

Proposed Rules

Federal Register

Vol. 65, No. 27

Wednesday, February 9, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

RIN 3206-A176

Sick Leave for Family Care Purposes

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is issuing proposed regulations to expand the use of sick leave for family care purposes. Under the proposed regulations, an employee would be able 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. This benefit would broaden the options available for employees to meet their family responsibilities.

DATES: Comments must be received on or before March 27, 2000.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415-8200, FAX (202) 606-0824, or email to payleave@opm.gov.

FOR FURTHER INFORMATION CONTACT: Jo Ann Perrini, (202) 606-2858, FAX (202) 606-0824, or email to payleave@opm.gov.

SUPPLEMENTARY INFORMATION: On May 24, 1999, President Clinton issued a memorandum directing the Office of Personnel Management (OPM) to expand the use of paid sick leave for family care purposes. Consistent with the President's goal of eliminating "a significant barrier to caring for a family member with a serious health condition," we are issuing proposed regulations that would permit full-time employees to use a total of up to 12 administrative workweeks 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. Federal employees and agencies have expressed full support for the use of sick leave for family care or bereavement purposes. Federal agencies believe the program fosters goodwill and creates a more compassionate, family-friendly work environment, resulting in a more productive workforce that enables the Government to accomplish its mission. However, because of the 13-day limitation, many employees face extended periods of leave without pay when caring for a family member after they have exhausted their entitlement to use annual and sick leave. In a survey for our 1997 report to Congress on the use of sick leave for family care purposes, OPM found there was concern that the 13-day limitation was inadequate for employees affected by long-term, catastrophic illnesses of family members.

Under the proposed regulations, mothers and fathers caring for their children, grandparents who are raising their grandchildren, and employees caring for other family members, including mothers- and fathers-in-law, would all greatly benefit from the more generous leave entitlement. The new benefit also would address the dilemmas faced by parents of children with special needs when trying to balance their work and family responsibilities. Allowing an employee to use up to 12 weeks of his or her own accrued sick leave each year would reduce the need for extended periods of leave without pay, which has a negative effect on an employee's pay and benefits, such as within-grade increases and health benefits. As a result, employees would be better able to deal with the financial and personal strain caused by a family member's medical needs.

Under the proposed regulations, the term "serious health condition" would have the same meaning as found in OPM's regulations at 5 CFR 630.1202 for administering the Family and Medical Leave Act of 1993 (FMLA). That definition includes such conditions as cancer, heart attacks, strokes, severe injuries, Alzheimer's disease, pregnancy, and childbirth. The term "family member" would have the same meaning as found in OPM's regulations

at 5 CFR 630.201, which includes the following relatives of the employee: (a) Spouse and parents thereof; (b) children, including adopted children, and spouses thereof; (c) parents; (d) brothers and sisters, and spouses thereof; and (e) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Part-Time and Uncommon Tours

Under the proposed regulations, the entitlement to use sick leave to care for a family member with a serious health condition would be prorated for part-time employees or employees with an uncommon tour of duty. For those employees, the amount of sick leave available to care for a family member with a serious health condition would be equal to 12 times the average number of hours in the employee's regularly scheduled administrative workweek.

Requesting and Approving Sick Leave for Family Care Purposes

Employees who wish to use more than 13 days of sick leave in a leave year to care for a family member with a serious health condition would be subject to the requirements in 5 CFR 630.402 for requesting sick leave. To the extent possible, employees would be required to request advance approval for sick leave to provide care for a family member with a serious health condition. In addition, employees would be subject to the requirements in 5 CFR 630.403 for providing administratively acceptable evidence or medical certification of a serious health condition. Most agencies have established procedures for requesting and approving sick leave, and employees would continue to follow these procedures when requesting sick leave for family care purposes.

In addition, we are proposing to revise 5 CFR 630.403 to permit agencies to establish a uniformly applied policy that requires employees to provide administratively acceptable evidence or medical certification for a request for sick leave within a specified time period. An employee who does not provide the required evidence or medical certification within the specified time period would not be entitled to sick leave.

Relationship to Other Family-Friendly Leave Programs

An employee would continue to be entitled to a total of up to 12 workweeks of unpaid leave under the FMLA for certain family and medical needs. Therefore, an employee would be permitted to substitute up to 12 weeks of sick leave for unpaid leave under the FMLA if he or she is caring for a spouse, son or daughter, or parent with a serious health condition.

