

**OFFICE OF THE EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT OF HUMAN SERVICES**

POLICIES

MDHS - ADMINISTRATIVE POLICY	
Revision Date November 14, 2011	AP-5

SUBJECT: EMPLOYEE LEAVE POLICY

- PURPOSE:** To provide uniform polices and procedures for the accrual and use of employee leave.
- ACTION:** Division Directors shall ensure fair and consistent application of these policies and procedures with respect to the accrual and use of leave by employees.
- APPLICATION:** This policy is applicable to all divisions of the Mississippi Department of Human Services.
- DUPLICATION:** This policy may be duplicated.
- CONTACT:** Director, Division of Human Resources
- EXCEPTIONS:** None
- EFFECT ON OTHER DIRECTIVES:** All MDHS employee leave policies and memoranda dated prior to the issue date of this policy is hereby superceded.

Distribution: All MDHS Employees

Date: November 14, 2011



Executive Director

MISSISSIPPI DEPARTMENT OF HUMAN SERVICES
EMPLOYEE LEAVE POLICY ADMINISTRATION
TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
GENERAL APPLICATIONS	1
PERSONAL LEAVE	2
Personal Leave Credit	2
Authorization for Personal Leave	2
Procedures for Applying for Personal Leave	2
Payment Upon Separation	3
Emergency Leave Guidelines	3
MEDICAL LEAVE	3
Medical Leave Credit	4
Authorization for Medical Leave	4
Procedures for Applying for Medical Leave	4
Medical Leave for Surgery.....	5
Regularly Scheduled Doctor Visits	5
Death of an Immediate Family Member	5
Extended Medical Leave	5
Payment Upon Separation	6
MATERNITY LEAVE	6
Authorization for Maternity Leave	6
Procedures for Applying for Maternity Leave	6
Administration of Maternity Leave	6
Health Insurance Considerations While on Maternity Leave	7
FAMILY AND MEDICAL LEAVE ACT	7
Employee Eligibility	7
Entitlement to Leave	7
Intermittent Leave	8
Substitution of Paid Leave	8
Submission of FMLA Requests	8
Notice	9
Certification	9
Second/Third Opinions and Re-certifications.....	10
Return to Work and Protection of Employment and Benefits	10
Maintenance of Health Benefits	10
Specifics of the Family and Medical Leave Act	11
MILITARY FAMILY LEAVE	11
Authorization for Military Family Leave	12
LEAVE WITHOUT PAY	12
Procedures for Applying for Leave Without Pay	12
Leave Without Pay for Illness or Injury	13
Benefits While on Leave Without Pay	13
Return from Leave Without Pay	13
MILITARY LEAVE	13

AP-5

Effective: November 14, 2011

Short-term/Emergency Military Leave	13
Long-term Military Leave	14
Procedure for Applying for Military Leave	14
Reinstatement Following Military Leave	15
ADMINISTRATIVE LEAVE	15
Leave for Extreme Weather Conditions, Disasters, or Emergencies	15
Leave for Certified Disaster Service Volunteers	15
Jury/Court Leave	16
Leave to Vote	16
Procedure for Applying for Administrative Leave	16
LEAVE RELATED TO WORKERS' COMPENSATION BENEFITS	16
COMPENSATORY LEAVE/PAY	17
Authorization to Work Overtime	17
Working on a Holiday	18
Lectures, Meetings, Training Programs, and Similar Activities	18
Travel Time	18
Employee/Supervisor Responsibilities	19
MEAL PERIODS	19
LEGAL HOLIDAYS	19
LEAVE RELATED TO MDHS JOB INTERVIEWS	20
LEAVE DISCREPANCIES/CORRECTIONS	20
CONCLUSION	21

Revised: November 14, 2011

MDHS EMPLOYEE LEAVE POLICY ADMINISTRATION

INTRODUCTION:

Employees may be granted leave only as provided for in these rules. Leave is administered as prescribed by Mississippi Code Annotated, Sections 25-3-91 et seq., 25-9-125, 33-0-19, and 33-1-21 (1972). Section 25-3-99 provides that Sections 25-3-91 to 25-3-99 shall not be construed to deny the payment of leave earned prior to July 1, 1976.

GENERAL APPLICATIONS:

1. All absences from work on scheduled work days are to be charged against the appropriate type of leave in accordance with the leave policies prescribed herein.
2. All requests for leave shall be approved/disapproved by the employee's immediate supervisor with final approval/disapproval by the immediate supervisor's supervisor. Requests for leave shall be submitted in advance, giving sufficient time to allow for workload adjustments. The length of advance time required shall be at the discretion of supervisory/management staff within the specified work group.
3. Any discrepancy in an employee's individual leave record and the agency's Leave Balance Report shall be reported to the Division of Human Resources on the Leave Correction Form, MDHS-PER-220, Revised 3/1/93.
4. No balances of personal/medical leave from previous periods of employment with MDHS or another state agency will be reinstated upon re-employment. **Payment for unused personal leave shall constitute a break in service.**
5. Any former employee who is re-employed shall be considered a new employee and shall earn leave accordingly unless he/she transferred from another state agency without a break in service.
6. An employee moving from a position in another state agency to a position in MDHS without a break in service is given credit by MDHS for unused personal and medical leave (not compensatory leave). This credit shall be allowed for employees transferring from state agencies both under and not under the jurisdiction of the State Personnel Board (SPB) including state-funded universities. It is the employee's responsibility to notify his/her former agency to transfer his/her leave to the MDHS Division of Human Resources.
7. Unused personal and medical leave (not compensatory leave), as certified by the Division of Human Resources, shall be treated as creditable service in calculating retirement benefits.
8. Leave without pay granted by the Executive Director or his/her designee for one year or less shall be permitted without forfeiting previously accumulated service.

