

SUBJECT: Recent Developments in Leave, to be included in ADS 480

NEW MATERIAL: This notice is being issued to make employees aware of several recent developments relating to leave. The policies/procedures set forth in this notice regarding lump-sum annual leave payments and paid time off for organ donation will be incorporated in ADS 480.

EFFECTIVE DATE: March 16, 2000

POLICY

USAID/General Notice
M/HR/PPIM/PP
3/16/2000

SUBJECT: Recent Developments in Leave, to be included in ADS 480

THIS NOTICE SHOULD BE READ BY ALL CIVIL SERVICE AND FOREIGN SERVICE DIRECT-HIRE EMPLOYEES.

This notice is being issued to make employees aware of several recent developments relating to leave. The U.S. Office of Personnel Management (OPM) issued final regulations in the Federal Register to provide a uniform Government-wide method of calculating lump-sum payments for accumulated and accrued annual leave for Federal employees who separate from Federal service. In addition, the President signed Public Law 106-56, the "Organ Donation Leave Act," to increase the amount of paid time off allotted for Federal employees to serve as organ donors. Lastly, OPM issued proposed regulations in the Federal Register for public comment that would expand the use of sick leave for family care up to a maximum of 12 weeks in a leave year. These new developments are discussed below.

1. Lump-Sum Payments for Annual Leave

OPM issued final regulations in 5 CFR Parts 531, 550, and 591 which went into effect on September 7, 1999, that standardize the calculation of annual leave lump-sum payments for all Federal employees who separate from Federal service. A Federal employee is entitled to receive a lump-sum payment for any unused annual leave upon separation or retirement from Federal service, death, entering active duty in the armed forces, if the employee elects to receive such payment, or upon transfer, when unused annual leave cannot be transferred or credited to the gaining agency.

Pursuant to 5 USC 5551, an employee is entitled to receive a lump-sum payment for accumulated and currently accrued annual leave to which an employee is entitled on the date of separation. This includes all "use or lose" and restored annual leave to the employee's credit on the date of separation. Annual leave that has not yet been forfeited must be included in a lump-sum payment.

a. How is a lump-sum payment calculated?

In general terms, a lump-sum payment equals the pay an employee would have received had the employee remained in Federal service until expiration of the period of annual leave (excluding any post differential under 5 USC 5925 or danger pay allowance under 5 USC 5928). The types of pay included in a lump-sum annual leave payment are discussed in section b below.

In calculating a lump-sum payment, an employee's annual leave is projected forward beginning on the first workday (counting any holiday) occurring after the date the employee becomes eligible for a lump-sum payment and counting all subsequent workdays and holidays until the expiration of the period of annual leave. Pursuant to 5 USC 5551(a), the period of leave used for calculating the lump-sum payment cannot be extended by any holidays which occur immediately after the date the employee becomes eligible for a lump-sum payment.

A lump-sum payment is computed by multiplying the number of hours of accumulated and accrued annual leave by the employee's applicable hourly rate of pay, including the types of pay listed in section b below. However, any allowances that are paid for the sole purpose of retaining a Federal employee in Government service (e.g., physician's comparability allowances) are excluded.

For example, an employee retires on December 3, 1999, with 320 hours of accumulated and accrued annual leave. The employee's lump-sum leave period is projected forward over succeeding pay periods in December 1999 and January 2000. The employee's lump-sum payment is calculated based on the employee's current hourly rate for two pay periods in December 1999 and the employee's increased rate of pay effective on January 2, 2000, for two pay periods in January 2000.

b. What types of pay are included in a lump-sum payment?

The types of pay included in a lump-sum payment are:

- Rate of basic pay (including any applicable special pay rate under 5 USC 5305)* Locality payments (if assigned to USAID/W or another continental U.S. duty station at the time of separation at the applicable rate)
- Within-grade or within-class increase (if waiting period met on date of separation)
- Across-the-board annual adjustments

- Foreign area post allowances under 5 USC 5924(1) (See ADS 477 and Section 220 of the Standardized Regulations.)

