive multiple treatments by a health care provider either for restorative surgery after an injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of treatment (*examples: chemotherapy treatments for cancer, dialysis, etc.*).

The serious health condition must prevent the employee from performing the functions of his or her job or prevent the qualified family member from participating in school or other daily functions.

A "serious injury or illness" in the case of a member of the Armed Forces (including a member of the National Guard or Reserves) means an injury or illness that was incurred by the military member in the line of duty on covered active duty in the Armed Forces (or existed before the beginning of the service member's covered active duty and was aggravated by service in the line of duty on covered active duty in the Armed Forces) and that may render the service member medically unfit to perform the duties of the service member's office, grade, rank, or rating; and in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period of covered active duty, means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the military member in the line of duty on covered active duty in the Armed Forces (or existed before the beginning of the service member's covered active duty and was aggravated by service in the line of duty on covered active duty in the Armed Forces) and that manifested itself before or after the service member became a veteran, and is:

- A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member medically unfit to perform the duties of the service member's office, grade, rank, or rating; or
- A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50% or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; or
- A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or

- An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

While an employee may request that the agency apply FMLA leave to a serious medical condition requiring absence of more than three calendar days, the agency will not require that FMLA be applied to an absence of less than two work weeks for a serious medical condition provided that the employee has accumulated enough major medical leave to cover the absence.

G. Notice to the Agency

If the need for FMLA leave is foreseeable, the employee requesting it must provide a completed "Request for FMLA Leave" form to his or her immediate supervisor, Director, Deputy Administrator, and/or Human Resources at least 30 days in advance. Where the need for FMLA leave is not foreseeable, the employee must provide a completed form as soon as is practicable. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, it should be practicable for the employee to provide notice of the need for leave either the same day or the next business day.

H. Eligibility Notice/Rights and Responsibilities

Within five business days of a request for leave, the agency will provide employees who request FMLA leave with a notice of their eligibility for the leave or a reason why they are not eligible. At the same time, employees will be provided with a statement of their Notice of Eligibility and Rights & Responsibilities, which is part of the Eligibility Notice. The "Certification of Health Care Provider" form will also be given to the employee at this time. The Notice of Eligibility and Rights & Responsibilities is available from the Office of Human Resources.

I. Medical Certification

Employees who request FMLA leave because of their own serious health condition must submit a "Certification of Health Care Provider for Employee's Serious Health Condition" form (DOL Form WH-380-E) completed by the health care provider to support the leave request. If the leave is because of a family member's serious health condition, the employee must submit a "Certification of Health Care Provider for Family Member's Serious Health Condition" form (DOL Form WH-380-F) completed by the health care provider to support the leave request. The appropriate "Certification of Health Care Provider" form should be returned to Human Resources within fifteen (15) calendar days after it is requested, or as soon as possible under applicable circumstances.

If the "Certification of Health Care Provider" form returned to the agency is not satisfactory, an employee will be told of the deficiencies in writing and given seven (7) calendar days to complete the form. If the medical information is inadequate, designated Human Resources staff may contact the employee's health care provider directly to

authenticate or clarify information on the certification without the employee's consent. Also, the designated Human Resources staff may directly contact the employee's health care provider, after receiving the employee's permission, to get more complete information regarding the nature of the ailment, the duration of the leave, the need for intermittent leave, etc. Failure to submit a complete and sufficient "Certification of Health Care Provider" form will be grounds for, and may result in, deferral or denial of the employee's requested FMLA leave.

J. Health Care Provider

Health care providers who may provide certification of a serious health condition include:

- doctors of medicine or osteopathy authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices;
- podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in the state and performing within the scope of their practice under state law;
- nurse practitioners, nurse-midwives, and clinical social workers authorized to practice under state law and performing within the scope of their practice as defined under state law;
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts;
- any health care provider recognized by the State and Public School Employees Health Insurance plan;
- a health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.