Revised: November 14, 2011

9. A state service employee, with the consent of the Executive Director or his/her designee and the concurrence of the State Personnel Director, may be placed on leave of absence for the purpose of accepting an assignment in the non-state service not to exceed one year.
10. No category of leave may be granted in an amount greater than that which has been earned by the employee.
11. There shall be no limit to the accumulation of personal and medical leave.
12. New employees may not take personal leave or medical leave until after the completion of one month of service.
13. It is the joint responsibility of the employee and his/her supervisor to insure that time records correctly reflect the use of leave under any and all circumstances where leave is requested.
14. Supervisory/management staff should notify employees of approval/disapproval of leave requested in a timely manner.
15. All requests for leave shall be submitted via the E-leave system or on the Request for Leave Form, MDHS-PER-203, Revised 3/1/91. Leave related to MDHS job interviews/examinations shall be submitted on the Request for Time Off Form, MDHS-PER-203A, issued 11/15/91.
16. The immediate family is defined as spouse, parent, stepparent, brother, sister, child, stepchild, adoptive brother, adoptive sister, adoptive mother, adoptive father, adoptive child, grandchild, grandparent, son- or daughter-in-law, mother- or father-in-law, or brother- or sister-in-law. Child means a biological, adopted, or foster child or a child for whom the individual stands or stood in loco parentis.

PERSONAL LEAVE

Personal leave shall only be granted in accordance with the current Mississippi State Employee Handbook published by the State Personnel Board. There is no limit to the accumulation of personal leave.

Personal Leave Credit

The earned personal leave of each employee shall be credited at the end of each month-end pay period. Personal leave credited is available to be taken by the employee any time after it has been credited. **Personal leave shall not accumulate while an employee is on leave without pay.**

Authorization for Personal Leave

Personal leave requests must be approved by the appropriate supervisor. Approval of any request for personal leave is at the discretion of the employee's management team. Personal or compensatory leave shall be used for the illness of an employee requiring an absence of one day or less and for the first day of an employee's illness requiring an absence of more than one day.

Revised: November 14, 2011

Procedures for Applying for Personal Leave

Requests for personal leave shall be submitted to the employee's immediate supervisor on the Request for Leave Form or via the E-Leave system if available. The employee shall be notified of approval/disapproval in a timely manner.

Personal leave shall be requested in advance to allow for workload adjustment. The period of advance notice shall be determined by the employee's management team. This will allow for flexibility in considering workload and individual office circumstances. After-the-fact requests will only be approved in cases of a bona fide emergency. Any employee requesting personal leave in a manner not in accordance with these policies may be subject to disciplinary action.

Payment Upon Separation

An employee who has resigned, been laid off, or dismissed shall receive payment for accrued personal leave up to 240 hours in the form of a separate check. In no instance may an employee be paid for more than 240 hours of accrued personal leave upon termination. Unused personal leave in excess of 30 days shall be treated as creditable service for the purposes of the Public Employees' Retirement System.

At no time shall an employee be paid for accumulated personal leave while still employed in state service (Mississippi Code Annotated, Section 25-3-97 (3)). As such, no employee will be allowed to take personal leave leading up to his/her termination date. If an employee attempts to take personal leave as his/her last day(s) of employment without physically returning to work, the Division of Human Resources will change the last day of employment to coincide with the last day physically worked by the employee.

Emergency Leave Guidelines

There is no clear-cut way to determine what constitutes an emergency however the following guidelines have been established:

1. Where an absence is not prearranged (sudden illness, unforeseen personal problems) the employee must notify his/her supervisor within the first hour of the workday. The employee shall inform his/her supervisor of the circumstances of his/her absence.
2. If the employee's supervisor or the supervisor's supervisor is not available, the employee shall provide the individual answering the telephone in his/her office enough information for the supervisor to make a decision such as: a) the nature of the emergency; b) the anticipated date/time of return to work; and c) a telephone number where the employee may be reached for further clarification.
3. Depending on the nature of the emergency, it may be impossible for the employee to give a return to work date. The employee is responsible for contacting his/her supervisor as soon as possible to give an approximate date of return.

Revised: November 14, 2011

MEDICAL LEAVE

Medical leave shall be granted to an employee only after he/she has completed 1 month of service. Accrual rates for medical leave are detailed in the current Mississippi State Employee Handbook published by the Mississippi State Personnel Board. There is no limit to the accumulation of medical leave.

Medical Leave Credit

The earned medical leave of each employee shall be credited at the end of each month-end pay period. Medical leave credited is available to be taken by the employee any time after it has been credited. **Medical leave shall not accumulate while an employee is on leave without pay.**

Authorization for Medical Leave

Medical leave may be used for the illness or injury of an employee or member of the employee's immediate family only after the employee has used one day of accrued personal leave or compensatory leave for consecutive absences due to illness or injury. Thereafter, all subsequent consecutive days absent shall be charged to medical leave. However, if an employee is out the first day due to illness, returns the second day, and is out the third day for the same illness, the employee shall be charged personal or compensatory leave for the first and third day. In the event no personal or compensatory leave has been earned, one day of leave without pay shall be taken prior to taking medical leave.

In cases of illness or disability exhausting available medical leave, the employee may be allowed to charge the excess days/hours against accumulated personal leave or compensatory leave earned. If all accumulated medical leave, personal leave, and compensatory leave have been exhausted, the employee will be subject to a pro rata deduction from his/her salary for the number of days/hours used in excess of available accumulated leave.

Medical leave will be used in conjunction with the Family Medical Leave Act for absences in relation to serious health conditions.

Procedures for Applying for Medical Leave

Requests for medical leave shall be forwarded to the immediate supervisor on the appropriate Request for Leave Form or via the E-Leave system if available. The first eight (8) hours of leave due to illness or injury of the employee or member of the employee's immediate family shall be requested as personal/compensatory leave. If an employee's illness or injury requires absence for more than eight consecutive hours, the remainder of the leave shall be requested as medical leave.

