

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chapter CC29--Officers Relations, Services, and Benefits  
Subchapter CC29.1--Leave of Absence  
Personnel INSTRUCTION 4--Sick Leave

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Section A. Purpose and Scope

This INSTRUCTION states the policy and procedures for granting sick leave to the Public Health Service (PHS) commissioned officers. This includes sick leave taken for pregnancy and recovery after delivery. It also states responsibilities for reporting serious illness or injury and for reporting medical care from non-Government sources.

Section B. Authority

1. Sick leave for PHS commissioned officer is authorized by Section 219(a) of the PHS Act (42 U.S.C. 210-1(a)).

The authority to administer the PHS Commissioned Corps is prescribed in 42 U.S.C. 216 of the PHS Act. The authority for daily administration of the PHS Commissioned Corps has been delegated to the Director, Division of Commissioned Personnel (DCP), Human Resources Service, Program Support Center.

2. Regulations set forth in the Commissioned Corps Personnel Manual (CCPM), Subchapter CC49.1, INSTRUCTION 1 of this manual, provide:
  - a. that an officer may be granted sick leave when the officer is in need of medical services or is incapacitated for the performance of duties by sickness, injury, or pregnancy and recovery after delivery.
  - b. authority for medical report requirements.
  - c. authority for review of the medical status of an officer who has been absent from duty on sick leave for a prolonged period.

#### Section C. Responsibilities

1. Officer. The officer will be responsible for:
  - a. Notifying his/her supervisor as soon as practicable when he/she becomes incapacitated for duty, and keeping the supervisor informed of his/her whereabouts at all times during the period of sick leave, informing the supervisor of the most convenient means of making contact at the times or intervals, which the supervisor designates, and requesting and obtaining in advance (except in emergencies), the supervisor's permission to be away from the local areas of the duty station and of the usual residence. (If the officer does not make direct contact with his/her supervisor, the officer has no guarantee that his/her requested sick leave has been granted).

Note: Unjustifiable inaccessibility while on sick leave may result in retroactive conversion of some or all of the sick leave to Absence Without Authorized Leave (AWOL) status.
  - b. Applying for sick leave, in advance, where leave is required for prearranged medical services including cases of pregnancy and recovery after delivery;
  - c. Providing the supervisor or leave-granting authority the legitimate documentation which either the supervisor or leave-granting authority requests to make an administrative determination of the necessity for sick leave absence and to plan for program needs. Legitimate documentation may include statements by a physician or other qualified provider of the officer's current and anticipated functional limitations, projected dates of return to limited and full duty, projected needs for absence from duty to receive medical services, verification of attendance at medical appointments, and any other relevant information. Medical confidential information such as diagnoses, medical history, examination and test results, or treatment

received may not be required by the supervisor or leave-granting authority.

Note: Failure to provide appropriate documentation in timely fashion may result in retroactive denial of sick leave and charging of the absence to annual leave. In cases of retroactive determination that absence is not sick leave, the officer may be offered the option to request annual leave for absence rather than requiring that the absence be classified as AWOL. If officer refuses the annual leave option, the supervisor or leave-granting authority can proceed with the AWOL option.

- d. Cooperating fully with a second opinion evaluation of immediate duty status with a provider of the Operating Division (OPDIV) or Program's choice as arranged by the OPDIV or Program and as directed by the leave-granting authority. Full cooperation may include supplying to this provider copy of records of evaluation and treatment from the first provider, submitting to physical examination and undergoing "non-invasive" tests including tests of urine specimens and peripheral venous blood samples. Treatment by the OPDIV or Program's provider cannot be required. The costs of travel, of the evaluation, and of reproduction of records of prior treatment will not be charged to the officer.

Notes: (1) Failure to cooperate fully with a directed second opinion evaluation may lead to charging of the absence to AWOL. (2) Immediate duty status evaluation leads to the determination of the need for sick leave or temporary duty restrictions, and is not to be confused with fitness for duty evaluation which enables the PHS Medical Review Board (MRB) to determine the need for prolonged duty restrictions or for medical separation from active duty status.