K. Agency Designation Notice of FMLA Leave

Within five business days (absent extenuating circumstances) of having enough information to determine whether the requested leave is FMLA-eligible, the agency will provide a Designation Notice, informing the employee whether or not leave is designated as FMLA leave, the amount of leave that will be designated, how much accrued medical and personal leave must be taken first, how much LWOP must be taken, and how much FMLA leave will count against the employee's annual entitlement. The designation may be retroactive. Other information, as outlined in the Mississippi State Employee Handbook, will also be communicated in the written notice, as applicable.

If the agency determines that the leave is not FMLA protected, the agency will notify the employee and supply the reason for the ineligibility.

L. Re-certification

An employee may be asked to recertify a serious health condition every six months or every 30 days (if the employee is absent during that period) for chronic/long-term illness that extends beyond the anticipated timeframe or pregnancy. A re-certification may be requested in less than 30 days if:

- The employee asks for extension of leave;
- Circumstances have changed; or
- The agency has doubts about the employee's FMLA status (*example: excessive Monday/Friday absences*).

Employees will be required to have annual medical certifications for their own serious health conditions lasting more than one year, including chronic/lifelong ailments.

M. Return from FMLA Leave

Employees must report on their intention to return to work using the "Notice of Intent to Return from Leave" form so that their work may be properly scheduled. Reasonable notice (within two business days) should be provided regarding any foreseeable changed circumstances requiring either longer or shorter FMLA leave periods than originally requested.

Employees absent on medical leave will be required to provide medical certification of their fitness to return to work. To achieve that result, employees will be provided with the essential functions of their job or a Job Description with that information as part of the Designation Notice. Employees failing to provide the "Fitness for Duty Certification" based on these essential job functions cannot resume work until such certification is provided.

N. Exhaustion of FMLA Leave

Once an employee has exhausted the twelve workweeks of FMLA for a twelve-month period, and the employee has an ongoing doctor's statement, additional leave may be granted on a case-by-case basis. Such requests should be made using the "Request for Extension of FMLA Leave" form at least five business days before the employee's anticipated return to work date. The request for additional leave will be reviewed by the employee's Office/Bureau Director, in conjunction with the appropriate Deputy Administrator and the Human Resources Director. If necessary, the final decision to extend leave will be determined by the Executive Director. If the employee fails to return to work the day after the exhaustion of all approved FMLA leave and/or extensions, disciplinary action may be taken.

VI. Leave of Absence

An employee can, upon written application to and at the discretion of the Executive Director, be granted a leave of absence without pay not to exceed twelve months, without forfeiting previously accumulated continuous service.

A State Service employee, with the consent of the Executive Director and the concurrence of the Mississippi State Personnel Director, may be placed on a leave of absence for purposes of accepting an assignment in the non-State Service for a period not to exceed one year.

VII. Leave Without Pay (LWOP)

The Mississippi Division of Medicaid (DoM) follows the generous leave accrual plan standards set forth by the State of Mississippi Personnel Board. All employees are required to manage leave balances to ensure that sufficient leave is available. Emergent situations (both medical and non-medical) will be evaluated on an individual basis, but scheduled Paid Time Off shall not be requested or granted unless there are sufficient hours accrued to cover the request. Leave without pay for medical or other emergency reasons will not be authorized until all accrued major medical and personal leave balances have been exhausted unless the absence is due to a Workers' Compensation claim or for other situations as approved in advanced by the Executive Director or the designee within Human Resources.

Leave balances are available to all employees via Workday, ACE and are also printed on check stubs. The leave balance in Workday is current and takes all requested and approved leaves into consideration. The employee is solely responsible for maintaining a current balance of all unused leave to ensure that he/she does not go into unapproved leave without pay. Unapproved leave without pay may result in disciplinary action.

Leave without pay should be requested only under extraordinary circumstances. An employee may request leave without pay for medical or other emergency reasons. Requests for leave without pay will be handled on an individual basis and will be granted at the discretion of the Executive Director or the designee within Human Resources.

