

# SEPTEMBER 27 MANAGEMENT PROPOSAL

## MANAGEMENT PROPOSAL

Preamble: Pursuant to Department of Defense HA Policy 08-005, Policy for Mandatory Seasonal Influenza Immunization for Civilian Health Care Personnel, guidance from the Centers for Disease Control and Prevention (CDC), Medical Command (MEDCOM) Operations Order 10-65 (2010-2011) Influenza Vaccine Immunization Program and consistent with sound medical practice, the William Beaumont Army Medical Center (WBAMC) has decided to implement mandatory immunization against seasonal influenza to bargaining unit employees. This Agreement is entered into between the American Federation of Government Employees, Local 2516, (Union) and WBAMC, concerning the implementation by WBAMC of this Policy. This Agreement constitutes the complete understanding between the Union and WBAMC. No other promises or agreements will be binding unless signed by all parties.

Provision 1: The Union does not by signing this Agreement suggest they agree with WBAMC's substantive decision to implement this policy. The negotiation of these provisions does not waive the Union's right to challenge through litigation (including grievance-arbitration and negotiability appeal) WBAMC's substantive decision to implement this policy, including the decision to apply this policy to all bargaining unit employees. Upon the conclusion of such litigation, either party shall have the right to reopen this agreement to address the results of that litigation. Such reopener shall be exercised by providing the other parties written notice within thirty (30) days of the conclusion of such negotiations.

Provision 2: If WBAMC decides to modify or terminate this program, it will provide the Union with at least two weeks prior notice.

Provision 3: Notice: All employees will receive a written (email) Notice of Immunization at least seven calendar days prior to being immunized. The Notice will advise employees of the purposes of the Immunization Program, the benefits of the immunization to both the employee and the patients served by WBAMC, and any potential adverse effects of immunization. The Notice shall explain that immunization will take place during paid duty time (not overtime) at WBAMC, unless the employee chooses to be immunized by his/her private physician. The Notice shall also advise employees that immunization is a condition of employment and that refusal to be immunized without a valid exception may lead to disciplinary/adverse action. Any disciplinary/adverse action to be taken will be carried out in accordance with applicable regulations and the provisions of the applicable Collective Bargaining Agreement.

Provision 4: Use of Private Physician: Employees may choose to be immunized by their Private Physician or Health Care Provider (at their own expense) instead of being immunized by WBAMC. Employees who choose to be immunized by their Private Physician or Health Care Provider must provide appropriate medical documentation, verifying their immunization, to the designated WBAMC Medical Review Officer (MRO) within fifteen days of receiving the Notice of Immunization. The immunization must have occurred during or at the beginning of the current flu season.

Provision 5: Exceptions: Employees may request to be exempt from the requirements of immunization only under the following conditions.

A. Medical:

1. Employees who believe they should be exempted from immunization due to medical conditions must submit a request for a medical exemption in writing to the designated WBAMC Medical Review Officer within fifteen days of receiving the Notice of Immunization. For good cause as reasonably determined by WBAMC, employees may request an additional extension beyond fifteen days. Such requests must be accompanied by appropriate medical documentation, as reasonably determined by WBAMC, describing the condition upon which the request for exemption is based. The condition upon which the requested exemption is based must be a condition which is generally accepted by the medical community as precluding seasonal influenza immunization. At his/her discretion, the Medical Review Officer may request additional documentation. The employee may, at his/her discretion, provide the MRO with a medical release to allow the MRO to speak to the employee's physician.

2. The decision of the WBAMC Medical Review Officer shall be provided to the employee in writing and shall be the final decision on behalf of WBAMC. Employees whose request for exemption is denied will be required to be immunized. The decision of the MRO to deny the request for an exemption may be grieved in accordance with the negotiated Grievance Procedure, but the grievance shall not delay immunization.

3. Any medical documentation provided by the employee to the WBAMC Medical Review Officer shall be kept confidential and shall only be shared only with Medical Professionals who the MRO may consult in reaching a decision. Such documentation shall not be shared by WBAMC with the employee's supervisor, unless the supervisor is the Medical Professional whom the MRO finds it necessary to consult.