Employees would continue to be entitled to use a total of up to 13 days of sick leave each leave year to (1) provide care for a family member as a result of physical or mental illness; injury; pregnancy; childbirth; or medical, dental, or optical examination or treatment; or (2) make arrangements necessitated by the death of a family member or attend the funeral of a family member, subject to the requirements and limitations in 5 CFR 630.401. The proposed regulations simply extend the period during which sick leave may be used to care for a family member with a serious health condition. Under the proposed regulations, however, any portion of the 13 days of sick leave previously used in a leave year for general family care purposes would be subtracted from the new entitlement to use a total of up to 12 weeks of sick leave to care for a family member with a serious health condition.

Example 1: An employee uses 13 days (104 hours) of sick leave for family care purposes early in the leave year (leave year 1). On April 1, the employee requests additional sick leave to care for a mother-in-law with a serious health condition. Since the employee has already used the 13-day (104-hour) entitlement to sick leave to care for a family member under § 630.401(a)(3)(i), she may use only 9 weeks and 2 days (376 hours) of sick leave in the same leave year to care for a family member with a serious health condition. As of the beginning of the next leave year (leave year 2), the employee has a new entitlement to use up to 13 days of sick leave for family care or bereavement purposes and a new entitlement to use up to 480 hours of sick leave to care for a family member with a serious health condition.

Example 2: An employee used 3 days (24 hours) of sick leave to attend the funeral of her grandmother in January. The employee then requested an additional 4 weeks (160 hours) of sick leave to care for her grandfather, who had pneumonia, a serious health condition. The employee has used 184 hours of sick leave for all family care purposes. She has a remaining

entitlement to 10 days (80 hours) of sick leave for general family care purposes or up to 7 weeks and 2 days (296 hours) of sick leave to care for a family member with a serious health condition.

An employee would continue to be responsible for notifying the employing agency as to whether he or she is requesting sick leave for family care or bereavement purposes or to care for a family member with a serious health condition. The employing agency would continue to be responsible for maintaining a record of each employee's use of sick leave for all family care or bereavement purposes, as required by 5 CFR 630.408.

Employees who exhaust their available sick and annual leave as a result of caring for a family member may request donated annual leave under the voluntary leave transfer or leave bank programs. However, an employee's expanded entitlement to use 12 weeks of sick leave under the proposed regulations would have to be considered in determining his or her eligibility to become a leave recipient under these programs. Under the proposed regulations, if an employee wishes to become a leave recipient, and the medical emergency involves a family member, the employee would have to use all sick leave available to him or her under 5 CFR 630.401 for family care purposes before qualifying for donated annual leave.

Minimum Sick Leave Balance

A full-time employee is entitled to use up to 5 days (40 hours) of his or her accrued or accumulated sick leave (or in the case of a part-time employee or an employee on an uncommon tour of duty, the number of days in his or her regularly scheduled workweek) for family care or bereavement purposes without regard to his or her sick leave balance. 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 10 days (80 hours) at all times. Under the proposed regulations, if an employee uses sick leave to care for a family member with a serious health condition, these same limitations would apply. In summary, an employee may not use more than 5 days (40 hours) of sick leave for any family-care purpose, unless he or she maintains a sick leave balance of at least 10 days (80 hours) (or, in the case of a part-time employee or an employee with an uncommon tour of duty, two times the number of days in his or her regularly scheduled workweek). Although an agency may advance up to 40 hours of sick leave for

family care or bereavement purposes, an agency may not advance sick leave to fulfill the 80-hour requirement. In addition, an agency may not advance sick leave to allow an employee who has a minimum of 80 hours of sick leave in his or her account to use additional sick leave for family care purposes.

Since the President directed OPM to issue proposed regulations, we have received numerous inquiries from employees, agency officials, and other interested parties who are experiencing a family medical emergency and need additional paid time off. To accommodate the pressing need for this benefit, we are shortening the normal 60-day public comment period to 45 days in order to expedite final action on this proposal.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Family Assessment Certification

I certify that these regulations would strengthen the stability of the family, help families meet their responsibilities, and increase the disposable income of families in accordance with section 654 of the Treasury and General Government Appropriations Act, 1999, as contained in section 101(h) of Public Law 105-277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999.

