

**UTAH DEPARTMENT OF HUMAN SERVICES  
POLICY & PROCEDURES**

**Reference: 02-04**

**Effective Date: February 6, 1991**

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**Revised Date: July 2, 2004**

**SUBJECT: SICK LEAVE ASSISTANCE PROGRAM**

**RATIONALE:** The Department of Human Services establishes a Sick Leave Assistance Program to provide a process whereby employees may donate eligible leave hours to other employees whose leave benefits have exhausted but who need to be absent from work for an extended time because they have a serious chronic illness or because they (or an immediate family member) have suffered a catastrophic illness or injury. This policy is not intended to create an entitlement or to underwrite the abusive use of sick leave or to replace Long Term Disability (LTD).

**POLICY:**

The Sick Leave Assistance Program allows for the establishment of sick leave banks designated for specific employees who meet the criteria articulated in this policy.

1. **Definitions.** The following definitions apply to this policy:
  - a. “Agency Management” means the designated officer (such as a supervisor, manager or other official) who has the responsibility and authority to recommend approval of a request for sick leave assistance.
  - b. “Catastrophic illness or injury” means an illness, acute physical condition or injury which is life-threatening or incapacitating and which reasonably requires the employee to be absent from work for an extended period of time.
  - c. “Division/Institution/Office Director” means the director of one of the following within the Department: Aging and adult services, Child and Family Services, Services for People With Disabilities, Substance Abuse and Mental Health, or Juvenile Justice Services. Institution Director refers to the superintendent of either the Utah State Hospital or the Utah State Developmental Center. Office Director refers to the director of one of the following offices with the Department: Administrative Hearings, Administrative Support, Fiscal Operations, Human Resources, Information Technology, Licensing, Public Guardian, Services Review, Recovery Services, or the Executive Director.
  - d. “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 health care provider. The term “serious chronic illness” does not include any disease or illness for which the employee can receive periodic treatments during reasonably short visits to the employee’s health care providers, and 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.

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- e. "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. For the purpose of this policy, the terms "spouse" and "parent" are defined as in the federal Family and Medical Leave Act.
  - f. "Donee employee" means an employee who has been approved by the Department to receive sick leave assistance under this policy.
2. **Eligibility to Receive Leave Bank Donations.** The Department may establish a sick leave bank when an employee has exhausted the usual leave benefits but needs an additional extended leave from work because: (a) the employee has a catastrophic illness or injury; or (b) an immediate member of the employee's family has a catastrophic illness or injury and the employee is needed to care for that individual; (c) the employee has a serious chronic illness. Only those Department employees who are eligible for leave benefits may receive Sick Leave Assistance under this policy.
3. **Eligibility to Donate to the Sick Leave Bank.** Any Department employee eligible for leave benefits may voluntarily donate annual leave, excess hours, compensatory time earned by an FLSA nonexempt employee, and converted sick leave hours to a specific employee's sick leave bank, as long as the donating employee has a combined minimum leave balance of at least 10 days (80 hours) of sick and annual leave remaining after the donation. Employees may **not** donate sick leave.
4. **Voluntary Nature of the Sick Leave Assistance Program.**
- a. The Sick Leave Assistance Program is entirely voluntary. No employee is required to donate to the sick leave bank, and no employee is entitled to receive sick leave donations from another employee unless the Department approves a sick leave bank arrangement for that employee and unless a fellow employee voluntarily donates the hours to the donee employee.
  - b. All donations to the leave bank shall be voluntary. Employees and their family members are prohibited from soliciting donated leave for themselves or others.
5. **When an Employee May Use Donated Hours.**
- a. An employee may not use donated leave unless his combined paid time (accrued leave, and/or work time, or donated leave) is a minimum of 20 hours per work week.
  - b. 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, and excess leave.

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- c. 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 Office of Human Resources (OHR), or until the leave bank has been approved. OHR shall not backdate the effective date of the leave bank due to an employee not applying in a timely manner or, if a supervisor or manager failed to forward the request in a timely manner.
  - d. 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.
  - e. An employee, determined by their physician or 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 normal regular hours. Donee employees shall provide evidence from a physician or other licensed health care provider of their being unable to work full time to include the number of hours they can work each day as well as the date the employee will be able to work full time.
  - f. Donated hours shall not be approved for employees receiving Social Security Disability or LTD benefits.
  - g. Employees approved under this policy to receive sick leave assistance shall use donated leave concurrently with any applicable Family and Medical Leave benefits.
  - h. Agency management may not change an employee's work schedule from full time to part time for the purpose of extending an employee's eligibility to receive benefits.
  - i. Employees who return to work full time are no longer eligible to receive donations or to use donated hours.
6. **Maximum Number of Hours Available from the Leave Bank.** 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 or per approved leave bank request.
7. **Coordination with Leave Bank Programs in Other Departments.** Department employees may voluntarily donate leave as identified in No. 3 of this policy or receive donated hours from other departments of Utah state government with approved leave-bank policies, if such an arrangement is mutually agreed upon in advance by the human resource directors of both agencies.
8. **Accrual of Donee's Leave.** A donee employee shall accrue sick leave and annual leave as usual when the donee employee is using the donated leave.

