



**Patuxent Institution
Directive**

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Approved By:
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Director

Title: Accident Leave	Directive Number: PATX.050.0004
Related MD Statute/Regulations: State Personnel and Pensions Article, Title 9, Subtitle 7, ACM; COMAR 17.04.11.07; State of Maryland - Family and Medical Leave Act Guide State of Maryland Accident Leave Policy	Supersedes: PID #50-4
Related ACA Standards:	Authorized By: Director of Patuxent Institution
Related MCCS Standards:	Effective Date: August 20, 2014 Number of Pages: 6

.01 Purpose.

To establish policy and procedures regarding the application of paid leave resulting from a disabling injury suffered by permanent Patuxent Institution employees that would be compensable under the Maryland Worker's Compensation Act.

.02 Scope.

Applicable to all Patuxent Institution Permanent Employees.

.03 Policy.

It is the policy of Patuxent Institution to grant Accident Leave to any permanent employee who sustains a disabling personal injury that would be compensable under the Maryland Worker's Compensation Act; when a physician designated by the employer examines the employee and certifies that the employee is disabled because of the injury.

.04 Definitions.

A. In this directive, the following terms have the meanings indicated.

B. Terms Defined.

(1) Accident Leave is leave with two-thirds of regular pay that is granted to an employee who sustains a disabling personal injury that would be compensable under the Maryland Worker's Compensation Act. A physician must examine the employee and certify that the employee is disabled because of the injury. Injury does not include occupational disease. An employee receiving work related accident leave continues leave accrual, health care benefits with the State subsidy, and seniority based on the employee's full regular pay.

(2) Accident Leave Coordinator - The person designated by Patuxent Institution's Appointing Authority to coordinate accident leave claims.

(3) Chesapeake Employers Insurance (CEI) - State of Maryland insurance carrier for Worker Compensation Claims.

(4) Risk Management Team Leader - The person designated by Patuxent Institution's Appointing Authority to coordinate risk management activities.

(5) Family Medical Leave Act Entitlement (FMLA) - The law entitles eligible employees to an absence of up to a total of 12 work weeks (480 hours) of unpaid leave (a covered employer may allow for paid or unpaid leave) in any 12 month period for a serious health condition that makes an employee unable to perform the functions of the employee's job.

.05 Responsibility.

A. Administration.

(1) The Personnel Administrator is the designated Accident Leave Coordinator. The duties of the Accident Leave Coordinator will include the administration of this policy.

(2) The Personnel Office shall maintain pertinent records and statistics on the use of Accident Leave, to include the number of days charged to Accident Leave and the amount of wages paid for those days.

(3) All correspondence and documents pertaining to Accident Leave will be placed in the employee's confidential medical file. Such files contain copies of all relevant information about each case including:

- a. Employee "First Report of Injury" (form IR1, RMA);
- b. Supervisor Investigation Report (form IR4, RMA);
- c. Witness Statement (form IR4a, RMA);
- d. Acceptance or Waiver of Medical Evaluation (form IR3, RMA);
- e. All medical reports and physician's certifications;
- f. Correspondence relating to the case.

B. Procedure – General

(1) Should an injury occur, the first priority is to provide immediate medical attention.

(2) When an accident occurs, the injured employee must verbally notify his/her supervisor immediately. If non-emergency treatment and evaluation are necessary, the employee will be relieved from duty by the supervisor and will be referred by the Accident Leave Coordinator or authorized designee to the health care provider designated by the appointing authority or CEI for preliminary evaluation and treatment to determine whether or not the employee will be required to be absent from duty. The employee shall sign the Acceptance or Waiver of Medical Evaluation form (Appendix C). Transportation will be provided to the health care provider from work by the employee's department if the employee has no transportation of his/her own or cannot drive because of the injury.

(3) Within three (3) working days of the injury, the employee or someone on the employee's behalf shall provide to the supervisor written notice of the injury on the Employee "First Report of Injury" form (Appendix A).

