

WEBB COUNTY SICK LEAVE POOL PROGRAM POLICY

2013 DEC -5 AM 8:01

WEBB COUNTY, TEXAS

PURPOSE:

To establish a voluntary program in accordance with Texas Local Government Code Chapter 157, Subchapter E, which authorizes Commissioners Court to create a Sick Leave Pool Program (SLP) for County employees. The Sick Leave Pool (SLP) provides additional sick leave time to Webb County (County) Employees in the event of a Catastrophic Illness or Injury that prevents an employee from active employment. Time may be granted from the SLP only after the employee has exhausted all accrued sick, vacation or other compensatory time (if applicable) and has met all granting requirements as described herein.

BY *WMB* DEPUTY

PROCEDURES:

The Commissioners Court shall designate a person to administer the Webb County Sick Leave Pool Program who shall be known as the ("Program Administrator"). The Program Administrator shall be assisted by a committee to function in an advisory capacity. The Committee will be comprised of the Webb County Risk Manager, a representative of the Webb County Attorney, a representative of the Webb County Auditor and a County employee to be appointed by the Program Administrator.

DEFINITIONS:

1. "Catastrophic illness or injury" is hereby defined as an illness, injury, impairment or physical or mental condition of an Employee which is certified by a physician licensed by the State of Texas or other domestic state:
 - a. that reasonably can be expected to result in death within 12 months or less; or
 - b. that substantially impairs the employee's ability to perform material and substantial duties of his or her job for a period of not less than **six (6) weeks**; or
 - c. that is expected to incapacitate an employee for at least six (6) weeks and is the result of any of the following: the transplant of a major bodily organ, major surgery or treatment of cancer, or a heart attack.

AND AT A MINIMUM, REQUIRES ONE OF THE FOLLOWING

- Hospital Care

Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care. Inpatient care is at least one overnight stay. Examples: surgery, pneumonia

- **PERMANENT/LONG-TERM CONDITIONS REQUIRING SUPERVISION**

A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee must be under the continuing supervision of, but need not be receiving active treatment by a Licensed Health Practitioner.

Examples: Alzheimer's, severe stroke, or terminal stages of a disease

- **MULTIPLE TREATMENTS (NON-CHRONIC CONDITIONS)**

Any period of absence to receive multiple treatments (including period of recovery) by a Licensed Health Practitioner either for restorative surgery after an accident or other injury; or

- **OTHER EXAMPLES OF CATASTROPHIC ILLNESSES OR INJURIES WHICH MEET ONE OF THE THREE CRITERIA:**

- i. Back conditions requiring extensive therapy or surgery
- ii. Heart conditions
- iii. Most types of cancers
- iv. Severe respiratory conditions
- v. Severe nervous disorders
- vi. Injuries caused by serious accidents
- vii. Kidney disease

- **CONDITIONS WHICH NORMALLY DO NOT MEET ONE OF THE THREE CRITERIA AND ARE NOT NORMALLY CONSIDERED CATASTROPHIC ILLNESSES OR INJURIES***

- i. Migraines/Headaches
- ii. Common Cold/Allergies
- iii. Flu
- iv. Earaches
- v. Upset Stomach
- vi. Minor Ulcers
- vii. Childbirth/ Normal Recovery/Miscarriage (without complications)
- viii. Elective Surgeries
- ix. Routine dental or orthodontic problems
- x. Absence due to substance abuse
- xi. Stress

2. EMPLOYEE

Employee shall mean - A "Full-time" County employee with 12 or more months of continuous full-time employment who is paid from either the general fund of the County, from a special fund of the County, or from special grants paid through the County.

3. FMLA

FMLA means - The Family and Medical Leave Act. Leave under FMLA is normally an unpaid, job protection leave for up to 12 work weeks/84 calendar days. In order to be eligible for leave under the FMLA, an Employee must have worked at least 12 months (does not have to be consecutive) with the County and have worked at least 1,250 hours as of the date of the qualifying event (vacation & sick leave hours do not count as hours worked).

4. INCAPACITY

Incapacity is the inability to work or perform other regular daily activities due to a catastrophic illness or injury, treatment therefore, or recovery there from.

5. LICENSED HEALTH PRACTITIONER

A Licensed Health Practitioner shall mean - A licensed doctor of medicine or osteopathy, or any licensed professional determined by the SLP Committee to be a legitimate provider capable of providing health care services in the state of Texas or other domestic state.

OPEN ENROLLMENT PERIOD

The Open Enrollment Period for the SLP shall be during the month of December (1st thru 31st) for FY 13-14; September (1st thru 30th) of each year thereafter. The new-year for the SLP begins on January 1st for FY 13-14 and October 1st of each year thereafter.