Illness or injury must be reported to the supervisor during the first hour of the work day if the employee is unable to report for work. An employee who is on medical leave for 32 consecutive working hours or more (combined personal and medical leave) due to illness or injury must complete a Request for Leave Form or an E-Leave Request as soon as he/she returns to work. At that time, the employee must also present a signed and dated statement from a physician covering the length of the illness and certifying that the employee is able to return to work and when. The statement shall be kept on file in the office to which the employee is assigned.

Revised: November 14, 2011

Medical Leave For Surgery

In the case of a scheduled surgery for the employee, a Request for Leave Form or an E-Leave request shall be submitted along with a physician's statement at least two weeks prior (if elective surgery) to the date of surgery. The first eight hours of leave shall be requested as personal/compensatory leave and the remaining leave as medical leave.

Regularly Scheduled Doctor Visits

The use of medical leave to cover regularly scheduled visits to a doctor's office or hospital for the continuing treatment of a chronic disease, condition, or pregnancy shall be authorized only after the employee has obtained, in advance, a certified statement from a doctor. The first absence from work for a visit, including travel time, to a doctor's office or clinic for the diagnosis of a disease/condition requires the use of personal/compensatory leave. All subsequent visits, including travel time, for treatment of the condition/disease may be charged to medical leave. However, if an employee is required by his/her physician to work reduced hours or be out an extended period of time because of the condition/disease, the first 8 hours shall be charged to personal/compensatory leave and the remaining hours shall be charged to medical leave.

Death of an Immediate Family Member

An employee may use up to three days of earned medical leave for each occurrence of death in the immediate family requiring the employee's absence. Use of personal leave will not be required prior to using medical leave for this purpose.

Extended Medical Leave

Requests for medical leave for extended periods shall include the following: 1) date leave is to begin; and 2) approximate date of return.

To request an extension of medical leave beyond the original request, the employee shall submit a new Request for Leave Form or new E-Leave request along with a new physician's statement explaining the need for additional leave and providing an estimate of the date the employee could be expected to resume normal duties. For an extension beyond the original request, there is no requirement for taking additional personal/compensatory leave prior to using medical leave as long as the extension requested is due to the original condition and the employee has not returned to work. Failure to report to work at the expiration of authorized extended medical leave shall constitute grounds for disciplinary action which may include dismissal.

Should illness or injury necessitate an employee's extended absence, the employee will be required to provide his/her supervisor with a leave request and a physician's statement as soon as possible. The statement shall summarize the need for the extended absence and indicate when the employee should be expected to return to work on a full-time basis.

If an employee exhausts all of his/her medical leave and the need for leave continues, the employee's absences will be converted to any available personal/compensatory leave. Should a continuing need deplete all of an employee's earned medical, personal, and compensatory leave, the employee may request in writing that the Executive Director or his/her designee approve leave

Revised: November 14, 2011

without pay (See Leave Without Pay).

Payment Upon Separation

When a full-time employee leaves state employment, no payment will be made for accrued medical leave. A departing employee's remaining medical leave will be transferred to the Public Employees' Retirement System as creditable service.

MATERNITY LEAVE

Federal Law requires that women affected by pregnancy, childbirth, or related medical conditions be treated the same for all employment-related purposes, including benefits under fringe benefit programs, as other persons not pregnant or affected by pregnancy-related conditions.

Authorization for Maternity Leave

Maternity leave shall be granted to pregnant women on the same terms as leave is granted to other disabled employees. **Written request and approval by the supervisor and division/office director must be secured before maternity leave is granted.**

Should an employee exhaust all of the earned medical, personal, and compensatory leave that she had accumulated prior to going on maternity leave or should she need an extension of leave beyond the original request, she shall follow the procedures contained in extended medical leave and leave without pay contained herein.

Procedures for Applying for Maternity Leave

The first absence from work, including travel time, for a visit to a physician's office or other clinic for the diagnosis of a pregnancy requires the use of personal leave. Subsequent absences, including travel time, for treatment of the pregnancy after a physician's statement has been presented may be charged to medical leave.

Once the employee begins her extended maternity leave, the first eight hours of leave shall be charged to personal leave and all subsequent consecutive absences shall be charged to medical leave.

An employee who is pregnant shall furnish the division/office director (through the immediate supervisor) with a physician's statement at least 90 days prior to the date of delivery stating the expected date of delivery and approximate date of return. Upon approval, the immediate supervisor shall forward a copy of the authorized leave request along with a copy of the physician's statement to the Division of Human Resources.

Administration of Maternity Leave

The position of an employee on approved maternity leave may be filled on an emergency basis not to exceed 60 working days. The immediate supervisor shall insure that no emergency appointment under this provision extends beyond the 60 working day limit. If, upon initial request for maternity leave, an employee states the intention to not return to work after the pregnancy, the

Revised: November 14, 2011

employee's position may be filled upon the employee's departure.

If, at the end of the approved leave period, the employee has not returned to work, the employee may be terminated for cause and the position filled on a permanent basis.

The employee is responsible for advising the immediate supervisor in writing of any changes in plans for returning to duty. An updated physician's statement shall also be submitted reflecting the need for the change. A copy shall be forwarded to the Division of Human Resources.

Health Insurance Considerations While on Maternity Leave

Insurance premiums while on maternity leave without pay status must be paid by the employee in order for coverage to continue. For further explanation, refer to the procedures for applying for leave without pay.

Employees have 31 days after the birth of a child to add their newborn to their health insurance. In order to accomplish this, an employee must complete a Blue Cross/Blue Shield Change Form and submit it to the Division of Human Resources.