B. Religious

1. An employee may request exemption from immunization on the grounds that this/her bona-fide religious beliefs preclude receiving medical treatment. Employees who believe they should be exempted from immunization due to a religious objection must submit a request for a religious exemption in writing, along with a brief explanation of the reasons for the request, to the Fort Bliss Office of Equal Employment Opportunity (EEO) within ten days of receiving the Notice of Immunization.

2. The decision of the Fort Bliss Office of Equal Employment Opportunity (EEO) shall be provided to the employee in writing and shall be the final decision on behalf of WBAMC. Employees whose request for exemption is denied will be required to be immunized. Employees who believe their request for a religious exemption has been wrongfully denied and have been required to receive a vaccination against their will or have suffered an adverse action for refusing a vaccination are entitled to file an EEO complaint using traditional procedures, or may file a grievance in accordance with the applicable Negotiated Grievance Procedure not both, but the grievance shall not delay immunization.

C. Procedures:

1. At its discretion, WBAMC may make alternate arrangements, including the possibility of workplace reassignments, for employees determined exempt from immunization in order to ensure that such employees do not during Flu season increase the risk of infection for WBAMC patients. Prior to making such arrangements WBAMC will take into full consideration the employee's actual duties, work location, and whether the employee is actually involved in day to day direct patient care as opposed to a support condition with occasional contact with patients. Management will also meet with the affected employee and his/her union representative to discuss the matter. WBAMC will make reasonable efforts to accommodate the affected employee(s) with their duty locations with the least hardship to the affected employee.

2. WBAMC will not change the duty hours or shifts of an employee who has been exempted from taking the Flu shot or mist without good cause (as determined by WBAMC, subject to the Union's grievance rights). WBAMC will give the employee 14 days notice in writing of any detail/shift/hours, and the expected date of the employees return to their normal work area and shift hours. The Union retains all grievance rights it may have regarding this issue.

Provision 5: Claims: Employees who believe that they have an adverse reaction to the immunization may file a claim under the Federal Employee's Compensation Act (FECA) with the Ft Bliss FECA office. Such claims will be processed in accordance with applicable regulations and guidelines/procedures issued by the Department of Labor Office of Workers Compensation (DOL-OWCP). Approval/disapproval of an employee's claim will be made solely by DOL-OWCP. For purposes of clarification only, the parties recognize that DOL-OWCP has advised WBAMC that such claims shall be filed as CA-1.

Provision 6: Education: The parties will work together to educate employees regarding why the Immunization Program has been implemented, the benefits of Immunization to employees and patients, and the procedures to be followed. Such education may include but is not limited to the distribution of literature or the conducting of joint meetings with employees to explain the program. Documentary information shall be provided to the Unions for review and comment prior to be given to employees. Union representatives shall be authorized official time for all time spent on joint educational activities.

ANNEX C (OCCUPATIONS SUBJECT TO MANDATORY INFLUENZA VACCINATIONS)  
 TO OPERATION ORDER 10-65 (2010 - 2011 INFLUENZA VACCINE IMMUNIZATION  
 PROGRAM) – USAMEDCOM UNCLASSIFIED C-1

Occupations Subject to Mandatory Influenza Immunizations

Minimum Healthcare Personnel	Job Series
Audiologists	0665
Chiropractors	
Dental Hygienists	0682
Dental Lab Aids	0683
Dental Technicians	0681
Dentists	0680
Diagnostic Radiologic Technicians	0647
Health Technicians	0640
LPNs/LVNs	0620
Medical Clerks	0679
Medical Instrument Technicians	0649
Medical Technicians	0645
Medical Technician Assistants	0650
Medical Technologists	0644
Nuclear Medicine Technicians	0642
Nursing Assistants	0621
Nutritionists/Dieticians	0630
Occupational Therapists	0631
Optometrists	0662
Orthotists and Prosthetists	0667
Pharmacists	0660
Pharmacy Technicians	0661
Physical Therapists	0633
Physical Therapy Assistants	0636
Physician Assistants	0603
Physicians	0602
Podiatrists	0668
Psychologists	0180
Registered Nurses	0610
Respiratory Therapists	0651
Speech Pathology	0665
Social Workers	0185
Therapeutic Radiologic Technicians	0648

DEPARTMENT OF THE ARMY  
 William Beaumont Army Medical Center  
 5005 North Piedras Street  
 El Paso, TX 79920-5001

REPLY TO  
 ATTENTION OF:

MCHM-MZC

8 February 2011

MEMORANDUM OF AGREEMENT BETWEEN WBAMC and AFGE, LOCAL 2516

SUBJECT: Negotiations for Mandatory Seasonal Influenza Immunization for Civilian Health Care Personnel

The following are agreements reached between William Beaumont Army Medical Center (WBAMC) and AFGE, Local 2516 during negotiations held on November 18, 2010 facilitated by Commissioner Pete Cinquemani of the FMCS, with the exception of #'s 5,7, and 8 which are at impasse.

