



COUNTY OF LOS ANGELES DEPARTMENT OF HUMAN RESOURCES

HEADQUARTERS
579 KENNETH HAIN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-2406 FAX (213) 621-0387

BRANCH OFFICE
3333 WILSHIRE BOULEVARD • LOS ANGELES, CALIFORNIA 90010
(213) 738-2222 FAX (213) 637-0820

LISA M. GARRETT

ACTING DIRECTOR OF PERSONNEL

January 27, 2010

To: All Department Heads

From: Lisa M. Garrett
Acting Director of Personnel 

Subject: **RETURN-TO-WORK AND ABSENCE MANAGEMENT**

This memorandum is to memorialize the information I provided to you in the Department Head meeting on January 21 and to assist you in preparing for the upcoming review of your Return-to-Work (RTW) caseloads in March 2010. As you are aware, Supervisor Gloria Molina has commenced a review of the Return-to-Work practices in the County. The Department of Human Resources (DHR) is working with the Risk Management Branch of the Chief Executive Office (CEO) and the First District to develop a comprehensive Countywide absence management policy and make uniform the return-to-work practices in County departments.

Please note that this memorandum is not intended to be exhaustive on the list of issues concerning leave management. A Countywide policy will be developed with input from the reviews and audits being conducted and best practices identified in our County departments and sister jurisdictions.

Some preliminary issues identified in the initial stage of the review were addressed in the January 19, 2010 memorandum from the CEO entitled *Return-to-Work Concerns and Guidelines*. In addition to the guidance presented in that document, I would advise you to consider the following:

- Proactive Management of Return-to-Work Caseload: The most critical aspect of the return-to-work process is proactive case management. Immediately upon learning that an employee will be off work for three or more days¹ as a result of illness or a work-related injury, your supervisors and Return-to-Work Coordinator (RTWC) must require the employee to provide documentation from his/her physician requiring or

¹ If no time period is designated in your departmental policy, use three days as a general rule.

justifying the time off.² If the notice authorizes the employee to return to work on a specific date, the supervisor and RTWC must control the date for the employee's return.

Additionally, when your supervisors and RTWCs learn that the employee must be off work due to an injury or serious health condition, they should immediately notify the employee (orally and in writing) that the time will be designated as Family Medical Leave Act (FMLA) and/or California Family Rights Act (CFRA) leave. Under both FMLA and CFRA, the employee must have at least one year of County service and have actually worked 1250 hours within the year preceding the requested leave. FMLA and CFRA allow an employee up to 12 workweeks off without pay. (Employees may use his/her accrued or purchased time during this period.) Employees seeking leave for pregnancy are also entitled to additional leave time (up to four months of unpaid leave) under California Pregnancy Disability Leave (PDL) without a pre-qualifying work period. PDL runs concurrently with FMLA and consecutively to CFRA.

Whether the employee is required to be off work for a work-related injury or an independent medical illness, the supervisors and managers must complete the appropriate forms and provide the relevant forms packets to the employee.³ The completed forms must be retained in the employee's return-to-work or leave management file. The supervisors and RTWCs must immediately create clear and proactive plans of action for next steps in the employee's leave management process and dates for follow-up by the RTW case manager.

If the employee is released to return to work, supervisors and RTWCs must review the documentation to determine whether the employee can return to his/her regular job duties or if any restrictions to the employee's work activities have been imposed by the physician. The RTWC should contact the physician, or Third Party Administrator in the event of a work-related injury, for clarification of the employee's work restrictions, if necessary. A discussion or interactive meeting with the employee must also be held before or upon his/her return to work to review the work limitations and any reasonable accommodations necessary to allow the employee to return to work without aggravating

² See County Code, Section 5.16.030 which provides that any employee of the county obligated to be absent from employment because of sickness for a period of one day or more, shall immediately notify his/her department head of the absence. The requirement of providing a doctor's note is not intended to negate this Code provision.

³ For work-related injuries, the following forms in the Workers' Compensation package must be completed, as applicable, which include the Receipt of Employee Package, Supervisor's Investigative Report, First Alert, Employee's Reporting of Accident, Employee's Statement Declining Medical Treatment, Treatment Referral Slip, Workers' Compensation Claim - DWC 1, and the Employer's Report - Form 5020. The FMLA forms packet includes the Employee Rights and Responsibility Notice and Certification of Health Care Provider. Additional forms (e.g., Request for Leave of Absence) may be included based on departmental policy.

his/her condition. The RTWCs must document all case activity in the case file and maintain personal and regular contact with the employee. Further, the supervisor and managers of the employee must make certain that the employee works within the prescribed recovery limitations or work restrictions for the duration stated in the physician's certification or work agreement.