FAMILY AND MEDICAL LEAVE ACT

The Family and Medical Leave Act (FMLA) entitles eligible employees to take up to 12 workweeks of unpaid, job-protected leave each year for specified family and medical reasons.

Employee Eligibility

To be eligible for FMLA benefits, an employee must have worked for the State of Mississippi for a total of at least 12 months and rendered at least 1,250 hours of service to the State of Mississippi during the previous 12-month period. Management will be responsible for verifying FMLA leave taken and/or not taken by employees transferring from another state agency.

Entitlement to Leave

An eligible employee may be granted up to a total of 12 workweeks of paid/unpaid leave during any 12-month period for one or more of the following reasons:

1. the birth of the employee's child or the placement with the employee of a child for adoption or foster care;
2. to care for an immediate family member (spouse, child*, parent, or one who stands or stood in loco parentis to an employee) with a serious health condition; or,
3. to take medical leave when the employee is unable to work because of a serious health condition.

* A child is defined as a biological, adopted, or foster child, a stepchild, a legal ward, or the child of a person standing in loco parentis, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Revised: November 14, 2011

Spouses who are both employed by the State of Mississippi, are jointly entitled to a combined total of 12 workweeks of family medical leave during any 12-month period for the birth of a child, placement of a child for adoption or foster care, or to care for a sick parent (not parent in-law) who has a serious health condition. This provision requires verification by supervisory/management staff as to whether the employee's spouse is employed by another state entity and whether the spouse also intends to take FMLA leave during the period.

Family leave for the birth of a child or placement of a child for adoption or foster care shall expire at the end of the 12-month period beginning on the date of the birth or placement. In the case of an adoption or placement for foster care, an employee must provide appropriate documentation which states the date leave is to begin and the approximate date of return.

Intermittent Leave

FMLA leave may be taken intermittently whenever it is medically certified to care for a seriously ill eligible family member, or because the employee is seriously ill and unable to work. If the need for intermittent leave is foreseeable, effort shall be made to schedule the treatment so as to not disrupt the operations of the employer.

Where FMLA leave is for the birth of a child or the placement of a child for adoption or foster care taking leave in blocks of time or reduced hours/days/weeks (intermittent leave) is allowed subject to management approval. Management will allow intermittent leave upon receipt of an advance written request from the employee (See Notice and Certification). Advance notice is not necessary when the leave is in connection with a serious health condition of the mother and/or the newborn child in relation to the pregnancy.

If an employee requests intermittent leave, or leave on a reduced schedule based on planned medical treatment, the employer may require the employee to transfer temporarily to an alternate position for which the employee is qualified that is equivalent in pay and benefits and can better accommodate recurring periods of leave.

Substitution of Paid Leave

In order to administer FMLA fairly and consistently, all MDHS employees will be required to use their personal/medical leave for all or part of their family leave requests. In no case can an employee's paid leave be credited as FMLA leave *after* the leave has been taken.

If the employee has fewer than 12 workweeks of paid leave available, the additional weeks over the amount available shall be provided without compensation. The Division of Human Resources will be available to assist the employee/supervisor in determining the exact amount of personal/medical leave an employee has available and the amount of leave without pay the employee may be subject to if paid leave hours are insufficient to cover the extent of the request.

Submission of FMLA Requests

All requests (notices) for FMLA leave shall be submitted in writing along with the proper forms (Form 254 - Medical Certification, Form 255 - FMLA Designation, MDHS-PER-203) through the appropriate supervisory channels. Upon giving notice of the need for FMLA leave, the employee

Revised: November 14, 2011

and the immediate supervisor shall submit the notice and supporting documentation to their Division Director for approval. After the appropriate signatures have been obtained, the immediate supervisor shall forward a copy of the FMLA notice and supporting documentation to the Division of Human Resources.

Notice

The employee shall provide his/her immediate supervisor with not less than 30 days notice of his/her intention to take FMLA leave. The notice shall be submitted to the supervisor along with the required supporting documentation (above) before the date the leave is to begin. If the leave must begin in less than 30 days, the employee shall notify his/her supervisor as soon as it is known that the leave is needed.

If an employee has advance notice of FMLA leave requirements and fails to give 30 days notice for foreseeable leave with no reasonable excuse, the agency may deny the employee's request for family medical leave until at least 30 days after the date the employee provided notice to the agency.

Certification

An employee's request for FMLA leave to care for an eligible family member or himself/herself shall be supported by a certification (Form 254 - Medical Certification) issued by the health care provider of the employee or eligible family member. The certification must be provided to management in a timely manner (within 15 calendar days) unless it is not practicable to do so under the circumstances.

The certification will be sufficient if it states:

1. the date the serious health condition commenced;
2. the probable duration of the condition;
3. the appropriate medical facts within the knowledge of the health care provider regarding the condition;
4. if caring for an eligible family member, that the employee is needed to care for the eligible family member and an estimate of the amount of time that the employee is needed to care for the eligible family member;
5. for leave for the serious health condition of the employee, that the employee is unable to perform the functions of his/her position;
6. for certification for planned medical treatment, the date that the treatment is expected to be begin and the duration of the treatment; and
7. for intermittent leave or leave on a reduced schedule for the employee or for the care of an eligible family member, a statement of the medical necessity for the leave and the expected duration.

Revised: November 14, 2011

MDHS will place an employee on FMLA leave if he/she is on leave due to the serious health condition of the employee or an eligible family member for more than five (5) consecutive working days. The immediate supervisor shall prepare a written notice to the employee informing him/her of the effective date of this action. A copy shall be forwarded to the Division of Human Resources.

Second/Third Opinions and Re-certifications

In any case in which MDHS has reason to doubt the validity of the certification for FMLA leave, MDHS may require, at the expense of the agency, that the employee obtain the opinion of a second health care provider designated/approved by the agency.

