

**Functional Series 400  
Personnel**

**INTERIM UPDATE #20**

**SUBJECT: Sick Leave to Care for a Family Member with a Serious Health Condition**

**NEW MATERIAL: Effective June 20, 2000, the U.S. Office of Personnel Management published final regulations, implementing an expanded sick leave policy for Federal employees.**

**EFFECTIVE DATE: June 20, 2000**

**POLICY**

**USAID/General Notice  
M/HR/PPIM/PP  
07/20/2000**

**SUBJECT: Sick Leave to Care for a Family Member with a Serious Health Condition**

Effective June 20, 2000, the U.S. Office of Personnel Management published final regulations, implementing an expanded sick leave policy for Federal employees. The new regulations permit employees to use a total of 12 weeks of sick leave (480-hour maximum entitlement) each leave year to care for a family member with a serious health condition, provided they maintain a sick leave balance of 80 hours.

The new regulations are intended to broaden the options available to Federal employees who have a family member with a long-term or terminal illness. In many cases, employees have had to exhaust their annual leave and the previously available 13 days of sick leave for family care when an employee's family member required the employee's care for an extended period of time.

Key provisions of the new leave entitlement are discussed in detail below:

**1. Definition of Family Member**

The new regulations have the same definition of family member that has been used in OPM's regulations on administering sick leave for family care purposes.

The definition of family member includes the following relatives of the employee: (a) spouse and parents of the spouse; (b) children, including adopted children, and their spouses; (c) parents; (d) brothers and sisters and their spouses; and (e) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

In addition, coverage is extended to grandparents, grandchildren, and stepchildren pursuant to the intent of this regulation to include individuals outside of the traditional nuclear family. Supervisors have discretionary authority to extend coverage to other relatives or individuals who have a close relationship with the employee which is like that of a family member.

Note that the definition of family members for purposes of sick leave for family care is different from the definition of family members for Family and Medical Leave Act (FMLA) purposes. The definition of family member for invoking FMLA is limited to caring for an immediate family member (spouse, son or daughter) or parent with a serious health condition.

## **2. Definition of Serious Health Condition**

The term "serious health condition" has the same meaning as used in OPM's regulations for administering the Family and Medical Leave Act of 1993 (FMLA). That definition includes, but is not limited to, such conditions as: cancer, heart attacks, strokes, severe injuries, Alzheimer's disease, pregnancy and childbirth, recovery from major surgery, and final stages of a terminal illness. The term "serious health condition" is not intended to cover short-term conditions for which treatment and recovery are very brief; for example, colds, flu, earaches, upset stomach, or routine dental problems.

In cases of childbirth, in accordance with these regulations, sick leave is granted to birth parents only for the period of the mother's incapacitation as certified by the health care provider following the birth. Her spouse or parent is entitled to use sick leave to care for her during that entire period of incapacitation. The birth parents must use annual leave and/or leave without pay for absences from work beyond the mother's period of incapacitation; e.g., for care of the newborn, bonding with the child, and other childcare responsibilities.

Once the new mother's period of incapacitation ends, both parents are entitled to use up to 13 days of sick leave each year to care for the child when the child is ill or to take the child to medical appointments. (See Section No. 5, Interaction with Prior Use of Sick Leave for Family Care Purposes.)

Employees are required to provide administratively acceptable evidence of a serious health condition and its expected duration to support a request for extended sick leave. (See Section No. 3, Advance Notice and Medical Certification.)

## **3. Advance Notice and Medical Certification**

Employees shall comply with the Agency's notification and medical certification requirements in order to be granted extended sick leave to care for a family member with a serious health condition. Employees are instructed to complete an SF-71, Application for Leave and Excused Absence, and provide a medical certification from a health care provider supporting the sick leave request.

A certification from the health care provider must address the nature of the family member's serious health condition and the length of incapacitation. In addition the statement must certify the following: (1) the family member requires psychological comfort and/or physical care, (2) the family member would benefit from the employee's care or presence, and (3) the employee is needed to care for the family member for a specified period of time.

If the need for sick leave is foreseeable based on an expected birth or planned medical treatment, employees are expected to provide advance notice of their intent to take sick leave to care for a family member not less than 30 days before leave is to begin. If the need for sick leave does not permit employees to provide 30 days of advance notification, employees are expected to provide as much advance notice as possible. In all such cases, medical documentation supporting the need for extended sick leave must be provided before the leave is to begin. In emergencies when advance notification is not possible, employees, or their representative, are expected to provide notice and supporting medical documentation within 10 working days of when the employee's leave of absence began.

