SICK LEAVE ASSISTANCE

RATIONALE: The purpose of the Sick Leave Assistance policy is to assist approved Department of Human Services employees who are eligible to receive leave benefits with needed paid leave 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.

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I. DESCRIPTION
This policy is to assist approved Department of Human Services employees who are eligible to receive leave benefits with needed paid leave 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.

II. DEFINITIONS
The following terms are defined for this policy as:

A. DHS or department means the Utah Department of Human Services (DHS) and any of its divisions, institutions, bureaus, or offices (DIBOs).

B. “Agency Management” means the designated officer (such as a supervisor, manager or other official) of the employee requesting sick leave assistance.

C. “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.

D. “DHRM (DHRM)” means the Division of Human Resource Management (DHRM) field office assigned to the Department of Human Services.
E. “Donee employee” means an employee who has been approved by the Department to receive sick leave assistance under this policy.

F. “Immediate family member” means 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 will be used for this policy and are hereby adopted by reference.

G. “Parental Leave” - means Sick or FMLA leave taken following the birth or adoption of a child to allow for recovery and/or bonding.

H. “Prolonged absence” means being off the job for more than three consecutive work weeks or the equivalent number of consecutive work hours.

I. “Serious chronic illness” means 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 chronic illness” 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.

II. POLICY

Sick Leave Bank Donor and Donee eligibility

A. A General Leave Bank is populated from DHS employees’ accrued annual leave hours that were not used by the end of the calendar year and would be lost based on DHRM Rule R477-7-3 which mandates that employees can only carry over a maximum of 320 annual leave hours to the following year.

1. General Leave Bank hours are reserved for DHS employees who have suffered a catastrophic illness or injury as defined in this policy.

2. Maximum donated hours available for an employee cannot exceed 480 leave hours. Additionally, donated hours available 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.

B. Specific Employee Leave Banks may be populated from donations of earned annual leave, excess hours, and converted sick leave hours by DHS employees.
In addition, FLSA non-exempt employees may also donate earned compensatory time. Sick Leave may not be donated.

1. A Specific Employee Leave Bank may be established when:
   a) An employee’s immediate family member has suffered a catastrophic illness or injury;
   b) 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;
   c) When, by birth or adoption, an employee becomes a parent, whether for the first time or any consecutive occasion; or
   d) Other circumstances as deemed appropriate by the Executive Director of DHS.

2. No employee is required to donate to a Specific Employee Leave Bank, and no employee is 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. All donations to the Specific Employee Leave Bank shall be voluntary. All leave donations are irrevocable and any unused leave donations will not be restored to the donor. Employees and their family members are prohibited from soliciting donated leave for themselves or others.

C. 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.
   1. 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.

D. Leave is accrued if an employee receives sick leave donated from an approved leave bank program.

E. 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.

F. An employee who has been determined by a health care 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 will be able to work full-time.

1. 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 health care provider evidence of the need to work part-time.

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

H. 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.

I. Employees applying for sick leave assistance shall also apply for Family Medical Leave benefits concurrently, unless ineligible for FMLA. If the employee is eligible for FMLA, the Application for Sick Leave Assistance and the Certification of Health Care Provider for Employee’s (or family member’s) Serious Health Condition forms should be submitted to the Office of Human Resources. If the employee is not eligible for FMLA, the Application for Sick Leave Assistance and the DHS Sick Leave Assistance Medical Verification forms should be submitted. If FMLA forms are not initially completed due to the employee being ineligible for FMLA, they will need to be submitted if the employee subsequently qualifies for FMLA leave.

1. 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 Health Care Provider for Employee’s (or family member’s) Serious Health Condition, Application for Sick Leave Assistance, DHS Sick Leave Assistance Medical Verification, or other physician or licensed health care provider evidence.

J. Supporting medical information or forms should be submitted to the Office of Human Resources. Supervisors, managers or management team(s) shall not collect or review any employee’s medical certifications or physician statements.
K. Employees approved under this policy to receive sick leave assistance shall use donated leave concurrently with any applicable Family and Medical Leave benefits.

L. Once employees return to work full time they are no longer eligible to receive donations or to use donated hours.

M. All donated leave will 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 can be granted per approved request. If the employee receives more hours than are needed, the unused hours will be removed from the employee’s record. For employees working less than 40 hours a week, allocation of hours will be prorated based on the normal work schedule of the recipient.

   1. 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 II.H, shall have the maximum of 480 hours reduced by 120 hours if such Postpartum Recovery leave is approved.

N. 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.

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November 22, 2021
Tracy S. Gruber
Utah Department of Human Services Executive Director