Should the second opinion differ from the original certification, MDHS may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated/approved jointly by MDHS and the employee. **The opinion of the third health care provider shall be final and shall be binding on MDHS and the employee.** Additionally, MDHS may require that the employee obtain subsequent re-certifications on a reasonable basis, at the agency's expense.

Return to Work and Protection of Employment and Benefits

When an employee is ready to return to work from FMLA leave, he/she shall provide certification from the health care provider that he/she is able to return. After certification is received by management, the employee shall be restored to the position held by the employee when the leave commenced or an equivalent position with equal benefits, pay, and terms and conditions of employment.

The supervisor may require an employee on FMLA leave to report periodically to him/her on the status of the leave and his/her intention to return to work. The employee shall provide certification from his/her health care provider of his/her inability to return to work in a timely manner.

Under limited circumstances, MDHS may refuse to reinstate certain highly paid "key" employees after using FMLA leave during which health benefits are maintained. A key employee is an employee who is among the highest paid ten percent (10%) of employees.

Additionally, MDHS is not required to reinstate employees who would have been laid off or otherwise would have had their employment terminated had they continued to work during the leave period. Reinstatement may also be denied an employee experiencing a serious health condition who fails to provide a medical certification of fitness to return to work.

Maintenance of Health Benefits

MDHS shall maintain group health plan coverage for the duration of FMLA leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously. **The employee shall make arrangements to pay health insurance premiums for dependents while on FMLA leave.**

If an employee fails to return to work after the expiration of FMLA leave for a reason other than

Revised: November 14, 2011

the certified continuation/recurrence or the onset of a serious health condition that entitles the employee to leave, the agency may recover the group health plan premiums paid for the employee during the period of unpaid leave.

Specifics of the Family And Medical Leave Act

Specific provisions of the Family and Medical Leave Act may be found in the current Mississippi State Employee Handbook, on the Mississippi State Personnel Board website (www.spb.state.ms.us), or on the United States Department of Labor's website (www.dol.gov). The Division of Human Resources will be able to assist with questions or concerns dealing with FMLA.

MILITARY FAMILY LEAVE

MDHS allows Military Care Giver Leave for an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness for up to a total of 26 workweeks of unpaid leave during a single 12-month period to care for the service member. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the single 12-month period. Only 12 of the 26 weeks total may be for an FMLA-qualifying reason other than to care for a covered service member.

MDHS also allows Qualifying Exigency Leave for an eligible employee for up to a total of 12 workweeks of unpaid leave during a 12-month period for qualifying exigencies arising because the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves but not family members of military members in the Regular Armed Forces.

Qualifying exigencies include:

1. Short notice deployment;
2. Military events and related activities related to the active duty call or active duty of a covered military member;
3. Certain childcare and related activities arising from the active duty call or active duty;
4. Making or updating financial/legal arrangements to address a covered military member's absence;
5. Attending counseling whose need arose from the active duty call or active duty of

Revised: November 14, 2011

the covered military member;

6. Up to 5 days of leave to spend with a covered military member who is on short-term temporary rest and recuperation leave during deployment;
7. Any other event that the employee and employer agree is a qualifying exigency.

Authorization for Military Family Leave

All requests for military family leave shall be submitted in writing to the employee's supervisor along with a copy of the covered military member's active duty orders and/or a certification completed by an authorized health care provider or a copy of an Invitational Travel Order (ITO) or an Invitational Travel Authorization (ITA) issued to a member of the covered service member's family.

LEAVE WITHOUT PAY

Leave without pay (LWOP) may not be requested for casual leave in the absence of accumulation of personal leave. No supervisory employee is authorized to approve leave without pay for any employee for any reason. An employee may request leave without pay only for the extension of medical leave, maternity leave, military leave, or for other special situations as detailed in writing to the Executive Director. All leave without pay requests shall be approved/disapproved by the Executive Director or his/her designee. All requests shall be evaluated with consideration being given to the circumstances surrounding the request and the need of the agency for the employee's services at that time.

A continuous leave without pay absence shall not exceed twelve months unless granted in accordance with the provisions in this policy on military leave. Leave without pay requests shall be submitted at least two weeks prior to the effective date of the requested leave when possible. Leave without pay will not be granted until all of the employee's earned personal leave and compensatory leave have been exhausted (exceptions: military leave, workers' compensation). In the case of illness that does not qualify for FMLA, leave without pay will not be granted until all of the employee's earned medical, personal, and compensatory leave have been exhausted.

If an employee is on approved leave without pay the day before a holiday and returns the day after the holiday, he/she shall be compensated for the holiday. **However, if an employee is on approved leave without pay on the days prior to and after a holiday, the employee will not be compensated for the holiday.** If an employee is on leave without pay and is scheduled to return to work on a date that falls on a holiday, the employee will be entitled to compensation for the holiday if he/she returns the day after the holiday.

Procedures for Applying for Leave Without Pay

An employee requesting leave without pay shall submit a request in the form of a written explanation through his/her chain of command to the Executive Director. If approved, the request for leave without pay will be routed back through the employee's chain of command to him/her from the Executive Director or his/her designee. Requests for leave without pay shall be considered on a case-by-case basis however, no open-ended requests will be granted.

Revised: November 14, 2011

One copy of the approved request for leave without pay shall be routed to the Division of Human Resources by the immediate supervisor.

Leave Without Pay for Illness or Injury

Any employee who requests leave without pay for reasons of illness (including maternity) or injury must provide a physician's statement along with the leave request which states the nature of the illness or injury and the expected length of the recovery period. If approved by the Executive Director or his/her designee, leave without pay for illness or injury will be granted only for the time needed for recovery. Should complications require an extension of the approved leave without pay, a new request for leave without pay must be submitted to the Executive Director or his/her designee prior to the expiration of the original request. Each request must be accompanied by a physician's statement which updates the previous information and provides a revised estimate of the date of the employee's return to work.

Benefits While on Leave Without Pay

Neither personal leave nor medical leave will accumulate while an employee is on approved leave without pay for any reason. Leave without pay shall not, under any circumstances, be considered as time for the purposes of leave accrual, retirement, or any other compensable consideration of employment.

If an employee is on approved leave without pay but not FMLA leave without pay, he/she must pay health insurance premiums in order for insurance coverage to continue. Health insurance coverage is subject to cancellation if premiums are not submitted timely.

Return From Leave Without Pay

An employee on leave without pay shall return to work at the end of an approved leave without pay unless a request to extend the leave has been approved by the Executive Director or his/her designee. An employee who is granted leave without pay due to illness must submit a statement from a physician indicating that he/she is physically and/or emotionally able to return to work.

Failure on the part of an employee to report to work at the expiration of an approved leave of absence without pay shall be cause for disciplinary action which may include dismissal.

MILITARY LEAVE

Short-Term/Emergency Military Leave

Military leave shall be granted in accordance with the Uniformed Services Employment and Re-employment Rights Act (USERRA) of 1994.

Employees who are members of the National Guard or any of the reserve components of the Armed Forces of the United States, or former United States service members released from duty under conditions other than dishonorable, shall be entitled to military leave without loss of pay, time, personal leave, or efficiency rating, on all days during which they are ordered to duty to participate in training at encampments, field exercises, maneuvers, out-door target practice, or for

Revised: November 14, 2011

other exercises, for periods not to exceed 15 calendar days per calendar year. Military leave is permitted for training in intervals shorter than 15 days, but in such cases, the total leave time may not exceed 15 days absent from the employee's duties.

Persons ordered to emergency duty by the State to quell riots or provide services in disasters such as floods, earthquakes, or hurricanes will be entitled to military leave with pay, without loss of time, personal leave, or efficiency rating until relieved from duty. Active state duty shall mean duty in other than training status in or with a force of the organized military or with the Adjutant General's Department, upon order of the Governor.

Long-Term Military Leave

For military leave periods in excess of 15 days, employees shall be entitled to take earned personal leave or be granted leave of absence without pay, without the loss of time, personal leave, or efficiency rating until relieved from duty.

An employee is entitled to long-term military leave if he/she: 1) is ordered to military training or active duty in support of a declared war or presidential emergency; 2) chooses to enlist, is drafted, or is inducted into the Armed Forces for active duty, or; 3) is ordered into active duty by the National Guard or any reserve component of the Army, Navy, Air Force or Marine Corps. The long-term military leave period will not result in loss of time and will not affect the employee's service rating for the period of long-term military service. An employee shall not accrue personal/medical leave while on long-term military leave unless the employee chooses to use any of his/her available military/personal/compensatory leave. In that case, personal/medical leave will accrue as long as the employee is using his/her available military/personal/compensatory leave.

Upon return from long-term military leave the employee shall be reinstated to his/her former position, or to a position of like seniority, status, and pay. An employee returning from long-term military leave shall be entitled to the privileges that would have been granted him/her had service not been interrupted such as salary adjustments from changes in the compensation plan and the opportunity for consideration for promotions.

If an employee who is granted long-term military leave has available personal leave at the time he/she enters active military service, he/she has the option of using either military, personal, compensatory, and/or leave without pay. An employee on long-term military leave is entitled to 15 days of military leave per calendar year. Upon returning to his/her job from long-term military leave, the employee shall be credited with any unused personal/medical leave he/she had accrued prior to the long-term military leave.

Procedure for Applying for Military Leave

To request short-term or long-term military leave, the employee shall submit a request for leave form or an E-leave request along with written evidence of duty (orders) from the appropriate military authority to his/her supervisor. A copy of the request shall be forwarded to the Division of Human Resources. Leave without pay requested for long-term military leave shall be recorded on the time card as long-term military leave.

Revised: November 14, 2011

Reinstatement Following Military Leave

An employee engaged in active military service who has been granted a military leave of absence is required to notify his/her supervisor of his intent to return to work within the following time periods: 1) if service was less than 31 days, not later than the first regularly scheduled workday that is at least 8 hours after service ends; 2) if service was more than 30 but less than 180 days, notice must be provided no later than 14 days after service ends (or the following business day if the employer's business is closed on the 14th day); or 3) if service was more than 180 days, notice must be provided no later than 90 days after service ends. Requests received later than the allowable time periods will not be accepted. It is the responsibility of the employee and the supervisor to notify the Division of Human Resources immediately of the return of an employee from active military duty.

An employee returning from military service who is incapacitated from performing his/her former duties will be, whenever possible, reassigned or transferred to other duties for which the employee is qualified. Such reassignment, if possible, will be within the same compensation range as the employee's former position.

ADMINISTRATIVE LEAVE

Administrative leave is discretionary leave with pay, other than personal/medical leave, granted to employees by the Governor, the Executive Director, or the Deputy Executive Director in extraordinary circumstances.

Leave for Extreme Weather Conditions, Disasters, or Emergencies

The Governor, the Executive Director, or the Deputy Executive Director may grant administrative leave to employees on a local or statewide basis in the event of extreme weather conditions or in the event of a man-made, technological or natural disaster or emergency. In these unusual circumstances, administrative leave shall be used only after it has been approved by the Governor, the Executive Director, or the Deputy Executive Director. Administrative leave shall be recorded on the employee's time card as administrative leave.

If an employee is absent from work on some other form of leave at the time of the emergency closing of an office, his/her leave will not be changed to administrative leave.

Leave for Certified Disaster Service Volunteers

The Executive Director or the Deputy Executive Director may grant administrative leave to state employees who are certified disaster service volunteers of the American Red Cross and who participate in specialized disaster relief services in Mississippi or its contiguous states when the American Red Cross requests the employee's participation. This type of administrative leave shall not exceed 20 days in any 12-month period. An employee on administrative leave as a service volunteer under this section shall not be considered an employee of the State of Mississippi for the purposes of workers' compensation or for the purposes of claims against the State under Chapter 46, Title 11, Mississippi Code Annotated of 1972. Under this section, the term "disaster" includes disasters designated at level II and above in the American Red Cross national regulations and procedures.

Revised: November 14, 2011

Jury/Court Leave

Employees shall be permitted to be absent from duty as required by a subpoena or summons to attend court or serve on a jury without the loss of pay and without having to take any accrued leave. Compensation received for jury participation may be retained by the employee. Leave in relation to participation on a jury or participation in court proceedings as detailed above shall be recorded on the time card as jury leave.

When an employee is involved in private litigation where involvement is not in response to a summons, subpoena, or agency direction to participate in an official capacity, the time absent shall be charged to personal leave, compensatory leave, or leave without pay (if approved in advance).

Documentation verified by the clerk of the court must be presented to the approving supervisor or attached to the Request for Leave Form regarding jury/court leave.

Leave to Vote

For all statewide general, primary, or presidential elections, employees who are registered voters may be allowed the necessary time away from their respective duties to cast their ballots *if there is insufficient time to vote outside regular working hours. No more than one hour should be sufficient for those who live and vote outside of the town in which they work. Less time should be adequate for those who live and vote in the town in which they work.* **Time off to vote shall be reasonable under all circumstances and shall be arranged with the Division Director or appropriate supervisor prior to the election.**

In the case of county, municipal, or beat elections not held in connection with a statewide primary or general election, employees may make arrangements *in advance* with the appropriate supervisor to take the necessary time to cast their ballots, provided that the county, municipal, or beat election is being held in the county where the employee works or has headquarters.

If a county, municipal, or beat election is being held in a county other than the one in which the employee works or has headquarters, the employee may be allowed non-chargeable leave if he/she wishes to vote in the election. Such leave, however, must not exceed the required time for traveling to and from the voting point, plus a reasonable amount of time for actual voting. Leave in relation to voting in accordance with this policy shall be recorded on the time card as administrative leave.

Extensive time off for the purpose of traveling to an election site shall be requested in the form of personal leave.

Procedure for Applying for Administrative Leave

Requests for administrative leave shall be submitted via the E-leave system or on the Request for Leave Form to the employee's supervisor for approval/disapproval. Administrative leave does not reduce an employee's leave time or salary.

Revised: November 14, 2011

LEAVE RELATED TO WORKERS' COMPENSATION BENEFITS

An employee who is deemed by the treating physician to be unable to work due to a workers' compensation injury shall receive 66 2/3% of his/her average weekly wage (as defined by the workers' compensation statutes) while incapacitated. This type of pay is called indemnity pay. In addition to indemnity pay, an employee may choose to use personal/medical leave in an amount that would insure that the employee's wages equal no more than 100% of his/her regular pay. To accomplish this, the employee shall submit a request for the proper amount of personal/medical leave to make up 100% of pay over the indemnity pay and a request for leave without pay for the remainder of the regularly scheduled work time. No employee shall be allowed to receive indemnity pay and personal/medical leave in an amount that would exceed 100% of his/her normal pay.

If an employee chooses to receive his/her workers' compensation (indemnity) pay only, without using personal/medical leave, he/she shall request leave without pay for the duration of the period of incapacity.

COMPENSATORY LEAVE/PAY

In compliance with the Fair Labor Standards Act (FLSA), MDHS is required to classify each employee as either exempt or not exempt from the requirements for overtime compensation following the guidelines of the Department of Labor.

Employees exempt from the overtime provisions of the FLSA are generally executive, administrative, professional, or outside sales employees who are paid at least \$985.83 semi-monthly. As a result, those employees are not eligible for overtime compensation. Exempt MDHS employees will be compensated in compensatory leave as detailed later in this section.

The FLSA directs that certain employees who are not exempt from the overtime provisions of the FLSA (non-exempt employees) be paid one and one-half times their regular hourly rate of pay for any hours worked in a workweek beyond 40 hours. The FLSA further states that state agency (governmental) employers may compensate non-exempt employees in compensatory leave at the rate of one and one-half hours for each hour worked in excess of 40 in a single workweek. Unless directed otherwise by the Executive Director or his/her designee, all non-exempt MDHS employees will be compensated in compensatory leave in lieu of wages for overtime.

A workweek is a period of 168 consecutive hours during seven consecutive 24 hour periods. MDHS has defined its workweek as beginning at 12:00 a.m. on Monday and ending at 11:59 p.m. on Sunday of each week. Non-exempt employees who work more than eight hours a day but do not exceed the 40 hour workweek are only entitled to compensatory time equal to the actual hours worked over the standard eight hour workday.

Authorization to Work Overtime

No supervisor shall allow a non-exempt employee to work (accumulate) over 160 hours of actual overtime. This is equivalent to 240 hours of accrued compensatory time ($160 \times 1.5 = 240$ hours). If an employee works overtime in excess of 160 hours, MDHS will be required by the FLSA to make payment of wages for the amount of compensatory time accrued over 240 hours.

Revised: November 14, 2011

No employee shall be allowed to earn compensatory time unless his/her supervisor has authorized it in writing prior to the performance of the work. Approval of overtime work shall always be based on special assignments that require an employee to work after regular working hours. No employee shall earn compensatory leave simply because he/she was unable to complete regularly assigned job duties during regular working hours. In a case where an employee does not have prior written approval to work overtime but is permitted to do so, the overtime will be considered work time and the employee will accrue compensatory leave or will be paid overtime pay (if due under the FLSA).

Failure to issue prior written approval to non-exempt employees who work beyond the forty (40) hour limitation shall be grounds for disciplinary action to both the employee and the supervisor.

