

4A:6-1.5 Vacation and sick leave adjustments: State service

(a) Employees in State service are liable for vacation and sick leave days taken in excess of their entitlements.

(b) An employee who leaves State service or goes on a leave of absence without pay before the end of the calendar

year shall have his or her leave prorated based on time earned, except that the leave of an employee on a voluntary furlough or furlough extension leave shall not be affected. An employee who is on the payroll for greater than 23 days shall earn a full month's allowance, and earn one-half month's allowance if he or she is on the payroll from the 9th through the 23rd day of the month.

1. An employee shall reimburse the appointing authority for paid working days used in excess of his or her prorated and accumulated entitlements.

2. An employee who returns to work from a leave of absence shall not be credited with paid vacation or sick leave until the amount of leave used in excess of the prorated entitlement has been reimbursed.

(c) In State service, intermittent days off without pay other than voluntary furlough or furlough extension days shall be aggregated and considered as a continuous leave without pay for calculation of reduced vacation and sick leave credits. When intermittent days off without pay other than voluntary furlough or furlough extension days equal 11 working days, the employee's vacation and sick leave credit shall be reduced by one-half of one month's entitlement. Union leave days pursuant to a negotiated agreement shall not be included in such calculations.

(d) An employee shall not be reimbursed for accumulated sick leave when leaving State service except for separations on retirement as provided in N.J.A.C. 4A:6-3.

(e) When an employee is transferred in State service, the employee's former appointing authority shall provide the new State appointing authority with a record of an employee's unused vacation, administrative and sick leave.

(f) In State service, when an employee's workweek changes while he or she is employed by an appointing authority which tracks and grants sick leave in hours, the employee's sick leave entitlement shall be recalculated in the following manner:

1. The number of hours of sick leave for the former workweek shall be converted into days by dividing by the number of hours in the former workweek workday; and
2. This number of days shall be converted into hours for the new workweek by multiplying by the number of hours in the new workweek workday.

EXAMPLE: Mary Smith is in a 35 hour workweek title. On January 1, 1989, she had accumulated 245 sick leave hours from prior years and was credited with 105 sick leave hours for the 1989 (15 days x 7 hours), or a total of 350 sick leave hours. Effective May 1, she is appointed to a title with a 40 hour workweek. Her new sick leave entitlement is computed by dividing 350 by seven, the number of hours in a 35 hour workweek workday, to yield the result of 50 days of sick leave. The 50 days are then multiplied by eight, the number of hours in a 40 hour workweek workday. Thus, Mary Smith's converted sick leave hours are 400.

EXAMPLE: Thomas Brown is in a 40 hour workweek title. On January 1, he had accumulated 230 sick leave hours from prior years and was credited with 120 sick leave hours for 1989 (15 days x 8 hours), or a total of 350 sick leave hours. Effective May 1, he is appointed to a title with

a 35 hour workweek. His new sick leave entitlement is computed by dividing 350 by eight, the number of hours in a 40 hour workweek workday, to yield the result of 43.75 days of sick leave. The 43.75 days are then multiplied by seven, the number of hours in a 35 hour workweek workday. Thus, Thomas Brown's converted sick leave hours are 306 ($43.75 \times 7 = 306.25$, rounded to 306).

(g) In State service, an employee whose status changes from part time to full time, or from full time to part time, shall receive sick leave benefits as follows:

1. If an employee's status changes from part time to full time, the amount of proportional sick leave which the employee has earned as a part time employee is added to the amount of sick leave with which he or she is credited for the remainder of the year as a full time employee.

2. If an employee's status changes from full time to part time, the amount of sick leave which he or she has earned as a full time employee is added to the amount of proportional sick leave with which the employee is credited for the remainder of the year as a part time employee.

EXAMPLE: John Jones works two days a week. Therefore, he is employed for 40 percent of the workweek. As a part time, 40 percent employee, his yearly sick leave is calculated by taking 40 percent of 15 sick leave days; thus, John is credited with six sick leave days on January 1. On pay period 14, John becomes a full time employee. As of that time, he already has earned three sick leave days as a part time, 40 percent employee. As a full time employee for the remainder of the year, John is credited with 7.5 sick days. These are added to the three sick leave days which he earned during the first half of the year, so that he will have a total of 10.5 sick days for the year. Any accumulated sick days which John earned in previous years as a part time, 40 percent employee are added to the 10.5 sick days to which John will be entitled this year.

Amended by R.1989 d.570, effective November 6, 1989.

See: 21 N.J.R. 2429(a), 21 N.J.R. 3451(a).

Added new (f) and (g) regarding calculation of vacation and sick leave when an employee's workweek changes.

Amended by R.1995 d.12, effective January 3, 1995.

See: 26 N.J.R. 4126(a), 27 N.J.R. 145(a).

4A:6-1.6 Sick Leave Injury (SLI) requirements: State service

(a) The provisions concerning sick leave injury (SLI) benefits in this subchapter apply to full and part-time State employees in the career, senior executive and unclassified services. SLI benefits for employees in intermittent titles will be based on the expected length of service.

(b) An employee who is disabled due to a work-related injury or illness shall be granted a leave of absence with pay.

1. An employee who can return to work on a part-time basis shall be compensated for the hours actually

worked and receive SLI benefits for the hours missed due to the disability.