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**PROCEDURES:**

LEAVE BANK REQUEST

1. **Departmental Approval Required.** The Department shall not establish a sick leave bank for an employee unless the employee's request has been approved by the following: (a) agency management; (b) the director of the division, institution, or office in which the employee works; and (c) the director of the Department's Office of Human Resources. To apply for the Sick Leave Assistance Program, an employee must follow the procedures described below.
2. **Leave Bank Request Forms.** An employee who wishes to have a leave bank established in his or her name shall complete the following forms and submit them to agency management: (a) "Application for Leave Bank" form (the "application form"); and (b) "Leave Bank Medical Verification" form (the "verification form"). Copies of the application form and the verification form are attached to this policy.
3. **Family and Medical Leave Forms.** If the employee is also requesting Family and Medical Leave benefits, the employee shall complete the required FMLA forms and submit them to the supervisor or payroll technician.
4. **Agency Management Review.** Upon receiving an application form and verification form from an employee, agency management shall:
  - a. Review these forms to ensure they are complete;
  - b. Determine, based on the application form, the verification form, the provisions of this policy, and other relevant facts, whether the employee qualifies for a sick leave bank; and
  - c. Determine whether there is any documented corrective action or disciplinary action for leave abuse by the requesting employee.
5. **Agency Management Approval or Denial.** Agency management has 5 business days to recommend approval or denial of an employee's sick leave bank request. Based on a review of this policy, the application form, the verification form, any documented corrective action or disciplinary action for leave abuse, and other relevant facts, agency management shall decide whether it is appropriate to establish a sick leave bank for that employee. If agency management recommends approving the request, agency management shall so indicate on the application form and shall then forward the originals of both forms to the director of the responsible division, institution, or office. If agency management recommends denying the request, agency management shall so indicate on the application form and shall immediately return the originals of both forms to the requesting employee. Agency management shall place a photocopy of the signed application form and the verification form in the employee's separate medical file.

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6. **D/I/O Director's Review.** Upon receiving a sick leave bank application from agency management, a D/I/O director has 5 business days to recommend approval or denial of the request. The D/I/O director shall review the application form and the verification form and determine, based on this policy, the materials received from the supervisor and other relevant facts, whether to recommend that the request be approved or denied. If the director recommends approval, the director shall so indicate on the application form and forward the signed application form, together with the verification form, to the Director of the Office of Human Resources. If the director recommends denial, the director shall so indicate on the application form and return the signed application form, together with the verification form, to the employee. The director shall also send copies to the employee's agency management.
7. **Review by the Office of Human Resources.** Upon receipt of a sick-leave-bank application from the D/I/O director, the Director of the DHS Office of Human Resources (or the director's designee) has 5 business days to review the submitted materials and approve or deny the request. In reviewing the request to establish a leave bank, the Director shall consider any documented corrective or disciplinary action for leave abuse by the requesting employee. The Director, Office of Human Resources, or designee, shall approve the effective date of the assistance. If an application for a leave-bank is denied, the Director, or designee, shall notify the employee.
8. **Appeal from a Denial.** An employee whose application for a leave bank is denied by the employee's agency management has 10 business days to appeal that denial to the D/I/O director. If the D/I/O director denies the application, the employee has 10 business days to appeal to the Director of the Office of Human Resources. If the Director of OHR (or the director's designee) denies the application, the employee has 10 business days to appeal to the Department's Deputy Director. The Deputy Director's decision shall be final.
9. **Notification of a Leave Bank.** Upon approval of a leave bank, the Office of Human Resources will notify Department employees about the leave bank. Such notification shall include the name of the employee approved for a leave bank, the effective date of the leave bank, but shall not include any medical information submitted as part of the leave-bank application process.

## **LEAVE DONATION**

1. **How to Donate Leave.** Employees who wish to donate leave shall submit their request, using the State of Utah Department of Human Services Leave Bank Donation Request, to their payroll technicians for leave adjustment.
2. **Donor Confidentiality.** Donors' names and the amounts of their donations are confidential information and shall not be disclosed to the donee employee.

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3. **Posting of Donated Leave.** Donated leave shall be posted on the bi-weekly time sheet as the sick leave is used by the donee employee. Donated leave shall NOT be posted in advance of actual use by the donee employee, or prior to the effective date of the bank as approved by the Office of Human Resources.
4. **Unused Donated Leave.** Donated leave that was unused by the donee employee will NOT be retained in the leave bank, nor will it be returned to the donors, nor remain in the donee's leave balance.