#### **4. Requirement to Maintain a Balance of 80 Hours of Sick Leave**

Employees may elect to use an initial 40 hours of sick leave to care for a family member, regardless of their sick leave balance. However, to use more than 40 hours of sick leave, employees are required to maintain an 80-hour sick leave balance at all times.

Only the first 40 hours of sick leave for a full-time employee, or a proportional amount for a part-time employee based on the number of hours in their work schedule, may be advanced by a supervisor.

#### **5. Interaction with Prior Use of Sick Leave for Family Care Purposes**

Previously, employees had the option to use a total of up to 13 days of sick leave each year for family care and bereavement purposes. The expanded regulations permit full-time employees to use a total of up to 12 weeks of sick leave each year to care for a family member with a serious health condition.

If an employee has previously used 13 days of sick leave in a leave year for family care purposes, the 13 days must be subtracted from the 12-week sick leave entitlement. If an employee has previously used 12 weeks of sick leave in a leave year to care for a family member with a serious health condition, the employee would not be entitled to an additional 13 days of sick leave FOR family care or bereavement purposes. Therefore, an employee is entitled to a maximum of 12 weeks of sick leave for all family care purposes in a leave year. Part-time employees are entitled to prorated amounts of sick leave for family care purposes based on the number of hours in their regularly scheduled workweek.

Example: Mary has 840 hours of accrued sick leave. She used 80 hours of sick leave earlier this leave year to care for her daughter who had the chicken pox. Last week Mary's mother-in-law underwent emergency heart surgery and will require constant care for several weeks. Mary may use up to a maximum of 400 hours (480-hour maximum entitlement minus 80 hours already used for family care purposes) to care for her mother-in-law as she recuperates.

## **6. Interaction with Family and Medical Leave (See [ADS 481](#))**

The FMLA provides most employees with an entitlement to use a total of up to 12 weeks of leave without pay during any 12-month period for certain family and medical needs. An employee may choose to substitute sick leave for FMLA leave without pay consistent with current law and regulations for using sick leave. Until now, employees who invoked their entitlement to FMLA leave were limited to substituting up to 13 days of sick leave for FMLA leave without pay each year to care for a spouse, son or daughter, or parent with a serious health condition.

Under the final regulations, an employee is entitled to substitute up to 12 weeks of sick leave each year for FMLA leave without pay if the employee is caring for a spouse, son or daughter, or parent with a serious health condition. Alternatively, an employee may use up to 12 weeks of sick leave each year to care for a family member with a serious health condition and then invoke his or her entitlement to 12 weeks of FMLA leave without pay to care for a spouse, child, or parent with a serious health condition or for some other specified purpose under FMLA.

## **7. Interaction with the Leave Transfer Program (See [ADS 482](#))**

Previously, an employee who is caring for a family member with a medical emergency may have significant amounts of accumulated sick leave that the employee cannot use because the employee has already used his or her entitlement to 13 days of sick leave for family care purposes. As a result, in some cases, these employees are using donated leave from other employees even though they have substantial amounts of sick leave available in their own sick leave accounts.

Pursuant to the OPM regulations, employees who are using donated annual leave on the effective date of these regulations are required to use the sick leave available for family care purposes pursuant to these sick leave regulations before the employee can continue to use donated leave. Accordingly, ADS 482 is amended effective June 20, 2000, to conform to this provision.

An employee may receive donated annual leave from other Federal employees if the employee is affected by a family medical emergency and has exhausted available paid annual and sick leave available for family care purposes in accordance with these regulations. Once an employee has exhausted his or her entitlement to 12 weeks of

sick leave for family care purposes, the employee has exhausted all of his or her available paid sick leave and may use donated leave.

The sick leave regulations do not apply to Foreign Service National employees. While U.S. Personal Services Contract employees are not covered by these regulations, it is USAID policy that USPSCs may use sick leave on the same basis as other U.S. employees.

Employees are advised to read this notice in conjunction with "Questions and Answers on the Expanded Use of Sick Leave for Family Care Purposes" prepared by OPM. This information may be accessed from the "Leave Administration" Webpage of the Human Resources (M/HR) Website. The address is: <http://inside.usaid.gov/M/HR/pers2.htm>.

This policy will be incorporated in the joint leave regulations in the Foreign Affairs Manual. This notice will also be posted on the "Leave Administration" Webpage of the Human Resources (M/HR) Website.

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

Notice 0726

<b>File name</b>	<b>Notice Date</b>	<b>Effective Date</b>	<b>Editorial Revision Date</b>	<b>ADS CD No.</b>	<b>Remarks</b>
IU420_072500_cd20	07/20/2000	06/20/2000	N/A	ADS CD 20	New