2. SLI benefits shall be reduced by the amount of any temporary disability payments under N.J.S.A. 34:15-12 (Workers' Compensation) or N.J.S.A. 43:21-25 et seq. (Temporary Disability Benefits Law).

3. Benefits are limited to a period beginning on the initial date of the injury or illness and ending one year from that date.

i. Benefits shall not be paid for any absence from work occurring more than one year from the initial date of the injury or illness, even if the aggregate period of disability does not exceed one year.

ii. In cases of disorders as set forth in (c)4 below, the one year period shall begin with the first date of disability from work.

4. An employee receiving SLI benefits may also be entitled to medical leave under Federal law. See N.J.A.C. 4A:6-1.21B.

(c) The disability must be due to an injury or illness resulting from the employment.

1. Injuries or illnesses which would not have occurred but for a specific work-related accident or condition of employment are compensable.

2. Preexisting illnesses, diseases and conditions aggravated by a work-related accident or condition of employment are not compensable when such aggravation was reasonably foreseeable.

3. Illnesses which are generally not caused by a specific work-related accident or condition of employment, are not compensable except when the claim is supported by medical documentation that clearly establishes the injury or illness is work related.

4. Progressive, degenerative or repetitive motion disorders, such as asbestosis or carpal tunnel syndrome, are compensable only when the claim is supported by medical documentation clearly establishing that the disorder would not have occurred but for the performance of specific work duties.

5. Psychological or psychiatric illness is not compensable, except when such illness can be traced to a specific work-related accident or occurrence which traumatized the employee thereby causing the illness, and the claim is supported by medical documentation.

6. An injury or illness is not compensable when the appointing authority has established that the employee has been grossly negligent, including those injuries or illnesses arising from impairment due to alcohol or drug abuse.

(d) Any accident resulting in injury for which the employee seeks compensation must occur on the work premises.

1. Work premises are the physical area of operation of the appointing authority, including buildings, grounds and parking facilities provided by the State.

2. An injury occurring off the work premises is compensable only when the employee is engaged in authorized work activity or travel between work stations.

(e) For the injury to be compensable, it must occur during normal work hours or approved overtime.

1. Injuries which occur during normal commutation between home and the work station or home and a field assignment are not compensable.

2. Injuries which occur during lunch or break periods are not compensable. However, employees who are required by the appointing authority to remain at a particular job location during lunch and/or work-break shall not be precluded from receiving SLI benefits.

Amended by R.1992 d.413, effective October 19, 1992.

See: 24 N.J.R. 2108(a), 24 N.J.R. 3720(a).

Added new (c)4; redesignated existing (c)4-5 as (c)5-6.

Amended by R.1994 d.73, effective February 7, 1994.

See: 25 N.J.R. 4824(a), 26 N.J.R. 795(b).

Amended by R.1994 d.620, effective December 19, 1994.

See: 26 N.J.R. 3511(a), 26 N.J.R. 5002(b).

Law Review and Journal Commentaries

Sick Leave Benefits. Judith Nallin, 133 N.J.L.J. No. 8, 50 (1993).

Case Notes

Merit System Board acted within its statutory mandate in making policy determination to limit sick-leave injury benefits to one year from date of disability and did not abuse its discretion in applying such policy to employee who suffered from carpal tunnel syndrome. Matter of Musick, 143 N.J. 206, 670 A.2d 11 (1996).

Long hiatus between stages of treatment which extends its entire course beyond one year maximum will not cause loss of benefits where it is the result of medical necessity. Matter of Dykas, 261 N.J.Super. 626, 619 A.2d 660 (A.D.1993).

The initial date of the injury or illness referred to date disability began. Matter of Dykas, 261 N.J.Super. 626, 619 A.2d 660 (A.D.1993).

Initial report filed by state employee did not begin running of one-year time limitation for second surgery on right wrist for same condition. Matter of Dykas, 261 N.J.Super. 626, 619 A.2d 660 (A.D.1993).

Eligibility requirement for sick leave injury benefits could be met without specific work-related accident. Matter of Dykas, 261 N.J.Super. 626, 619 A.2d 660 (A.D.1993).

Sick leave—injury off work premises not covered (citing former N.J.A.C. 4:1-17.9). Appleby v. Civil Service Comm'n., 190 N.J.Super. 249, 463 A.2d 346 (App.Div.1983).

Injury suffered off employment premises during lunch hour was not compensable under sick leave statute or regulation (citing former N.J.A.C. 4:1-17.9). Morreale v. State Civil Service Comm'n., 166 N.J.Super. 536, 400 A.2d 126 (App.Div.1979), certification denied 81 N.J. 275, 405 A.2d 819.

Sick leave injury benefits were not available for injury sustained outside of work. Wills v. Department of Community Affairs, 95 N.J.A.R.2d (CSV) 506.

Prison nurse was not entitled to sick leave benefits absent evidence of sufficient preponderance to establish that alleged injury was work related. *White v. Riverfront State Prison*, 95 N.J.A.R.2d (CSV) 384.

Equipment operator entitled to sick leave-injury benefits. *Heggan v. Department of Transportation*, 92 N.J.A.R.2d (CSV) 680.

Sick leave injury benefits for wrist pain. *Bokor v. New Jersey Department of Human Services*, 92 N.J.A.R.2d (CSV) 643.