

<b>UTAH DEPARTMENT OF HEALTH AND HUMAN SERVICES POLICY AND PROCEDURES</b>		
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<b>SICK LEAVE ASSISTANCE</b>		
<p><b>RATIONALE:</b> DHHS values its employees and understands that there are circumstances under which an employee may need to take an extended period of time off from work due to illness. DHHS is a culture that supports employees when these circumstances occur but the employee lacks sufficient amounts of sick time. Access to the employee sick bank may be allowed in certain circumstances.</p> <p><i>Related Policies, Applicable Standards, Statutes: DHRM Rule 477-7</i></p>		
<b>Original Effective: July 1, 2022</b>	<b>Revision: October 24, 2022</b>	<b>Next Review Due: October 24, 2025</b>

**I. DESCRIPTION**

This policy is to assist approved Department of Health and Human Services employees who are eligible to receive paid leave benefits to care for themselves or, under special circumstances, immediate family members when their own accrued leave balances have been or will be exhausted. Access to the leave bank is not an employee right and shall be authorized at management’s discretion. This policy supersedes any previous policy governing this subject matter.

**II. DEFINITIONS**

The following terms are defined for this policy as:

- A. **Agency management:** The designated officer (such as a supervisor, manager or other official) of the employee requesting sick leave assistance.
- B. **Catastrophic illness or injury:** A catastrophic illness is a severe condition which is life threatening or incapacitating and requires prolonged hospitalization or recovery. Examples include, but are not limited to, coma, cancer, leukemia, heart attack or stroke. A catastrophic injury is a severe injury to the spine, spinal cord, or brain, and may also include skull or spinal fractures.
- C. **Converted Sick Leave:** Leave hours accrued before January 3, 2014, which

were converted into separate leave accrual hours (DHRM Rule R477-7-5).

- D. **DHHS:** Utah Department of Health and Human Services and collectively any operational unit within.
- E. **DHRM:** The Division of Human Resource Management (DHRM) field office assigned to the Department of Health and Human Services.
- F. **Donee employee:** An employee who has been approved by the department to receive sick leave assistance under this policy.
- G. **Employee specific leave bank:** A leave bank established for a specific employee who does not qualify for the general leave bank.
- H. **General leave bank:** A leave bank populated from DHHS employees' accrued annual leave that would be lost based on DHRM Administrative Rule R477-7-3. General leave bank hours are reserved for DHHS employees who have suffered a catastrophic illness or injury as defined in this policy.
- I. **Immediate family member:** The employee's spouse or dependents living in the employee's home. The term "immediate family member" may also include an employee's parent living out of the employee's home if the department has approved the employee for family and medical leave to care for the parent. The meanings of the terms "spouse" and "parent" as defined in the federal Family and Medical Leave Act shall be used for this policy and are hereby adopted by reference.
- J. **OU:** Operational units within DHHS, including divisions, offices or standalone operations whose director reports to the executive director, a deputy director, an assistant deputy director, or a division director.
- K. **Parental Leave:** Sick or FMLA leave taken following the birth or adoption of a child to allow for recovery and/or bonding.
- L. **Prolonged absence:** Being off the job for more than three consecutive work weeks or the equivalent number of consecutive work hours.
- M. **Serious health condition:** A disease or illness of long duration characterized by slowly progressive and serious debilitation or disability, or by serious and persistent symptoms if such debilitation, disability or symptoms reasonably require the employee to be frequently absent from work and make periodic visits for treatment by a licensed healthcare provider. The term "serious health condition" does not include any disease or illness for which the employee can avoid the need for additional sick leave benefits by making reasonable adjustments in the employee's work schedule to accommodate the necessary doctors' appointments or treatment programs.

### III. POLICY

- A. Sick leave bank donor and donee eligibility

1. A general leave bank is populated from DHHS employees' accrued annual leave hours not used by the end of the calendar year and otherwise lost based on DHRM Rule R477-7-3.
    - A) General leave bank hours are reserved for DHHS employees who have suffered a catastrophic illness or injury as defined in this policy.
    - B) Maximum donated hours available for an employee shall not exceed 480 leave hours.
    - C) Available donated hours to an eligible donee are subject to the number of general leave bank applications and the total donated hours available in the general leave bank at the time an application is submitted.
  2. Specific employee leave banks may be populated from donations of earned annual leave, excess hours, and converted sick leave hours by DHHS employees. In addition, FLSA non-exempt employees may also donate earned compensatory time. Sick leave may not be donated.
    - A) A specific employee leave bank may be established when:
      - 1) An employee's immediate family member has suffered a catastrophic illness or injury;
      - 2) An employee has suffered an illness or injury that does not qualify for the general leave bank or there are insufficient hours in the general leave bank to fulfill the donation approval;
      - 3) When, by birth or adoption, an employee becomes a parent, whether for the first time or any consecutive occasion; or
      - 4) Other circumstances as deemed appropriate by the executive director of DHHS.
    - B) Limitations on specific employee leave bank
      - 1) Employees are not required to donate to a specific employee leave bank.
      - 2) Employees are not entitled to receive sick leave donations from another employee unless the department approves a specific employee leave bank arrangement for that employee and unless a fellow employee voluntarily donates the hours to the donee.
      - 3) All leave donations are irrevocable and any unused leave donations shall not be restored to the donor.
      - 4) Employees and their family members are prohibited from soliciting donated leave for themselves or others.
- B. Accrual of sick leave bank
1. An employee may not use the hours donated to a leave bank until that employee has exhausted all other accrued leave balances, including annual

leave, sick leave, converted sick leave, compensatory time, excess leave, pre-2006 sick leave and pre-2014 sick leave.