List of Subjects in 5 CFR Part 630

Government employees.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is proposing to amend part 630 of title 5 of the Code of Federal Regulations as follows:

PART 630—ABSENCE AND LEAVE

1. The authority citation for part 630 continues to read as follows:

Authority: 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103-356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102-484, 106 Stat. 2722, and Pub. L. 103-337, 108 Stat. 2663; subpart D also issued under Pub. L. 103-329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR,

1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100-566, 102 Stat. 2834, and Pub. L. 103-103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L. 100-566, and Pub. L. 103-103; subpart K also issued under Pub. L. 105-18, 111 Stat. 158; subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103-3, 107 Stat. 23; and subpart M also issued under 5 U.S.C. 6391 and Pub. L. 102-25, 105 Stat. 92.

Subpart B—Definitions and General Provisions for Annual and Sick Leave

2. In § 630.201(b), a new definition of *serious health condition* is added in alphabetical order to read as follows:

§ 630.201 Definitions.

* * * * *

Serious health condition has the meaning given that term in § 630.1202.

* * * * *

Subpart D—Sick Leave

3. In § 630.401, the introduction to paragraph (a) and paragraphs (a)(3) and (b) are revised; paragraphs (c) through (e) are redesignated as paragraphs (d) through (f), respectively; a new paragraph (c) is added; and in newly designated paragraph (e), “(c)” is removed and “(d)” is added in its place wherever it appears to read as follows:

§ 630.401 Grant of sick leave.

(a) Subject to paragraphs (b) through (f) of this section, an agency must grant sick leave to an employee when the employee—

* * * * *

(3)(i) Provides care for a family member who is incapacitated as the result of physical or mental illness, injury, pregnancy, or childbirth or who receives medical, dental, or optical examination or treatment; or

(ii) Provides care for a family member with a serious health condition.

* * * * *

(b) The amount of sick leave granted to an employee during any leave year for the purposes described in paragraphs (a)(3)(i) and (4) of this section may not exceed a total of 104 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the number of hours of sick leave normally accrued by that employee during a leave year).

(c)(1) An employee who is caring for a family member with a serious health condition under paragraph (a)(3)(ii) of this section may use a total of up to 480 hours of sick leave (or, in the case of a part-time employee or an employee with an uncommon tour of duty, an amount of sick leave equal to 12 times the

average number of hours in his or her scheduled tour of duty each week) during a leave year, subject to the limitation found in paragraph (c)(2) of this section.

(2) If, at the time an employee uses sick leave to care for a family member with a serious health condition under paragraph (a)(3)(ii) of this section, he or she has used any portion of the sick leave authorized under paragraph (b) of this section during that leave year, that amount must be subtracted from the maximum number of hours authorized under paragraph (c)(1) of this section to determine the total amount of sick leave that may be used during the remainder of the leave year to care for a family member with a serious health condition.

* * * * *

4. Section 630.403 is revised to read as follows:

§ 630.403 Supporting Evidence.

(a) An agency may grant sick leave only when supported by evidence administratively acceptable. Regardless of the duration of the absence, an agency may consider an employee's certification as to the reason for his or her absence as evidence administratively acceptable. For an absence in excess of 3 workdays, or for a lesser period when determined necessary, the agency may also require a medical certificate or other administratively acceptable evidence as to the reason for an absence for any of the purposes described in § 630.401(a).

(b) An agency may establish a uniformly applied policy that requires employees to provide administratively acceptable evidence or medical certification for a request for sick leave within a specified time period. An employee who does not provide required administratively acceptable evidence or medical certification within his or her agency's specified time period is not entitled to sick leave.

§ 630.405 [Amended.]

5. In paragraph (a), remove “(e)” and add in its place “(f),” and in paragraph (b), remove the last sentence.

* * * * *

[FR Doc. 00-2932 Filed 2-4-00; 4:26 pm]

BILLING CODE 6325-01-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV00-989-2 PR]

Raisins Produced From Grapes Grown in California; Increase in Compensation Rate for Handlers' Services Performed Regarding Reserve Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on increasing, by approximately 15 percent, the compensation rate for handlers' services performed in connection with reserve raisins covered under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). These changes are necessary to reflect current industry costs.

DATES: Comments must be received by April 10, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, or Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration