



TO: AGENCY HEADS & AGENCY HUMAN RESOURCES ADMINISTRATORS
DT: March 24, 2010
RE: General Letter No. 78 (revised) – Use of Accrued Leave with Workers' Compensation

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Commissioner

PURPOSE

The purpose of this General Letter is to advise agencies regarding the optional use of accrued leave under Connecticut General Statutes Sections 5-142(b) and 5-143, to provide additional information concerning the procedure to follow in order to implement the law, and to introduce DAS Form WC-715 – *Request for Use of Accrued Leave with Workers' Compensation*. (This form was previously the Office of the State Comptroller Form CO-715 and has been updated in accordance with this General Letter.) General Letter No. 78 revised August 20, 1999 is obsolete.

STATUTORY AUTHORITY

C.G.S. §5-142(b) and C.G.S. §5-143 provide for the optional use of accrued sick leave by State employees receiving Workers' Compensation lost wage benefits (i.e.: temporary total and temporary partial benefits) that when combined will result in the employee receiving an amount equivalent to his/her full base pay as defined below. The Master Contract extended this option to include the use of other types of accrued leave. Pursuant to Public Act 78-367, General Letter No. 192 and OLR General Notice No. 78-18 granted this extended benefit to managerial and confidential employees and appointed officials.

C.G.S. §5-251 provides continued sick leave and vacation leave accruals “for the first twelve months of any such period of [workers'] compensation in accordance with the regulations issued by the Commissioner of Administrative Services.”

IMPORTANT: State Personnel Regulations §5-247-3 limits the use of accrued sick leave as follows: “Such leave shall not be granted for...recuperation from an illness or injury which is directly traceable to employment by an employer other than the State of Connecticut or for any day or period during which such employee performs full-time employment for another employer.”

DEFINITIONS

Academic Calendar: The term academic calendar applies to State employees assigned to educational institutions or school districts whose work schedules are based strictly on the school calendar. For ten month full-time employees, such schedules require a set number of specific working days during the regular school year. (These normally run from 180 to 188 days.) For twelve month full-time employees, a summer session must be worked in addition to the set days designated during the regular school year. In all cases, the employees are not eligible to accrue vacation but are assigned time off consistent with predetermined school vacation periods. Generally, whether the employee is assigned to a ten or twelve month schedule, his/her salary is paid over a twelve month period.

Base Pay: The basic rate of pay being received by the employee in accordance with the applicable compensation plan in effect at the time of the injury or disease. The hourly rate of pay for the step of the salary group will be used as the basis for computation of the amount of time to be charged against accrued leave.

Interim Period: The period of time required by the Third Party Claim Administrator (TPA) to determine the compensability of the submitted workers' compensation claim.

Supplement: Use of accrued leave to supplement approved workers' compensation lost wage benefits resulting in no greater than full base pay for the injured worker.

Work Week: For purposes of standardization, each employee's work week is defined by the applicable compensation plan. For employees assigned to a compensation plan based on a 35-hour work week, a work day is considered to be seven (7) hours. For employees assigned to a 40-hour compensation plan, a work day is considered to be eight (8) hours. For employees assigned to a 36.25 compensation plan, a work day is considered to be seven and one-quarter (7.25) hours and so forth. This applies whether the employee is on a nonstandard or standard work week which may consist of a Monday through Friday work schedule, an averaging schedule, or an academic schedule.

DATE OF INJURY RULES

For injuries sustained prior to October 1, 1991, the employee shall remain on the regular payroll for the first seven (7) calendar days of incapacity. No charges shall be made to accrued sick, vacation or personal leave time during these seven days. The employee's records will indicate a full work day on the day of injury. The use of accrued leave to supplement the workers' compensation amount may begin on the eighth day after injury, provided the employee has exercised this option in accordance with this General Letter.

For injuries sustained on or after October 1, 1991, no workers' compensation for lost wages shall be paid until the employee has been totally or partially incapacitated for more than three calendar days, excluding the day of injury. The employee's records shall indicate a full work day on the day of injury. Workers' Compensation for lost wages will begin on the fourth calendar day of incapacity. The employee's accrued leave balances may be charged to cover the work days lost during the initial three day period for which workers' compensation will not be paid. However, if such incapacity continues for more than six days, on the seventh day the employee shall be eligible for workers' compensation for lost wages retroactive to the first day of absence following the date of injury. The employee's accrued leave balances shall be adjusted following payroll reconciliation of any overpayments which may occur when such workers' compensation benefit is applied retroactively to day one.

The use of accrued leave to supplement the workers' compensation lost wage benefits may begin on the first day covered by such award provided the employee has exercised this option in accordance with this General Letter.

Medical documentation is required for all periods of incapacity.

PROCEDURES

An employee may elect to use accrued leave during the interim period or to supplement his/her approved workers' compensation lost wage benefit. Note: An employee's choice of election may be governed by the applicable collective bargaining agreement which may stipulate the use of accrued leave.