(4) Within 14 days of receiving notice that an employee has been disabled by a work-related injury, the employee shall be notified, in writing, of the employee's right to file a claim with the Maryland Worker's Compensation Commission.

(5) An employee who is incapacitated from duty because of an on-the-job injury will follow normal call-in procedures as prescribed in DPSCS.050.0002, The Standards of Conduct Policy. The employee must advise the supervisor/designee that the call-in is due to an on-the-job injury.

(6) The employee's supervisor or other authorized designee will immediately, but no later than 24 hours after the report of the accident, conduct a preliminary investigation into the circumstances of the injury, to include statements from witnesses, Witness Statement (form IR4a, RMA), and report the findings to the Department Head on the Supervisor Investigation Report (Appendix B). Copies of the forms, along with any attachments, are sent to the Accident Leave Coordinator and the Risk Management Team Leader/designee for the Agency.

(7) The Risk Management Team Leader/designee will review the Supervisor Investigation Report and, if warranted, will conduct a formal investigation to the causes and circumstances of the accident.

(8) The employee will be granted accident leave beginning on the first day of absence from work because of the accidental personal injury, if a physician designated by the appointing authority or CEI determines that the employee is unable to work. The accident leave ends when a physician certifies, in writing, that the employee is able to return to work. Accident Leave that is granted will be charged against the employee's FMLA entitlement.

(9) All injuries, no matter how insignificant, shall be reported on the Supervisor Investigation Report (Appendix B). If the agency disagrees with an employee's version of an injury incident, the disagreement shall be noted in a negative Supervisor Investigation Report. This report shall be made by the agency when appropriate and shall serve as the agency's version and verification of an accidental injury.

(10) If an injured employee calls in sick as a result of the on-the-job injury the next work day after the accident and the employee has not been to the health care provider designated by the appointing authority or CEI, the supervisor shall immediately order the employee to same.

(11) When an employee claims an injury but reports it in an untimely manner (over three working days from the alleged injury), the supervisor will investigate the alleged accident and complete the Supervisor Investigation Report. The Risk Management Team Leader/designee will file a negative report with CEI unless good cause for the failure to report timely is shown.

(12) Employees are encouraged to report near misses. Any time an employee escapes a situation that may have caused injury to the employee; the incident should be reported to the employee's supervisor. An investigation should be initiated and the findings reported to the Risk Management Committee in the form of a memo. No formal accident reports are required in this situation.

C. Procedure - Medical Certification

(1) In order to warrant the granting of Accident Leave, an employee must be certified as disabled (unable to work) by a physician designated by the agency.

(2) The injured worker will be required to report to a health care provider designated by the appointing authority or CEI.

(3) The injured employee, or someone on the employee's behalf, shall within three (3) working days after the injury occurs, provide to the Accident Leave Coordinator a medical certificate from a health care provider designated by the appointing authority or CEI that the employee is disabled by the injury. The medical certificate must contain:

- (a) Diagnosis of injury;
- (b) Verification that the employee is unable to work because of the injury;
- (c) The anticipated period of incapacitation.

(4) In the case of prolonged incapacitation, the injured employee must provide an additional medical certification upon the expiration of the anticipated period of incapacitation contained in a prior certificate. The new certificate must be submitted within the pay period during which the prior certificate expired. Failure to provide the documentation will result in loss of pay for the days absent and possible disciplinary action in accordance with the sick leave policy and DPSCS.050.0002, the Standards of Conduct Policy.

(5) Medical certificates shall be forwarded to the Accident Leave Coordinator for review as to sufficiency.

D. Procedure – Physicians.

(1) After being seen initially by the health care provider designated by the appointing authority or CEI, the employee must keep any subsequent appointments with that medical provider. However, if the employee wishes to be treated by his/her own physician, the employee may discontinue treatment at the agency's medical provider by notifying both the Accident Leave Coordinator and the agency's medical provider prior to any missed appointments. The agency and CEI does, however, have the right to refer the injured employee periodically to a physician or physicians of its choice to determine the nature and extent of the injury, the employee's progress towards recovery, and an estimated date of return to work. An employee's refusal to undergo an examination by a physician for the agency or CEI, or the failure to appear for such an examination will be cause for discontinuing Accident Leave and possible disciplinary action.