Leave without pay will be granted for medical or other emergency reasons only when the health of the employee or an immediate family member, as defined by the State Employee Handbook, necessitates the

absence or when the emergency is outside the control of the employee and when proper documentation is presented. No leave without pay will be granted in excess of thirty (30) calendar days, unless the agency has determined there to be extenuating circumstances.

Requests for leave without pay for medical or other emergency reasons will be handled according to the following procedures:

1. An employee shall apply for leave and obtain approval prior to taking the leave. If the request for the leave without pay is for medical reasons, the employee shall attach a treating provider's statement justifying the leave. If the reason for the leave without pay is for a non-medical emergency, the employee is required to attach documentation that substantiates the emergency for which leave without pay is requested, i.e. the obituary of the death of a family member, etc. The employee or his/her supervisor should consult Human Resources to determine what documentation is required when requesting a non-medical leave without pay.
2. If prior written approval is not possible due to an emergent situation, verbal request shall be submitted to the employee's supervisor no later than 15 minutes after the beginning of his/her shift. Upon returning to work, written application and approval should be completed.
3. The request will be evaluated based on the agency's ability to sustain the proposed absence. Employees will be notified of the agency's decision.

Failure to provide the required documentation will result in the disapproval of the leave and a written reprimand will be administered. If a disapproved leave without pay is in excess of three (3) or more consecutive working days, it could subject the employee to a written reprimand or further disciplinary action, up to and including termination.

While an employee is out on leave without pay, it is the employee's responsibility to pay the employee and employer portion, if any, of all insurance premiums the employee wishes to continue (See the Mississippi State Employee Handbook). In order to continue insurance coverage while out on leave without pay, the employee should contact Human Resources.

The Division of Medicaid reserves the right to defer issuing an employee's paycheck to ensure the employee is not paid for days which were not worked and in which the employee was in leave without pay. The deferred paycheck will be issued when the supplemental payroll is run.

Failure on the part of the employee to report to work promptly at the expiration of the leave without pay, unless satisfactory reasons have been submitted in advance, shall be cause for additional disciplinary action, not limited to the following: written or final reprimand, suspension without pay, demotion, or dismissal.

VIII. Absent Without Leave (Unauthorized Absence)

Absent without leave (unauthorized absence) is defined as leave in excess of three consecutive

working days without proper notification and satisfactory explanation to the employee's immediate supervisor or Office Director in a timely manner. Employees may receive disciplinary action, up to and including termination.

IX. Leave for Workers' Compensation Injuries

The injured employee or his/her supervisor will need to complete the "Workers' Compensation First Report of Injury or Illness" form and submit this form to Human Resources to be eligible for leave due to a Workers' Compensation Injury.

An employee approved for Workers' Compensation has the option to use one of the following types of leave when taking time off due to a work-related injury:

- Personal Leave
- Medical Leave
- Leave Without Pay

Employees are required to submit a written request or email to the Benefits/Leave Division of the Office of Human Resources within 48 hours of the injury requesting the type of leave to be used. If the request is not received in the time allotted, leave will be taken from the employees' accumulated personal and/or medical leave (if a physician statement is on file).

Employees that suffer a work-related injury must comply with the provisions of Mississippi Code Annotated § 25-3-95 (2)(b), which does not allow an employee to use accrued personal and/or medical leave and receive workers' compensation benefits simultaneously if the combined receipt of both results in the employee being paid a total amount which exceeds 100% of his or her wages.

X. Military Leave

According to Mississippi Code Annotated §§ 33-1-19 and 33-1-21, and the Uniformed Services Employment and Re employment Rights Act (USERRA), all officers or employees of the state when ordered to military duty are entitled to fifteen days per calendar year of leave from their job without loss of pay, time, annual leave or efficiency rating.

