

LABOR RELATIONS



February 22, 1996

Mr. William Burrus
Executive Vice President
American Postal Workers
Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005-4128

FEB 1996
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OFFICE OF THE
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Dear Bill:

This will serve to further respond to your correspondence dated January 23 and follow up to your telecon with Donna Gill on February 13 regarding the Sick Leave for Dependent Care MOU. There is no dispute that this provision allows employees to use up to 80 hours of earned sick leave to care for family members. There is no requirement that employees use sick leave to cover such absences. It is incumbent upon the employee to submit a request for sick leave when he/she wants to be paid sick leave to cover such absences. The parties do not require the employee to use sick leave under such circumstances.

I hope this satisfactorily addresses your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony J. Vegliante".

Anthony J. Vegliante
Manager
Contract Administration APWU/NPMHU



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

January 23, 1996

Dear Tony:

This is to clarify the newly negotiate provisions in the Dependent Care Memorandum permitting an employee to use sick leave to care for a family member. The union interprets the use of sick leave as optional, pursuant to the determination by the employee. The intent of the Memorandum was that the use of sick leave to care for a family member is now consistent with postal rules, but the parties did not require the employee to use sick leave in such circumstances.

In some circumstances, I can envision that an employee's absence is justified to care for a family member but the employee will elect not to use sick leave.

I am aware that the parties at the national level have a disagreement over the use of LWOP at the employee's option, but I view this issue as different in that the parties specifically provided in the newly negotiated language that "sick leave may be used". In addition, once the 80 hours have been exhausted, the employee is prohibited from using sick leave no matter their sick leave balance.

This is to determine if the employer agrees with the union's position that information provided to employees does not cause the initiation of grievances throughout the country.

Sincerely,

William Burrus
Executive Vice President

Anthony J. Vegliante
Grievance & Arbitration
475 L'Enfant Plaza, SW
Washington, DC 20260

cc: G. Bell

William Burrus
Executive Vice President
(202) 842-4246

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Raydell R. Moore
Western Region

LABOR RELATIONS



January 5, 1996

Mr. William Burrus
Executive Vice President
American Postal Workers
Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005-4128

Dear Bill:

This is in reference to your correspondence dated December 18 regarding sick leave for dependent care. Let me assure you that no one on my staff informed supervisors that sick leave for dependent care cannot be used for those absences covered by the Family and Medical Leave Act (FMLA). They were informed that there are absences covered by the sick leave for dependent care provisions that do not qualify as FMLA absences but when an absence is FMLA qualifying, there may be an overlap.

If you have any questions regarding this matter, please contact Donna Gill of my staff at 268-2373.

Sincerely,



Anthony J. Vegliante
Manager
Contract Administration, APWU/NPMHU

JAN 1996



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

William Burrus
Executive Vice President
(202) 842-4246

December 18, 1995

Dear Tony:

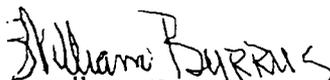
I have received a number of inquiries concerning the application of the new contractual provision on the use of sick leave for dependent care and its application to the Family and Medical Leave Act. Several supervisors have informed local union officials that they were instructed in contract interpretation classes that employees could not use sick leave for the care of family members, if the employees absence is covered by the Family and Medical Leave Act.

This interpretation is contrary to the intent of the parties in negotiating the use of leave for dependent care. Employees whose absence is justified because of the medical condition of a family member that qualifies under the Family and Medical Leave Act may use up to 80 hours of their sick leave to cover such absence.

All absences that qualify under the newly negotiated dependent care provisions do not qualify under the Family and Medical Leave Act. Under the dependent care provisions, the family members condition is not required to meet the definition of a "serious health condition", however if the family members condition does meet the definition as required by FMLA, the employee is entitled to use sick leave for the absence.

Please provide written confirmation as to the employer's interpretation of the dependent care provisions as applied to absences under the Family and Medical Leave Act.

Sincerely,


William Burrus

Anthony J. Vegliante, Manager
Grievance & Arbitration Division
475 L'Enfant Plaza, SW
Washington, DC 20260

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95 NOV -3 AM 8:44

PHILA
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*all Direct Reports
info/action*

*RCJ
11-3-95
Rtu Orig*

*5 Dec
- CB
- any time*

November 01, 1995

MEMORANDUM FOR
JEAN D'AMICO
DENNIS ESTERLINE
JAMES GALLAGHER
PAT CORCORAN
JERRY CAPIE
CARL GAYLE

SUBJECT: SICK LEAVE FOR DEPENDENT CARE

Attached for your information are implementation guidelines for the new Memoranda of Understanding (MOUs) concerning Sick Leave for Dependent Care MOUs.

The memoranda are in effect for employees represented by the NALC and the APWU. The MOU with the NALC was effective August 19, 1995 (the date of the Stark Panel Award). The MOU with the APWU was effective October 01, 1995 (the date of the Clarke Panel Award).

If you have any questions regarding the MOUs contact Labor Relations.

Charles C. Polk II
Senior Labor
Relations Specialist

cc: A. Lariviere
D. O. Harris
H. White
Labor Relations Staff

11/18/95

Jim Burke,

*This is the District's
position on the Sick
Leave for Dependent Care.
Have you been given a copy a
copy. If not what is the
APWU's position*

Vince Tarducci

P. O. Box 7956
PHILADELPHIA PA 19101-7956
(215) 895-8080
FAX: (215) 895-8079

SICK LEAVE FOR DEPENDENT CARE FOR EMPLOYEES REPRESENTED BY THE NATIONAL ASSOCIATION OF LETTER CARRIERS, AFL-CIO (NALC) AND AMERICAN POSTAL WORKERS UNION, AFL-CIO (APWU)

1. Use of Earned Sick Leave

The new Memoranda of Sick Leave for Dependent Care (Memoranda or MOUs) provide that sick leave may be used by an employee to give care or otherwise attend to a family member with a medical condition which, if an employee had the same condition, would justify the use of sick leave. The sick leave that an employee is allowed to use under the MOUs is not additional sick leave; it is simply the earned sick leave that the employee has accrued under the Postal Service's regular sick leave policy as set forth in ELM section 513. However, there is a limit to the number of sick leave hours an employee can use for dependent care purposes under the MOUs; an employee can use no more than 80 hours of his or her earned sick leave within each leave year.

2. Defining a Dependent

Dependents under the MOUs are defined just as the Family Medical Leave Act (FMLA) defines them. Family members who qualify as dependents under the MOUs include son or daughter, parent, and spouse as defined in ELM section 515.2 (FMLA implementing regulations).

3. Approval of Sick Leave for Dependent Care

Approval of sick leave to care for a family member is the same as it is for approval of sick leave for the employee. (See ELM section 513). Therefore, the employee should normally submit a PS Form 3971 for approval in advance to the appropriate supervisor. To obtain approval of sick leave under the Memoranda, the employee must provide the following information in the remarks section of the PS Form 3971 or on an attachment thereto. First, that the sick leave is requested to care for or attend to a son, daughter, spouse, or parent. Second, the employee must specify the medical facts and provide the necessary explanation and/or documentation in support of the illness, incapacity, or other condition affecting the dependent in order for the supervisor to determine whether that same condition -- if afflicting the employee -- would warrant use of sick leave. Third, the employee must state the nature of his or her need to care for or attend to the dependent.

4. Documentation

In accordance with normal sick leave policy, medical documentation or other acceptable evidence of the medical need of the dependent is required in the following circumstances; when the employee is on restricted sick leave (ELM section 513.371); when it is deemed desirable by the supervisor for the protection of the Postal Service's interests (ELM section 513.361); when the sick leave is for extended periods (ELM section 513.363); or when the absence exceeds three days (ELM section 513.362). Documentation or explanation of the dependent's relationship to the employee may also be required. With regard to filing this documentation, supervisors have a responsibility to protect employees' dependents' privacy as well as the privacy of employees. If it is necessary to retain documentation containing restricted medical information for an employee's dependents, it is to be filed in the leave requester's medical file, unless the dependent is also an employee. Otherwise, such records should be returned to the employee or destroyed after necessary review.

In addition, such medical documentation or evidence of medical need is required when necessary to determine whether the FMLA applies to the employee's situation. Supervisors are reminded that they have an obligation to advise the employee of his or her FMLA rights if they become aware of circumstances which may trigger the FMLA, such as caring for a dependent

with a "serious health condition" (see ELM section 51E). If such condition exists, it may invoke the protections of the FMLA.

5. Sick Leave for Dependent Care and the FMLA: Differences and Overlap

The FMLA entitles employees to time off for specified situations. Under the FMLA, the determination of whether the time off is paid or unpaid is left to the employer's leave policies. Allowing the use of sick leave for dependent care is a new policy available to all employees in NALC and APWU represented positions.

FMLA coverage for an absence depends on the employee's eligibility and the reason for the absence. Sick leave for dependent care may or may not be covered by the FMLA, the same as sick leave for an employee's illness may or may not be covered by the FMLA. Unless the employee's situation meets the FMLA criteria, it is not an FMLA covered absence. Under the MOUs, it is not necessary that sick leave be used for a serious health condition, as it is under the FMLA.

The definition for a dependent in the MOUs is the same that is defined in the FMLA.

6. Corrective Action for Irregular Attendance

The MOUs do not diminish the employee's obligation to maintain regular attendance. Irregularities in attendance can be the basis for corrective action, including discipline. However, absences which qualify under the FMLA cannot be considered in any determination to take disciplinary action.