(2) Even if the employee chooses treatment by the employee's own physician, the termination of Accident Leave shall be governed solely by the period of incapacitation established by the agency's physician.

E. Procedure - Leave Management.

(1) The Accident Leave Coordinator shall review each injury report to determine if the criterion for Accident Leave has been met (i.e., the injury was accidental, reported timely, certified by a physician to have rendered the employee unable to work, and is compensable under the Worker's Compensation Law).

(2) Accident Leave shall be granted to an employee in accordance with State Personnel and Pensions Article, Title 9, Subtitle 702, Annotated Code of Maryland. If a Worker's Compensation Commission Order determines that the injury is not compensable, the appointing authority shall correct the employee's leave record to reflect a conversion of the Accident Leave which was granted in advance of the notification to leave with pay, or, if the employee does not have leave with pay, to leave of absence without pay. The employee shall reimburse the State for any leave advanced under COMAR 17.04.11.07 (Work Related Accident Leave) for an injury which is subsequently determined to be non-compensable.

(3) Accident Leave is paid at two-thirds of the regular pay rate. When an employee continues to use Accident Leave beyond a six-month period, the timekeeper shall record the Accident Leave as Accident Leave with Sick Pay on the first day immediately following the end of the six-month period. Accident Leave with Sick Pay is exempt by federal law from social security taxes.

(4) An employee who is on approved work-related Accident Leave during a period when an employee holiday occurs shall be paid the same rate as work-related Accident Leave when the holiday occurs.

(5) Once approved, Accident Leave will begin on the first day of absence from work because of the injury. The Accident Leave ends when a physician certifies, in writing, that the employee is able to return to work. Accident Leave may not exceed six months from the date of the injury.

(6) After an employee returns to work, accident leave may be granted for continuing treatment as certified by a physician selected by the appointing authority for up to an additional six (6) months; provided no decision has been reached by the Workers' Compensation Commission on the employee's claim.

(7) Accident Leave may not extend beyond one year from the date of the injury.

(8) If the health care provider designated by the appointing authority or CEI certifies in writing that the employee is able to return to work, the Accident Leave will be discontinued. If required, the employee may abstain from reporting to work only by following regular leave procedures. The failure to return to work and failure to properly obtain leave will be considered as a Failure to Report occurrence.

(9) If, after being released by the health care provider designated by the appointing authority or CEI, the employee's own physician determines the employee is unable to perform his/her duties, the employee is required to submit medical documentation within the pay period that accident leave ends, and the employee will be continued on his/her own leave. The employee may be referred for an Independent Medical Examination to determine nature and extent of disability and prognosis for returning to work.

F. Worker's Compensation Claims

(1) Whenever there is an accident-on-the-job, the employee or someone on behalf of the employee has the right to file a claim with the Worker's Compensation Commission. Worker's Compensation benefits may be available to employees eligible or not eligible for Accident Leave benefits. However, if the employee has been granted Accident Leave benefits, no Worker's compensation benefit will be paid by the Commission until such time as all Accident Leave and all available sick leave has been used.

.06 Attachments/Links.

Appendix A - Employee First Report of Injury Report (form IR1, RMA))

Appendix B - Supervisor Investigation Report (form IR4, RMA)

Appendix C - Acceptance or Waiver of Medical Evaluation (form IR3, RMA)

Appendix D - Witness Statement (form IR4a, RMA)

.07 History.

A. Rescinds PID 20-1A dated January 1, 2007.

B. This Directive supersedes provision of any other prior existing Agency communication with which it may conflict.

.08 Distribution.

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B – Employee Bulletin Boards