**CONFIDENTIALITY OF MEDICAL INFORMATION**

1. **Nondisclosure of Medical Information.** All medical data and records about an employee are confidential. Employees of the Department shall not reveal the medical status or condition of a donee employee or the employee's family member in oral or written communications.
2. **Separate Medical File.** All documents relating to an employee's sick leave assistance shall be kept in a separate medical file and NOT in the employee's personnel file.

*Robin Arnold-Williams*

DATE: 07-02-04

Robin Arnold-Williams, Executive Director  
Department of Human Services

**DEPARTMENT OF HUMAN SERVICES**  
**LEAVE BANK MEDICAL VERIFICATION**  
*(To be completed by physician or licensed health care provider ONLY)*

1. Employee's name: \_\_\_\_\_

2. I certify that this employee needs to be absent from work for an extended period of time because:

The employee has a catastrophic illness or injury (that is, an illness, acute physical condition or injury which is life-threatening or incapacitating, and which reasonably requires the employee to be absent from work for) an extended period of time.

An immediate member of this employee's family has a catastrophic illness or injury and it is necessary that the employee miss work for an extended period of time to care for this relative:

This immediate family member is (*check one*):

employee's spouse

dependant living with the employee

employee's parent who lives outside the employee's home

This employee has a serious chronic illness (that is, a disease or illness of long duration characterized by slowly progressive and serious debilitation or disability, or by serious and persistent symptoms that reasonably require the employee to be frequently absent from work and make periodic visits for treatment by a licensed health care provider.) The employee cannot avoid the need for additional sick leave benefits by making reasonable adjustments in the work schedule to accommodate this condition.

3. Objective medical facts that support the employee's claim: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Date on which employee became unable to work: \_\_\_\_\_

6. Expected date of return to work: \_\_\_\_\_

7. Name of physician or licensed health care provider: \_\_\_\_\_

8. Signature of physician or licensed health care provider: \_\_\_\_\_

9. Date: \_\_\_\_\_

9. Physician or health care provider's phone # (\_\_\_\_\_) \_\_\_\_\_

**DEPARTMENT OF HUMAN SERVICES  
APPLICATION FOR LEAVE BANK**

Name: \_\_\_\_\_ Employee Number: \_\_\_\_\_  
Low Org: \_\_\_\_\_ Dist: \_\_\_\_\_ Agency Name: \_\_\_\_\_

I am requesting that a leave bank be established for my benefit because:

- I have a catastrophic illness or injury (that is, an illness, acute physical condition or injury which is life-threatening or incapacitating, and which reasonably requires me to be absent from work for an extended period of time).
- An immediate member of my family has a catastrophic illness or injury and it is necessary that I miss work for an extended period of time to care for this person.
- I have a serious chronic illness (that is, a disease or illness of long duration characterized by slowly progressive and serious debilitation or disability, or by serious and persistent symptoms that reasonably require me to be frequently absent from work and make periodic visits for treatment by a licensed health care provider.) I cannot avoid the need for additional sick leave benefits by making reasonable adjustments in my work schedule to accommodate this condition.

Facts that support my application for Sick Leave Assistance\*:

*\* The Department of Human Services' Leave Bank Medical Verification form must be attached to this application in order to be considered.*

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Employee's signature \_\_\_\_\_ Date

**AGENCY MANAGEMENT**     Recommend approval     Recommend denial

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Agency Management signature \_\_\_\_\_ Date

**D/I/O DIRECTOR'S RECOMMENDATION:**     Recommend approval     Recommend denial

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
D/I/O Director's signature \_\_\_\_\_ Date

**OFFICE OF HUMAN RESOURCES ONLY**

This application for a leave bank has been:     APPROVED     NOT APPROVED

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
OHR Director's (or designee's) signature \_\_\_\_\_ Date

Leave Bank Effective Date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**STATE OF UTAH  
DEPARTMENT OF HUMAN SERVICES  
LEAVE BANK DONATION REQUEST**

<b>DONATING EMPLOYEE :</b>	EMPLOYEE NUMBER:	DEPARTMENT:	DIVISION/INSTITUTION/OFFICE:
RECEIVING EMPLOYEE:		DEPARTMENT:	DIVISION/INSTITUTION/OFFICE:

**TYPE OF LEAVE AND NUMBER OF HOURS BEING DONATED:**

Annual Leave \_\_\_\_\_

Converted Sick Leave \_\_\_\_\_

Excess Hours \_\_\_\_\_

Compensatory Time \_\_\_\_\_ (Only employees designated as non-exempt from the FLSA may donate compensatory time)

I authorize the above number of hours to be deducted from my leave balances. I understand that this authorization is strictly voluntary and is irrevocable and these hours will not be restored to my leave balances even if not used by the employee who receives the leave.

**I understand that I must have a balance of at least 10 days (80 hours) of annual and/or sick leave after donation.**

EMPLOYEE SIGNATURE:	DATE OF DONATION:
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**FOR OFFICE OF HUMAN RESOURCES USE ONLY**

Signature of HR Technician for employee donating	Date
Signature of HR Technician for recipient	Date
Adjustments in SAP made by	Date