Working on a Holiday

When an employee is required to work on an official state holiday, he/she shall earn floating holiday leave, not compensatory leave, on an hour for hour basis (FLSA overtime provisions do not apply). This leave may be used for future time off. Time worked on a holiday shall be recorded as hours worked on holiday on the time card.

Lectures, Meetings, Training Programs and Similar Activities

Attendance at lectures, meetings, training programs and/or similar activities is not counted as work time: 1) if attendance is outside of the employee's regular working hours; 2) if attendance is voluntary; 3) if the course/lecture/meeting is not directly related to the employee's job; or 4) if the employee does not perform any productive work during attendance.

Time spent by an employee on his/her own initiative and time attending a school, college, university, or trade school, is not considered working hours even if the courses are related to his/her job. If a training course is attended by an employee in order to prepare him/her for advancement to a new position by improving his/her talents to a higher skill level but is not intended to make an employee more efficient in his/her present job, the training course shall not be considered directly related to the employee's job.

If attendance in a meeting/program/course is not voluntary, or if attendance is requested/required by the supervisor, or if the employee is led to believe by the supervisor that his/her employment would be adversely affected by non-attendance, work/compensatory time will be earned for time spent in attendance.

Travel Time

An employee who travels from home before his regular workday and returns to his/her home at the end of the workday is engaged in ordinary home-to-work travel. This travel is considered a normal incident of employment and would not be counted as work time.

If an employee has gone home after completing his/her day's work and is subsequently called out to travel a substantial distance to perform an emergency job or is called back to the work site due to an emergency, all time spent on such travel and the actual performance of required duties shall

Revised: November 14, 2011

be counted as work time.

When an employee is given a one-day work assignment in another city, the time spent in travel from home to the public transportation site (e.g., airport, railroad, etc.) and then back home would not be counted as work time. If an employee is offered public transportation but requests permission to drive his/her car instead, the supervisor may count the time spent driving the car as time worked.

Travel that keeps an employee away from home overnight is work time when it cuts across the employee's normal workday. The time is not only hours worked on regular working days during normal working hours but also during the corresponding hours on non working days such as Saturday or Sunday. Any work which an employee is required to perform while traveling must be counted as hours worked.

If an employee who normally finishes his/her work at 5 p.m. is sent to another site to perform work which he/she finishes at 8 p.m. and then is required to return to his an MDHS office, all of the time is work time. However, if the employee goes home after the completion of the job, the travel after 8 p.m. is home-to-work travel and is not work time.

Employee/Supervisor Responsibilities

Every effort shall be made to allow employees to take time off during the same workweek that compensatory time is earned to avoid exceeding a standard 40 hour workweek. It shall be the practice of MDHS that whenever practical all compensatory leave shall be used within 90 calendar days of accrual.

An employee has the right to use some/all of his/her accrued compensatory time within a reasonable time after requesting such use, as long as it does not disrupt MDHS operations. In order to deny the use of compensatory leave the supervisor shall verify that such use will result in an unreasonable burden on the agency's ability to provide services.

Compensatory leave shall be used before using personal leave.

All employees shall be governed by the policies and procedures outlined herein for the accrual and use of compensatory time. **Failure to correctly apply this policy may be grounds for disciplinary action to both the employee and the supervisor.**

MEAL PERIODS

Bona fide meal periods are not work time. Employees must be completely relieved from duty for the purpose of eating regular meals. Meal periods do not include coffee breaks or time for snacks. During the scheduled lunch period, supervisors shall insure that non-exempt employees leave their usual work stations in order to discourage any type of work activity such as answering the telephone.

LEGAL HOLIDAYS

The following holidays, as established by the Mississippi Legislature, will be observed by MDHS.

Revised: November 14, 2011

County, area, and state offices will be closed in observance of authorized paid holidays. MDHS will observe as a legal holiday any other day proclaimed by the Governor to be a holiday. The Governor or Executive Director may require minimum staffing on observed state holidays.

January 1	New Year's Day
Third Monday in January	Robert E. Lee & Dr. Martin Luther King's Birthday
Third Monday in February	Washington's Birthday
Last Monday in April	Confederate Memorial Day
Last Monday in May	Jefferson Davis' Birthday & National Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
November 11	Veteran's Day
Fourth Thursday in November	Thanksgiving
December 25	Christmas

If a legal holiday falls on a Saturday or Sunday, the following Monday will be observed as a legal holiday as proclaimed by the Governor.

Employees working as a skeleton crew on an observed state holiday will be given credit for hours worked for future time off. The time worked on a holiday will be coded hours worked on holiday and will be recorded as floating holiday hours.

LEAVE RELATED TO MDHS JOB INTERVIEWS

Upon written request, time off will be granted to employees who are to be interviewed for other positions within MDHS. This time off will not be charged against any type of leave in this policy. Any travel incurred for this reason will be at the expense of the employee.

All requests for time off for interviews shall be submitted on the Request for Time Off Form, MDHS-PER-203a, and maintained by the supervisor within the official office of the employee.

LEAVE DISCREPANCIES/CORRECTIONS

All leave discrepancies shall be reported promptly to the Division of Human Resources. Once a discrepancy has been verified, the request for correction shall be submitted on the properly completed Leave Correction Form, MDHS-PER-220, revised 3/1/93. The Division of Human Resources will be available for assistance in completing this form. Incomplete and unsigned forms will be returned without action. **A leave correction shall not be sent in as an adjustment to the time card for the next period.**

CONCLUSION

The guidance set forth in this policy is an attempt to interpret legislative intent. It would be impossible to address every circumstance and/or situation that may occur in a day's work. Any situation that is not addressed in this policy will be addressed on a case-by-case basis.

Division Directors shall insure fair and consistent application of these policies and procedures.