- e. If requested by the supervisor, reporting to the duty station and performing duties within functional limitations specified by the "accepted" provider opinion (see Section C.4, below).
- f. Obtaining from the Beneficiary Medical Program Section, Medical Affairs Branch (MAB), DCP, in advance, authorization for DCP's financial support for travel incident to health care outside the local area and for nonemergent care from all providers other than Military Treatment Facilities (MTFs). If care received from one of these providers is emergent, not allowing for preauthorization or access to an MTF, MAB must be notified within 72 hours after the care was received. (See CCPM Pamphlet No. 65 for more information regarding health care services for active-duty commissioned officers.)

- g. Completing Sections 1 and 4 of form PHS-1345, "Request and Authority for Leave of Absence," (see Exhibit I) and submitting the form to the leave-granting authority for all sick leave absences of 1 day or more, and, when requested by the supervisor, for partial day absences (station leave) for medical reasons. When leave is taken for prearranged health care services, Section 1 of form PHS-1345 should be completed by the officer and submitted to the leave-granting authority prior to the scheduled leave. Section 4 of the form should be completed by the officer upon return to duty after the period of absence; and
  - h. Obtaining any health care reports or records required by MAB, necessary to the discharge of MAB's official duties and responsibilities.
2. Supervisor. The officer's supervisor will be responsible for:
- a. Notifying the leave maintenance clerk when an officer reports that he/she is unable to report to duty for medical reasons. It is the responsibility of the leave maintenance clerk to follow up on completion of form PHS-1345 by both the officer and the leave-granting authority for each period of sick leave. The leave maintenance clerk will forward the original copy of the form for each period of sick leave and, if applicable, supporting medical certificates to MAB;
  - b. Notifying MAB, immediately by telephone, fax, or electronic mail when an officer fails to report to duty because of serious illness or injury;
  - c. Ensuring that MAB has been notified when an officer is hospitalized in a Uniformed Service facility or private hospital;
  - d. Notifying MAB if an officer requires the use of sick leave because of a medical condition which may have existed prior to the officer's call to active duty;
  - e. Notifying MAB when an officer has been, or is expected to be on sick leave for 30 consecutive days; and
  - f. Notifying MAB if an officer's sick leave usage is suggestive of leave abuse or a serious health problem so that a determination can be made regarding the officer's health status, as cited in C.3.b., below.
3. MAB. MAB is responsible for:
- a. Maintaining in each officer's central medical file reports of sick leave (form PHS-1345) and reports of medical evaluation and treatment; and

- b. Ensuring that appropriate health care reports are received on all officers using excessive sick leave or on prolonged sick leave as cited in Section C.2.f., above, and referring such cases to the MRB, when appropriate, for a determination on the officer's fitness for continued active duty.
4. Leave-Granting Authority. The leave-granting authority is responsible for ensuring that the reasons for granting sick leave to an officer are in accordance with this INSTRUCTION and sick leave reports are submitted, as stated in this INSTRUCTION. When there is adequate reason to suspect that an officer's provider may not be supplying full or accurate information regarding the officer's capacity to work in either a full duty or limited duty status, the leave-granting authority may direct the officer to undergo a second opinion evaluation of his/her immediate duty status. (See Section C.1.c., above.)

Second opinion evaluations should be arranged with a provider with professional credentials equal or superior to those of the first provider (with respect to the general nature of the officer's medical impairment). Second opinions from Uniformed Service providers (ideally the Military or Coast Guard) are preferred, and only a Uniformed Services provider's opinion will be considered sufficient reason to deviate from the restrictions certified by the first provider. Use of providers employed by the officer's OPDIV or Program should be avoided whenever possible. OPDIVs or Programs must bear the expense of a second opinion evaluation of officer's immediate duty status, which may include the cost of copying records, travel, and the evaluation itself if not performed by an MTF. OPDIVs or Programs may contact MAB in advance to determine whether the officer's health care entitlement will cover some of the expenses.