1. All privacy act information pertaining to bargaining unit employees will be maintained with the Medical Review Officer (MRO) in the Occupational Health Clinic.

2&3. At its discretion, WBAMC may make alternate arrangements, including the possibility of workplace reassignments, for employees determined exempt from immunization in order to ensure that such employees do not increase the risk of infection for WBAMC staff and patients during Flu season. Parties agree that employee's refusal to comply with mandatory influenza vaccination will result in removal for "just cause" and in accordance with the Army Table of Penalties.

4. Employees who believe that they have an adverse reaction to the immunization may file a claim under the Federal Employee's Compensation Act (FECA) with the Fort Bliss FECA office. Such claims will be processed in accordance with applicable regulations and guidelines/procedures issued by the Department of Labor Office of Workers Compensation (DOL-OWCP). Approval of an employee's claim will be made solely by DOL-OWCP. For purposes of clarification only, the parties recognize that DOL-OWCP has advised WBAMC that such claims shall be filed as a CA-1.

5. Impasse over negotiability of who determines the definition of "direct health care provider".

6. Employees who become ill as a result of an adverse reaction to the immunization will be placed on sick leave in accordance with the DOL-OWCP (see #4 above). In addition, management will provide employee education as stated below.

"C. Procedures. Education: The parties will work together to educate employees regarding why the Immunization Program has been implemented, the benefits of Immunization to employees/patients, and the procedures to be followed. Such education may include but is not limited to the distribution of literature or the conducting of joint meeting with employees to explain the program. Documentary information shall be provided to the Union for review and comment before it is provided to employees. Union representatives shall be authorized official time for all duty time spent on joint educational activities."

7. Impasse over procedures for religious exemption.

8. Impasse over negotiability of who determines job series of "direct health care provider".

9. If vaccine is not available, management will follow OPOD 10-65, (2010-2011 INFLUENZA VACCINE IMMUNIZATION PROBRAGRAM) – USAMEDCOM:

“3. Execution. a. Commander’s Intent. The primary goal of the DoD Influenza vaccine immunization Program is to protect all Active Duty, National Guard and Reserve personnel, mission essential Department of the Army Civilians, healthcare personnel, and TICARE beneficiaries from influenza and its severe complications. The key task for this operation is to vaccinate personnel listed above, excluding those medically or administratively exempted, upon receipt of influenza vaccine.”

10. At its discretion, WBAMC may make alternate arrangements, including the possibility of workplace reassignments, for employees determined exempt from immunizations in order to ensure that such employees do not increase the risk of infection for WBAMC patients during Flu season. Prior to making such arrangements, WBAMC will take into full consideration the employee’s actual duties, work location, and whether the employee is actually involved in day to day direct patient care as opposed to a support condition with occasional contact with patients. Management will also meet with the affected employee and his/her union representative to discuss the matter. WBAMC will make reasonable efforts to accommodate the affected employee(s) with their duty locations with the least hardship to the affected employee.

11. Will apply the same language as in #6 above to cover employees who are ill at time of scheduled immunization.

12. Occupational Health will schedule immunizations. Management will make a schedule and provide Union with notice of the same. Management will schedule immunizations Monday through Thursday during employee’s duty time.

13. CDC guidelines will be followed, in accordance with OPOD 10-65.

14. Management will notify the Union of any changes to OPOD 10-65.

15. The word “mandatory” will be used in accordance with OPOD 10-65.

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MAJ Brian Freidline  
WBAMC Deputy Chief of Staff

\_\_\_\_\_  
Mr. Paul Ferris  
Union President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



DEPARTMENT OF THE ARMY  
William Beaumont Army Medical Center  
5005 North Piedras Street  
El Paso, TX 79926-5001

REPLY TO  
ATTENTION OF:

MCHM-MZC

9 March 2011

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1. All privacy act information pertaining to bargaining unit employees will be maintained with the Medical Review Officer (MRO) in the Occupational Health Clinic.