1. Upon receipt of the DAS WC-207 form – *First Report of Injury*, the employing agency must complete the “Agency Section” of the DAS WC-715 form and send it to the injured employee.
2. The injured employee must complete the “Employee Election Section” of the DAS WC-715 form at the beginning of the compensation period regardless of whether or not the employee elects to use accrued leave to supplement the workers' compensation payment.
 - Elections are to be specified by the employee for both of the following time periods:
 - During the interim period
 - While workers' compensation lost wage benefits are received
 - The election cannot be revoked and remains in effect until all accrued leave (including any future accruals that may be credited to the employee) is exhausted or the employee returns to his/her pre-injury number of scheduled work hours.
 - Failure to return the completed form to the agency will be administered as an election not to utilize accrued leave during the interim period and not to supplement the approved workers' compensation lost wage benefit.
 - The DAS WC-715 form must be completed for each recurrence.
3. The employee must sign and date the completed form, and return it to his/her Agency within 10 business days.
4. An employee who has elected to utilize accrued leave during the interim period or to supplement workers' compensation lost wage benefits must first exhaust sick leave before using any other leave time, absent extenuating circumstances. In addition:
 - During the interim period, an employee can choose to use Vacation, Personal, Holiday, and/or Compensatory leave, as designated by the employee on DAS WC-715
 - To supplement, an employee can choose to use Vacation and/or Personal leave, as designated by the employee on the DAS WC-715 form.
5. If an employee fails to return a DAS WC-715, elects not to supplement, or elects to supplement but exhausts his or her accruals, the agency shall place the employee on Benefits Billing.

NOTE: Subsequent to being placed on Benefits Billing, the injured worker may accrue additional sick leave and vacation leave each month in accordance with C.G.S. §5-251. This additional leave must also be utilized to supplement future workers' compensation payments pursuant to the election on DAS WC-715. Even though the employee has been placed on Benefits Billing following the exhaustion of accrued balances, when newly credited accrued leave is again being utilized, the agency need not remove the employee from Benefits Billing. Instead, the agency will simply record the use of this newly-available accrued leave on the employee's time and attendance records.

COMPUTATION

When an employee elects to use accrued leave to supplement the workers' compensation lost wage benefits, the agency must compute the amount of accrued leave to be charged so that the proper entries may be made on the attendance record for the injured worker. The following example provides step-by-step instructions for agencies to determine the amount of accrued leave required to supplement a workers' compensation lost wage benefit and how the injured worker's timesheet should be coded as a result.

Claim Facts:

1. Current salary group for Injured Worker (IW) = **MP 67**
2. Current scheduled hours = **40 per week / 8 hours daily**
3. Current bi-weekly base pay for IW = **\$3,897.00**
4. Current weekly base pay for IW = $\$3897.00 / 2 = \$1,948.50$
5. **Base Compensation Rate (BCR) = \$1,134.00**
6. IW completed the DAS WC-715 and has elected to supplement the workers' compensation payment using accrued leave

Steps:

1. Calculate the dollar value difference:

To do this, subtract the weekly base workers' compensation rate (BCR) from the IW's base pay (see 4 above):

- Weekly base regular pay = \$1,948.50
- Weekly BCR = \$1,134.00
- Dollar value difference = **\$ 814.50**

The employee has elected to use accrued leave time to cover the dollar value difference of \$814.50 per week to ensure receipt of full base pay while out on workers' compensation.

2. Determine the IW hourly rate:

Step Compensation Plan:

If the IW is compensated according to a step pay plan, use the hourly rate indicated on the pay plan

Range Compensation Plan:

Convert the IW weekly base pay (\$1,948.50) to an hourly rate by dividing the weekly base pay by the standard number of hours in a week

- $\$1,948.50 / 40 \text{ hours} = \48.7125
- Round up result to the nearest penny if the third digit to the right of the decimal is greater than zero.
- Hourly rate = **\$48.72**

3. Convert dollar value difference established in Step 1 above (\$814.50) into weekly hours.

To do this, divide the result in Step 1 By the result in Step 2

- $\$814.50 / \$48.72 = 16.7179802955$ Round to hundredths (if the third digit to the right is 5 or greater, round up to the nearest penny; if the third digit to the right is 4 or less, drop digits to the right of the second digit to the right of the decimal) = **16.72 hours**

This is the **number of** hours to be charged to accrued leave weekly

4. Convert the number of hours established in Step 3 (16.72) into daily hours.

To do this, divide the result in Step 3 by the standard number of work days in a week. (For employees with a rotating schedule, a 10-day bi-weekly schedule – or 5-day weekly schedule – is assumed.)

- $16.72 / 5 = 3.344$
- Drop digits to the right of the second digit = **3.34 hours**

This is the number of hours to be charged to leave accruals each day

5. Establish the daily timesheet entry for WC Direct hours and Accrued Leave hours.

To do this, subtract the result in Step 4 from the standard daily hours

- 8 hours – 3.34 = **4.66 hours posted as WC Direct**

The IW's attendance record should appear as follows:

- 4.66 hours = WCDIR
- 3.34 hours = SWCS (i.e., when employee charges sick leave accruals).
- Note: Be sure to use WC/FMLA combination codes if the workers' compensation claim is being administered together with the Federal Family Medical Leave Act.

The end result is that a supplemental check will be generated by the agency to the IW based on 3.34 hours charged to leave accruals.

- This computation provides the IW with full base pay
- In no case shall the computation result in an amount greater than full base pay

MORE INFORMATION

The computation shown above also appears in the DAS Workers' Compensation Manual. This Manual may be found online via the DAS Website at: <http://www.das.state.ct.us/WorkersComp/WCopp.asp>

Agency Human Resources/Payroll Office staff who are involved with workers' compensation may direct questions to:

DAS Workers' Compensation Division
Douglas Rinaldi, Program Manager
Phone: (860) 713-5002, Fax: (860) 713-7458
EMAIL: kelly.dillon@ct.gov

Employees may direct questions to their Agency Human Resources Office.

Brenda L. Sisco

Brenda L. Sisco, Commissioner

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