#### Section D. Rules Applying to Sick Leave

1. Accrual of Sick Leave. There is no accrual of sick leave under the PHS Commissioned Corps leave system.
2. Granting Sick Leave. Sick leave is granted as needed, but only under the circumstances stated in Section B., above. Absence from duty because of death or illness of a family member can be requested as and is chargeable to annual leave, unless the absence was for less than a full workday and granted as station leave, (see CCPM, Subchapter 29.1, INSTRUCTION 1, Section F. of this manual). When an officer has requested voluntary separation from the Service and becomes ill immediately prior to the date of separation, sick leave may be granted and the separation action may be postponed if the officer, the OPDIV or Program, and DCP, all agree to such postponement. However, involuntary separations and already requested voluntary separations will not be postponed to permit an officer to remain in active-duty status for "postpartum maternity leave." (See Section D.4, below.) If the officer is being separated under involuntary conditions,

the Director, DCP, may authorize postponement in separation until questions are resolved and/or a determination on the officer's fitness can be made.

At the discretion of the leave-granting authority, health provider certifications of this need for medical services or incapacitation may be required. The validity of such certification is subject to review, either by requiring concurrent second opinion "immediate duty status" evaluation, or by review in MAB of the certifying provider's records of care. In the usual case, sick leave certified prospectively by a provider cannot be denied after the absence has occurred, unless the review of records indicates that the certification was clearly unfounded and that the officer could not have been acting in good faith in accepting as valid the provider's recommendation for sick leave. Thus, concurrent second opinion evaluation by a provider of equal or higher professional qualification (and preferably the military) may be the most effective means of preventing sick leave abuse. Review of provider records by MAB will ordinarily only provide the basis for denying approval of further sick leave.

3. Medical Reports. The leave-granting authority may grant sick leave only when supported by administratively acceptable evidence. He/she may consider an officer's certification as to the reason for his/her absence when determining if the absence is administratively acceptable. However, for an absence in excess of 3 workdays, or for a lesser period when determined necessary, the leave-granting authority or MAB, DCP, may also require a physician's statement. A medical report and copies of pertinent medical records are required at the end of each 30 days of continuous absence except for those officers on maternity leave.
4. Maternity Leave. Maternity leave is a period of approved "sick leave" for incapacitation related to pregnancy and recovery after delivery. As with sick leave requested for other reasons, postpartum maternity leave is an exception to some of the above. Without regard to the officer's incapacity and for the sake of administrative uniformity, sick leave is granted for 42 days (56 days if Caesarean section) beginning the day following the day of hospital discharge. Any sick leave beyond those limits must be justified by the officer's actual incapacity to return to full or limited duty, and some or all of the excess sick leave may be denied retroactively on the recommendation of MAB after review of provider records. If leave is denied retroactively, the officer should be permitted to request annual leave for the period of absence not approved as sick leave, to avoid being placed in AWOL status for that period. Officer awareness of the possibility of retroactive denial of extended postpartum sick leave can be promoted by supervisors' approving prospectively no more than 42 days of postpartum sick leave, and requiring the officer to submit a second request before the end of the 42 days, if further sick leave is desired. Such a procedure will also permit concurrent second opinion immediate duty status evaluation

and thus avoid the possibility of retroactive denial. Child care is not considered a reason for extension of maternity leave. Leave for this purpose, if granted, is chargeable to annual leave (see CCPM, Subchapter 29.1, INSTRUCTION 2 of this manual).