- Duty to Disabled or Partially Incapacitated Employees: Federal and State laws require us, as employers, to ensure that employees and applicants with mental and physical disabilities are provided with reasonable accommodations to ensure equal employment opportunities in the workplace. Reasonable accommodations include, but are not limited to, modifications or adjustments to the employee's work environment or job duties, acquiring equipment, providing readers and interpreters, allowing the use of paid or unpaid leave, or reassignment to another position. When a supervisor or manager learns of or recognizes the employee's need for an accommodation, he/she must immediately take action to hold an interactive meeting with the employee to discuss the employee's job functions, work restrictions or medical limitations, and the employee's suggestions for reasonable accommodation. Managers and supervisors have an obligation to exercise good faith in the process and to make a timely decision concerning the request for reasonable accommodation. Delays in responding to a request for reasonable accommodation or failing to provide a reasonable accommodation when no undue hardship exists exposes the County to liability. Hence, each department must implement procedures to avoid such occurrences.

Fully or partially incapacitated employees: Civil Service Rule 9.08, Section A provides that an employee, who is unable to perform the duties of his/her position satisfactorily due to a confirmed medical incapacity, may submit a request to the department head for a reassignment, voluntary demotion or transfer to a position for which he/she is qualified. If no action is taken, under delegated authority, the department may recommend the most appropriate alternative, which may include the: 1) return of the employee to work with a modification of duties, change in classification or reduction to another position in the employee's department or a transfer to a position in another department; 2) disability retirement of the employee; or 3) release of the employee, without prejudice, if no suitable positions exist that he/she can satisfactorily perform.

In any event, the manager or the RTWC must act quickly to engage the employee in the interactive process and make a good faith effort to provide a reasonable accommodation to the disabled employee. The only legal limitation on this process is if the accommodation requested would present an undue hardship on the department. In this event, the department should offer alternatives and document all interactions with the employee. The burden of proof that reasonable accommodations were offered is on the employer. Consequently, documentation of every activity in the process is essential.⁴

⁴ See the Voluntary Request for Accommodation Form.

- Staffing in the Return-to-Work Unit: Make certain the staffing levels in your RTW units are sufficient to handle your department's RTW caseload. Although there is no bright line rule for determining the exact number of persons required to do this work, generally each RTWC can reasonably handle approximately 50 to 75 cases, and in some instances up to 100 cases. The caseworker to caseload ratio must be determined by the departmental management.

Classification of Return-to-Work Coordinators: When discussing the current Return-to-Work efforts with your Chief Deputies and Administrative Deputies, the groups raised concerns about the staffing level of the RTWCs in the departments. Some mentioned that the work has been delegated to clerical staff.

I have attached for your review the most recent classification specifications for both Departmental Personnel Technician (DPT) and Senior Departmental Personnel Technician (SDPT) and the job bulletins specifically for the DPT and SDPT Workers' Compensation/Return-to-Work Coordinator positions. Please note that the class specs for both positions require analytical, code/rule interpretation and application, case management, placement, coordination, and communication skills. I conferred with the CEO Classification/Compensation Division and was informed that the positions were reclassified following a Countywide study and as a consequence, the positions were upgraded. Therefore, the positions should be filled at the allocated levels. If you have vacancies in your RTW Unit and your budget permits, DHR will work with the CEO to assist you in filling your vacancies with qualified candidates.

- Training for RTW Coordinators and Managers: CEO Risk Management will be providing training for all RTWCs, Departmental Human Resource Managers (DHRMs), Administrative Deputies and Chief Deputies to ensure that all staff responsible for leave management efforts in the departments are trained on and aware of the applicable laws, rules and policies for the protection of our employees and the reduction of liability for the County. Please make certain that your employees attend the training.
- Accruals of Sick Leave and Usage: Chapter 6.20 of the County Code governs the accrual of sick time for represented and non-represented employees and indicates the usage of sick leave is allowed when a disability resulting from sickness, injury or pregnancy occurs. In addition, subject to management approval, up to twelve days of full-pay sick time may be used for personal reasons. Sick leave is not permanent. Each employee's case must be regularly reviewed for the purpose of returning the employee to work if possible or reaching a final disposition on the leave issue.

While most employees use sick leave appropriately, County Code, Section 5.16.040 provides a penalty for those who abuse the provisions of the salary ordinance.

Employees found to have abused the sick leave provisions may be suspended for 30 days for the first offense and discharged for the second offense. See Civil Service Rule 18 for grounds for discharge.

- ✧ Enterprise-wide Tracking System: The CEO Risk Management Branch, DHR and the Chief Information Office (CIO) are exploring automated tracking systems to assist you in maintaining your Return-to-Work caseloads. Some departments have developed Excel programs and are willing to share. I have made a request to the Personnel Directors State-wide and hope to receive some leads. In addition, we will be exploring "off the shelf" programs from various private vendors to determine the feasibility of purchasing a ready made product for implementation in the County. If you have no tracking method, the CEO Risk Management Branch can provide you with a template.

If you have any questions concerning this correspondence, please contact me at (213) 974-2406 or by e-mail at lgarrett@hr.lacounty.gov. Questions concerning the Return-to-Work reviews and training should be directed to Steve NyBlom of the Chief Executive Office Risk Management Branch at (213) 351-5346.

LMG:kc

Attachments

- c: Each Supervisor
- Deputy Chief Executive Officers
- Chief Deputies
- Administrative Deputies