Pursuant to OPM regulations, agencies are required to compute a lump-sum payment based on the types of pay listed above that are in effect at the time of separation. The lump-sum payment will be adjusted to reflect the increased rate on and after the effective date of a pay adjustment for any portion of the lump-sum annual leave period occurring after the effective date of the adjustment.

Under 5 USC 5551, a lump-sum payment for annual leave is considered pay for Federal income tax purposes. Lump-sum annual leave payments are subject to the same taxes as an employee's regular pay.

c. What if an employee returns to Federal service?

If an employee is reemployed in the Federal service prior to the expiration of the lump-sum annual leave period, the employee is required to refund the portion of the lump-sum payment that represents the period between the date of reemployment and the expiration of the lump-sum period. An amount of annual leave equal to the days or hours of work remaining between the date of reemployment and the expiration of the lump-sum leave period is recredited to the employee. However, the employee would not be required to refund a lump-sum payment if reemployment is in a position that has no leave system (e.g., to a position with an intermittent work schedule also known as "WAE" or when actually employed).

2. Organ Donor Leave Act

Public Law 106-56, which became effective September 24, 1999, increased the amount of paid time off allotted for Federal employees to serve as organ donors from 7 days to 30 days each calendar year. This new entitlement to paid leave for organ donation does not apply to bone marrow donation. The amount of leave available for bone marrow donation remains at 7 days each calendar year under 5 USC 6327. For time and attendance purposes, paid time off for organ donation should be carried as excused absence and coded as "XE" in AETA.

The length of absence for organ donation will vary depending upon the medical circumstances of each case. For medical procedures and recuperation requiring absences longer than 30 days, employees may request additional time off in the form of sick and/or annual leave, advance sick and/or annual leave, donated annual leave under the Voluntary Leave Transfer Program, or leave without pay.

Employees who wish to take paid time off or other leave for this purpose must complete an SF-71, Request for Leave or Approved Absence. Employees are required to provide medical documentation supporting the request for paid time off and any additional leave

requested, indicating the expected duration of the medical procedure and recovery period.

3. Proposed Rules to Expand Sick Leave for Family Care

In response to a number of inquiries regarding the status of the regulations, the U.S. Office of Personnel Management issued proposed regulations on February 9, 2000. There is a 45-day public comment period on the proposed rules that ends on March 27, 2000.

Under the proposed regulations, an employee would be able to use a total of up to 12 weeks of sick leave each leave year to care for a family member with a serious health condition. Current regulations permit Federal employees to use a maximum of 13 days of sick leave each leave year to care for a family member who is incapacitated or to make arrangements for or attend the funeral of a family member. However, to use more than 5 days (40 hours) of sick leave to care for a family member, up to a maximum of 13 days (104 hours), an employee must maintain a sick leave balance of at least 80 hours at all times.

The proposed rules extend the period during which sick leave may be used to care for a family member who is incapacitated by a serious health condition. Under the proposed rules, if an employee uses sick leave to care for a family member with a serious health condition, the same limitation would apply. In summary, an employee cannot use more than 40 hours of sick leave for any family-care purpose, unless the employee maintains a sick leave balance of at least 80 hours (or, in the case of part-time employees, two times the number of days in their regularly scheduled workweek). This is a brief summary of the proposed rules. OPM will issue final regulations after the public comment period ends. We will keep employees apprised of the status of the proposed rules.

Policies/procedures set forth in this notice regarding lump-sum annual leave payments and paid time off for organ donation will be incorporated in ADS 480. This notice will be posted on the "Leave Administration" Webpage of the M/HR Website. The address is: <http://www.usaid.gov/M/HR>.

POINT OF CONTACT: Questions regarding this notice may be directed to Joann Jones, M/HR/PPIM/PP, on (202) 712-5048.

Notice 0330

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