- A) An employee approved for sick leave assistance may not begin to use donated leave hours prior to the effective date of the leave bank as determined by the DHRM field office, or until the leave bank has been approved.
- B) The DHRM field office may establish a retroactive effective date of the leave bank if approved by the OU director in consultation with DHRM.
- 2. Leave is accrued if an employee receives sick leave donated from an approved leave bank program.
- C. Authorized use of sick leave bank
  - 1. An employee may use the donated bank hours to supplement workers' compensation benefits, so long as the combined leave bank hours and workers' compensation benefits do not exceed the employee's usual gross salary.
  - 2. An employee who has been determined by a healthcare provider to be unable to return to work full time may use donated leave hours to supplement their work time and accrued leave benefits, so long as the combined total of work time, accrued leave, and leave bank hours does not result in overtime or excess hours. Donees approved to work part time shall not be allowed leave bank hours that result in being compensated for more than their regular work hours. Donee employees shall provide evidence from a physician or other licensed healthcare provider of their inability to work full-time, the number of hours they are approved to work each day and, whenever possible, the date the employee shall be able to work full-time.
  - 3. Donee employees using donated leave bank hours during the 12 weeks of parental leave are exempt from the requirement to provide physician or other licensed healthcare provider evidence of the need to work part-time.
  - 4. Employees using donated leave may not work a second job without written consent of the executive director.
  - 5. An employee who wishes to apply for sick leave assistance for parental leave who is also eligible for 120 hours of paid postpartum recovery leave, as described in R477-7-20, shall only become eligible to apply for sick leave assistance once the employee's postpartum recovery leave, if approved, and the employee's accrued leave balances have been exhausted. Combined sick leave assistance and postpartum recovery leave may not exceed 480 hours.
  - 6. Family Medical Leave Act and Sick Leave Assistance
    - A. Employees applying for sick leave assistance shall also apply for Family Medical Leave Act (FMLA) benefits concurrently.

- B. Employees determined eligible for FMLA shall complete and submit the application for sick leave assistance and the certification of healthcare provider for employee's (or family member's) serious health condition forms, in accordance with the procedure established in this policy.
  - C. Employees who are not eligible for FMLA, shall submit, in accordance with the procedure established in this policy.
  - D. Employees who do not complete FMLA forms due to the employee being ineligible for FMLA, shall submit the forms if and when the employee subsequently qualifies for FMLA leave.
  - E. Employees applying to use donated leave bank hours during the 12 weeks of parental leave are exempt from the requirement to provide FMLA, certification of healthcare provider for employee's (or family member's) serious health condition, application for sick leave assistance, DHHS sick leave assistance medical verification, or other physician or licensed healthcare provider evidence.
- 7. Supporting medical information and forms shall be submitted to DHRM. Supervisors, managers or management team(s) shall not collect or review any employee's medical certifications or physician statements.
  - 8. Employees approved under this policy to receive sick leave assistance shall use donated leave concurrently with any applicable family and medical leave benefits.
  - 9. Once employees return to work full time they are no longer eligible to receive donations or to use donated hours.
  - 10. All donated leave shall convert into sick leave for the donee employee to use, but a donee employee may use no more than 480 leave bank hours in any calendar year even if there is more than one leave bank situation in the year. For requests that span two calendar years, a maximum of 480 hours may be granted per approved request. If the employee receives more hours than are needed, the unused hours shall be removed from the employee's record. For employees working less than 40 hours a week, allocation of hours shall be prorated based on the normal work schedule of the recipient.
    - A) Donees utilizing sick leave assistance for adoption or normal delivery (including C-section) and bonding with the child are limited to a maximum of 480 hours in the 12 weeks following labor and delivery or adoption. Donees eligible for paid postpartum recovery leave, as described in III.C.5, shall have the maximum of 480 hours reduced by 120 hours if such postpartum recovery leave is approved.

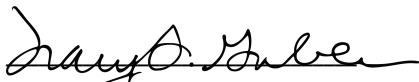
11. Only employees of state agencies with approved leave bank programs may donate leave hours to another agency with a leave bank program, if mutually agreed upon by both agencies.

#### **IV. PROCEDURE**

- A. An employee may donate leave to the leave bank program by completing the leave bank donation request form and submitting the form to the DHRM Field Office. The form can be accessed on the Utah Division of Finance's website at <https://finance.utah.gov/wp-content/uploads/FI011.pdf>.
  1. The donated leave will post each pay period in the Employee Resource Information Center (ERIC) to the employee receiving the leave and a corresponding offset will be posted to the appropriate leave bank program.
  2. An employee requesting leave from the leave bank program shall complete an application and attach an explanation of the reason for the request and any appropriate medical documentation to the application.
    - A) All medical records for the purpose of the leave bank program, shall be maintained in the employee's personnel file in accordance with confidentiality requirements of DHRM Rule R477-2-5(4).
- B. DHRM shall review the application and other documentation for completeness, eligibility of the employee, and verify, if necessary, the medical documentation. DHRM shall record on the application if the employee is eligible.
- C. DHRM shall notify the employee and their supervisor and OU director of the decision.

#### **V. EXCEPTIONS**

- A. EDO may make exceptions to this policy as allowed.

  
Tracy S. Gruber

Utah Department of Health and Human Services Executive Director

**October 24, 2022**

Date