Employees taking military leave should consult with the Office of Human Resources for guidance on insurance and retirement holdings.

XI. Record Keeping

- A. Employees must submit their leave requests prior to the time taken, whenever possible.
- B. If the "Request for Authorized Leave" form is used for specified leave requests, the form should be submitted to the employees' immediate supervisor or Office Director.

NOTE: In the event an employee does not submit leave due to an emergency, illness, or an extended absence, the Office Director or immediate supervisor must submit the employee's leave to cover the absence.

- C. The Office Director must approve or disapprove all pending leave requests by the fifth of the month for proper leave deduction.
- D. Staff from the Office of Human Resources will be responsible for the transfer of accrued leave for employees transferring to other agencies outside DOM upon written request by the state agency or the employee.

XII. Donated Leave

In accordance with Mississippi Code Annotated §§ 25-3-91, 25-3-93 and 25-3-95, a state employee may donate a portion of his or her accrued personal or major medical leave to another state employee who is suffering from a catastrophic injury or illness or to another employee who has a member of his/her immediate family who is suffering from a catastrophic injury or illness. "Catastrophic injury or illness" is defined by state law as a life threatening injury or illness of an employee or a member of an employee's immediate family which totally incapacitates the employee from work, as verified by a licensed physician, and forces the employee to exhaust all leave time earned by that employee, resulting in the loss of compensation from the state for the employee. Conditions that are short term in nature, including, but not limited to, common illnesses such as influenza and the measles, and common injuries are not catastrophic. Chronic illnesses or injuries, such as cancer or major surgery, which result in intermittent absences from work and which are long term in nature and require long recuperation periods, may be considered catastrophic. For the purpose of this subsection, "immediate family" means spouse, parent, step-parent, sibling, child, and step-child.

To be eligible to receive donated leave, the employee will need to submit a completed "Donated Leave - Medical Certification for Catastrophic Injury or Illness" form to the Office of Human Resources indicating whether the employee's injury or illness (or the employee's immediate family member's injury or illness) qualifies as catastrophic as verified by the Health Care Provider.

Any employee may donate a portion of his or her earned personal leave or major medical leave to another employee who is suffering from a catastrophic injury or illness or to another employee who has a member of his or her immediate family who is suffering from a catastrophic injury or illness as follows:

- A. The employee donating the leave (the "donor employee") shall designate the employee who is to receive the leave (the "recipient employee") and the amount of earned personal leave and major medical leave that is to be donated and shall notify the donor employee's supervisor of his or her designation. The donor employee's supervisor then shall notify the recipient employee's supervisor of the amount of leave that has been donated by the donor employee to the recipient employee.
- B. The maximum amount of earned personal leave that an employee may donate to another employee may not exceed a number of days that would leave the donor employee with fewer than seven days of personal leave, and the maximum amount of earned major medical leave that an employee may donate to any other employee may not exceed 50% percent of the earned major medical leave of the donor employee. All donated leave shall be in increments of not less than 24 hours.