The officer should notify her supervisor as soon as she knows that she is pregnant so that necessary staffing adjustments can be planned. When the officer knows the approximate date which she will be requesting her maternity leave to begin, the estimated date of her delivery, and the date of her anticipated return to duty, she should fill out her leave request (form PHS-1345) to include this information and submit the form to her supervisor. Upon return to duty from maternity leave, the officer should submit a physician's statement indicating her fitness to resume her duties, and should also complete Section 4 of the previously submitted leave request.

5. Referral to MRB. If an officer is absent from duty because of illness, injury or postpartum convalescence for a period of more than 90 consecutive days, or for an aggregate of more than 120 days in any consecutive 12-month period, the file of such officer will be referred to the MRB to determine whether the officer should be retained on active duty, retired, or separated. Prolonged prepartum maternity leave absences are not ordinarily referred to the MRB unless it appears that the officer will be unable to return to duty after the normal postpartum confinement period. If there is significant reason to question the need for prolonged prepartum or postpartum maternity leave, policy in Sections C.1.c., d., and C.4., may apply.
6. Family and Medical Leave Act of 1993. The Family and Medical Leave Act of 1993 only pertains to private and Federal civil service employees. Members of the Uniformed Services are not covered in the definition of an eligible "employee" under Title I of the Family and Medical Leave Act of 1993, and by Chapter 63 of Title 5, United States Code, as amended by Title II of the Family and Medical Leave Act of 1993. Therefore, PHS commissioned officers are not eligible for or covered by the Family and Medical Leave Act of 1993.

#### Section E. Reporting Procedures

Sick leave will be reported on form PHS-1345. This form must be completed by the officer and approved by the leave-granting authority for each period of sick leave of 1 day or more and may, at the discretion of the leave-granting authority, be required for absences of less than a full day. The leave-granting authority will also forward a copy of form PHS-1345 to the leave maintenance clerk to follow up on its completion and forward the original copy of the form for each period of sick leave and, if applicable, supporting medical certificates to the Chief, Medical Affairs Branch, Division of Commissioned Personnel, 5600 Fishers Lane, Room 4C-06, Rockville, MD 20857-0001.

Section F. Privacy Act Provisions

Personnel records are subject to the Privacy Act of 1974. The applicable system of records is 09-37-0003, "PHS Commissioned Corps Medical Records," HHS/OASH/OSG.

Exhibit I

Form PHS-1345, "Request and Authority for Leave of Absence"

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
PUBLIC HEALTH SERVICE**

**REQUEST AND AUTHORITY FOR LEAVE OF ABSENCE (Commissioned Officers)**

<b>1. TO BE COMPLETED BY THE OFFICER (Type or Print)</b>			
NAME	GRADE	SSN	TYPE OF LEAVE REQUESTED <input type="checkbox"/> ANNUAL <input type="checkbox"/> STATION <input type="checkbox"/> SICK
DUTY STATION (Organization and Address)	PHS No.		<input type="checkbox"/> OTHER (Specify in Remarks)
	<b>PERIOD OF ABSENCE</b>		
PHONE No. including Area Code ( )	NO. DAYS	FROM (month)	THROUGH (month)
ADDRESS (Where officer can be contacted during leave period)	REMARKS		
PHONE No. including Area Code ( )			
I have read and understand the information contained on the reverse side of this form.			
SIGNATURE			DATE
<b>2. TO BE COMPLETED BY SUPERVISOR</b>			
RECOMMENDATION <input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED	SIGNATURE	TITLE	DATE
<b>3. TO BE COMPLETED BY LEAVE GRANTING AUTHORITY</b>			
ACTION <input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED	SIGNATURE	TITLE	DATE
<b>4. TO BE COMPLETED BY OFFICER AND LEAVE GRANTING AUTHORITY UPON RETURN FROM LEAVE</b>			
TYPE OF LEAVE TAKEN	NO. DAYS	FROM	THROUGH
SIGNATURE (Leave Granting Authority)		DATE	

PHS-1345 (Rev. 3/82)

(See Privacy Act statement on reverse of Part 2)

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