~~2. At its discretion, WBAMC may make alternate arrangements, including the possibility of workplace reassignments, for employees determined exempt from immunization in order to ensure that such employees do not increase the risk of infection for WBAMC staff and patients during Flu season. Parties agree that employee's refusal to comply with mandatory influenza vaccination will result in removal for "just cause" and in accordance with the Army Table of Penalties.~~

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~~2. WBAMC will make reasonable efforts to accommodate employees determined to be exempt from the mandatory influenza immunization program (medical/religious) in order to ensure that such employees do not increase the risk of infection for staff/patients during the flu season. WBAMC will give affected employees 14 days notice in writing of any detail/reassignment/shift/hours and the expected date of employee's return to their normal work area/shift/hours.~~

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*Impasse is bolded and in italics.*

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*Union wants mandatory and medical/religious removed*

3. Supervisors will ensure that all employees receive a written and confirmed acknowledgment notice of immunization at least 14 days prior to being immunized. The notice will advise employees of the purpose of the program, the benefits of it to both staff and patients. Employees will be informed of possible medical adverse reactions to vaccine. Adverse actions will also be part of the education process. *Parties agree that the current Army Table of Penalties will be enforced in the event that an employee refuses to comply with the vaccinations provisions.*

*Impasse is bolded and in italics*

*Management wants to include language in bold and italics*

4. Employees who believe that they have an adverse reaction to the immunization may file a claim under the Federal Employee's Compensation Act (FECA) with the Fort Bliss FECA office. Such claims will be processed in accordance with applicable regulations and guidelines/procedures issued by the Department of Labor Office of Workers Compensation (DOL-OWCP). Approval of an employee's claim will be made solely by DOL-OWCP. For purposes of clarification only, the parties recognize that DOL-OWCP has advised WBAMC that such claims shall be filed as a CA-1.

Employees may choose to be immunized by their private physician or health care provider (at their own expense) instead of being immunized by WBAMC. However, employees may be reimbursed for the cost of the flu vaccine in the event that the vaccine is not available at WBAMC and will be allowed up to two hours of duty time. Medical documentation will be submitted to the MRO within 15 days of immunization. The immunizations must have occurred during or that the beginning of the current flu season. All documentation will be IAW CDC guidelines IAW OPORD 10-65. Management officials will be held accountable in accordance with the Army Table of Penalties.

Impasse in bold and italics

Union wants language in bold and italics included; management disagrees.

5. Impasse over negotiability of who determines the definition of "direct health care provider".

6. Employees who become ill as a result of an adverse reaction to the immunization will be placed on leave in accordance with the DOL-OWCP (see #4 above). Approval or disapproval of a claim will be made by DOL/OWCP. In addition, management will provide employee education as stated below.

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Agreed by both parties

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Union's proposal addressed under #4.

Impasse with #4.

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Impasse with #4.

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Agreed by both parties.

12. Occupational Health will schedule immunizations. Management will make a schedule and provide Union with notice of the same. Management will schedule immunizations Monday through Thursday during employee's duty time.

Agreed by both parties.

13. CDC guidelines will be followed, in accordance with OPORD 10-65.

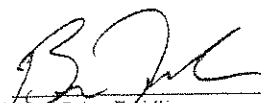
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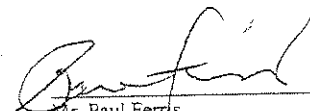
14. Management will notify the Union of any changes to OPORD 10-65 within a 14 day written notice. There will be no implementation of any changes 30 days prior to union/employees being notified.

Agreed by both parties.

15. The word "mandatory" will be used in accordance with OPORD 10-65.

Impasse by both parties over the word "mandatory".

  
\_\_\_\_\_  
MAJ Brian Feidline  
WBAMC Deputy Chief of Staff

  
\_\_\_\_\_  
Mr. Paul Ferris  
Union President

9 Mar 2011  
\_\_\_\_\_  
Date

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