- C. An employee must have exhausted all of his or her earned personal leave and major medical leave before he or she will be eligible to receive any leave donated by another employee.
- D. Before an employee may receive donated leave, he or she must submit a written request to his or her immediate supervisor, Director, and a copy to the Office of Human Resources, along with a physician's statement that states the beginning date of the catastrophic injury or illness, a description of the injury or illness, and the prognosis for recovery and the anticipated date that the recipient employee will be able to return to work.
- E. If an employee is aggrieved by the decision of his or her supervisor that the employee is not eligible to receive donated leave because the injury or illness of the employee or member of the employee's immediate family is not, in the supervisor's determination, a catastrophic injury or illness, the employee may appeal the decision to the Employee Appeals Board, if the Executive Director agrees with the supervisor's determination.
- F. Beginning March 25, 2003, the maximum period of time that an employee may use donated leave without resuming work at his or her place of employment is 90 days, which commences on the first day that the recipient employee uses donated leave. Donated leave that is not used because a recipient employee has used the maximum amount of donated leave authorized under this paragraph shall be returned to the donor employees in the manner provided under paragraph (G) of this section.
- G. If the total amount of leave that is donated to any employee is not used by the recipient employee, the donated leave shall be returned to the donor employees on a pro rata basis, based on the ratio of the number of days of leave donated by each donor employee to the total number of days of leave donated by all donor employees. In no case will any donor employee receive more leave in return than the employee donated.
- H. The failure of any supervisor of any employee to properly deduct an employee's donation of leave to another employee from the donor employee's earned personal leave or major medical leave constitutes just cause for dismissal of the supervisor.
- I. No person through the use of coercion, threats, or intimidation shall require or attempt to require any employee to donate his or her leave to another employee. Any person who alleges a violation of this paragraph shall report the violation to the Executive Director, or if the alleged violator is the Executive Director, then the employee shall report the violation to the State Personnel Board. Any person found to have violated this paragraph shall be subject to removal from office or termination of employment.

- J. No employee can donate leave after tendering notice of separation for any reason or after termination.
- K. Recipient employees of DOM may receive donated leave only from donor employees within DOM.
- L. In order for an employee to be eligible to receive donated leave, the employee must:
 - A. Have been employed for a total of at least twelve months by the employer on the date on which the donated leave is donated; and
 - B. Have been employed for at least 1,250 hours of service with such employer during the previous twelve-month period from the date on which the leave is donated.
- M. Donated leave shall not be used in lieu of disability retirement.
- N. For the purposes of this subsection, “immediate family” means spouse, parent, step-parent, sibling, child or step-child.

In order to donate leave, the “Request to Donate Leave” form, which can be found on the DOM intranet under Forms > Employee Forms Submitted to HR > “Donated Leave Form” and in Appendix N, should be completed and submitted to the Office of Human Resources (HR). Once the donation is approved, HR will notify the recipient or the recipient’s supervisor of the donated leave.

The total amount of leave donated will be deducted from the employee’s leave balance. If the “Request to Donate Leave” form is received in HR before the tenth of the month, the full amount of donated leave will be deducted from the current payroll. If the form is not received by the tenth of the month, the donated leave will be deducted from the next payroll.

The determination of donated leave is processed according to the guidelines of the Mississippi State Employee Handbook. The Office of Human Resources is assigned the responsibility of processing requests and providing written notification in conjunction with the Deputy Administrator of Executive Services and the Executive Director.

XIII. Mississippi Living Organ Donor Leave

The Mississippi Living Organ Donor Leave policy was promulgated by the Department of Finance and Administration as authorized in Mississippi Code Annotated § 25-3-103. All permanent full-time or part-time employees who have been employed by any agency of state government for a period of six months or more and who donate an organ, bone marrow, blood, or blood platelets shall be eligible for organ donor leave. Those individuals employed by units of local government or school districts are not eligible for leave under this policy.

Employees may use organ donor leave only upon receipt of prior approval from the donor

employee's agency. Employees are not required to use accumulated major medical leave or personal leave before using organ donor leave. Certification by the employee's attending physician for an employee participating as a bone marrow or organ donor will be required prior to using organ donor leave.

Employees requesting to be placed on organ donor leave for the purpose of donating blood or blood platelets must provide verification from the blood service organization of the donation of blood and/or blood platelets to their supervisor upon returning to work to be approved for organ donor leave.

An employee may use:

- Up to 30 days (240 hours) of organ donor leave in any twelve-month period to serve as a bone marrow donor;
- Up to 30 days (240 hours) of organ donor leave in any twelve-month period to serve as an organ donor;
- Up to one hour to donate blood every fifty-six days; and
- Up to two hours to donate blood platelets no more than 24 times in a twelve-month period in accordance with appropriate medical standards established by the American Red Cross or other nationally recognized standards.

XIV. Compensatory Leave

The Fair Labor Standards Act (FLSA) legislates basic wage and hour policies for employees. The minimum wage rates are included in the Act as are the requirements of working in excess of normal working hours during a work week. The Fair Labor Standards Act requires employees to be identified as either exempt or non-exempt under the Act. This identification determines if the employee is exempt from the overtime pay provisions of the Act. Employees will be given their FLSA status at the time they are hired or if a change in status occurs. For questions regarding exempt versus non-exempt status under the FLSA, contact HR.

A. Compensatory Time: FLSA Exempt Employees:

All FLSA exempt full-time employees are expected to work eight (8) hours per day, five (5) days per week, Monday through Friday. Full-time DOM employees are required to work a 40-hour work week, with the exception of those employees that work a compressed schedule. Compensatory time earned under State law is credited at a rate of an hour for hour for all employees.

Compensatory time is permitted when it is essential that a DOM employee work after normal working hours. Employees are allowed to receive compensatory time for coming to work early, working past their normal work schedule, working on a holiday, and/or working from an alternate work site, if prior approval has been received. Employees must receive prior approval from their Office/Bureau Director or Deputy Administrator before earning compensatory leave. In the event, documentable, exigent emergency circumstance prevent pre-approval, employee must submit the request for compensatory time to their Office/Bureau Director or Deputy Administrator within seven days.

When it is essential that a DOM employee work during an official State holiday, the employee will receive credit for the number of hours actually worked. Employees must submit a request to accrue compensatory/lieu time to the Deputy Administrator for approval and receive approval prior to working the hours on the holiday.

Employees will not receive credit for any compensatory or holiday hours worked if the appropriate approval for the compensatory/holiday hours worked is not submitted with the Monthly Time Report. Employees will not receive credit for compensatory or holiday hours worked if the appropriate procedure is not followed. Comments for compensatory hours or holiday hours should be reflected in WORKDAY. All approval comments for compensatory hours or holiday hours worked should be reflected in the comment section in WORKDAY.

It is the responsibility of the Office/Bureau Director or Deputy Administrator to ensure the leave requested and taken is what is reported on the time sheet.

Compensatory time off must be earned before taken. Compensatory time must be used before utilizing other types of leave. Compensatory time is not transferable between State agencies.

Upon termination of employment, an employee may not be paid for accumulated state compensatory leave. Should an employee retire having accumulated state compensatory leave, such leave may not be counted as creditable service for retirement purposes. Employers also have no authority to pay an employee's beneficiary for unused state compensatory leave in the event of an employee's death.

B. Compensatory Time: FLSA Non-Exempt Employees:

The FLSA states that employees covered under the overtime pay provisions must be compensated for all hours worked in excess of 40 hours in a work week. Compensatory time is accrued at one and a half (1 ½) hours for each hour over 40 worked in a work week for employees whose FLSA status is nonexempt.

Except under extraordinary circumstances, an employee must request and receive approval to earn compensatory time prior to exceeding the regular work hours in that work week. Employees are required to work with supervisors to limit the work week to 40 hours. When it is necessary for a non-exempt employee to work more than 8 hours on a particular day, the

supervisor, if possible, shall ensure that the employee takes time off within the same work week so as not to exceed 40 hours during that work week.

Employees must clear with and have approval for each hour of compensatory time from their supervisor prior to accrual. Both FLSA and regular compensatory time may be carried over from year to year. However, regular compensatory time expires in full at the end of an employee's tenure with the Office and without payout. If a question arises as to whether an employee is covered under the Act's provisions, it should be directed to Human Resources.

It is the responsibility of the department leader to ensure the leave requested and taken is what is reported on the time sheet.

Employees will not receive overtime compensation and/or compensatory time if the appropriate approval is not submitted timely. Comments for overtime compensation and/or compensatory time should be reflected in Workday. All overtime should be preapproved by the appropriate managers.