ADMINISTRATION

1. PROGRAM ADMINISTRATOR

The Program Administrator shall be appointed or removed by a simple majority vote. By action of the Commissioners Court at its meeting of May 9, 2005, Webb County Administrative Services Director Cynthia Mares was appointed Program Administrator.

2. SLP COMMITTEE

The Committee identified shall function in an advisory capacity to the Program Administrator. Upon receipt of a request for sick leave from the pool, the Program Administrator shall request in writing that the Committee convene a meeting for the purpose of reviewing the withdrawal packet request and providing advice to the Program Administrator. If the Committee fails to meet within five (5) working days of the Program Administrator's request, the Program Administrator may act without the participation of the Committee. Pursuant to law, the final decision shall, in any event, rest with the Administrator.

- a. The advisory decision arrived at by the committee and/or the final decision prepared by the plan Administrator will be in all things final. The decision can only be overruled and changed by a vote of Commissioner's Court or a court of competent jurisdiction.
- b. The Webb County Civil Service Commission may request a reconsideration of the final decision of the Sick Leave Pool Committee and/or the plan administrator but the Civil Service Commission does not have authority to change the final decision of the Plan Administrator.

3. NURSE PRACTITIONER

Nurse Practitioner - On an "as needed" basis, a Nurse Practitioner, which is selected by the SLP Committee, shall provide recommendations to the SLP Committee and correspond with any medical authority for clarifications as required.

POOL MEMBERSHIP

1. Except as otherwise provided herein and in addition to any other eligibility requirements set forth hereunder, each regular full-time employee shall be eligible to join the SLP program so long as such Employee satisfies the following criteria the employee will have a sick leave balance of at least twenty-four (24) hours following his or her contribution of accrued sick leave into the SLP.
2. Each employee desiring to join the SLP may contribute not less than eight (8) hours and not more than forty (40) hours of accrued sick leave into the SLP.
3. Employees (current and new hires) shall only be able to join the SLP during each Open Enrollment Period.
4. In order to join the SLP, an employee must submit a SLP Enrollment and Contribution Form and a request for leave acknowledging the sick leave contribution to the respective department prior to the end of each Open Enrollment Period. The department head will submit the SLP Enrollment and Contribution Form, an updated Attendance Record showing the contribution and documentation (copy of feedback) acknowledging the contribution has been sent to the Treasury department. The SLP Enrollment and Contribution Form are available at the Webb County Administrative Services Department. An employee's membership in the SLP shall be for a period of twelve (12) months beginning on the first day following each annual Open Enrollment Period, with the exception of FY 13-14.
5. In order to maintain enrollment in the SLP from year to year, each employee must renew his or her membership in the SLP by contributing not less than eight (8) hours and not more than forty (40) hours of accrued sick leave into the SLP each year during the Open Enrollment Period. Only one donation each fiscal year is required to maintain membership in the SLP. Except as otherwise specifically set forth herein, an employee's failure to enroll during an Open Enrollment Period will result in the termination of the employee's continued membership in the SLP.

6. Each hour that an employee donates to the SLP will be permanently subtracted from the Employee's accrued sick leave balance that is on file as of closeout of the Open Enrollment Period, and subject to audit. No advances on sick leave accruals will be granted to allow an employee to meet the minimum required contribution.

7. An employee's contribution of accrued sick leave hours shall be irrevocable and the employee, by making such contribution, agrees to release any and all rights and interest in and to the contributed sick leave hours.

8. The accrued sick leave hours that an employee contributes to the SLP shall become the property of the SLP and cannot be returned in the event the employee dies, retires, resigns, is terminated, is placed on temporary suspension or otherwise fails to maintain his or her membership in the SLP from year to year.

9. The time contributed to the SLP cannot be designated to be given to any particular employee.

10. There is no guarantee that a contributing employee will receive any time that he or she contributes to the SLP should such employee have a need to make application for SLP time at a later date.

11. Upon the conclusion of twelve (12) months following the Open Enrollment Period, any unused time that remains in the SLP shall be determined and carried forward for the next twelve (12) month period of the SLP.

12. An employee who is terminated, who resigns or who retires may donate not more than eighty (80) hours of their accrued sick leave prior to the time of their departure from County employment.

13. If, at any time, the sick leave available through the SLP falls below the number of days equal to two times (2x) the number of members of the SLP, each employee member may voluntarily contribute eight (8) additional hours of accrued sick leave time to the SLP in order to maintain membership in the SLP. This type of contribution would be considered an emergency allocation that is necessary to bring the pool up to the amount of hours needed to maintain the continued operation of the SLP.

GRANTING OF TIME FROM SLP

1. The SLP may only be granted to and used by an employee for a Catastrophic Illness or Injury that makes the employee unable to perform the employee's job.

2. Has contributed to the sick leave pool not less than one (1) day not more than five (5) days in the current and previous fiscal year.

3. Pregnancy will not be covered by the SLP, but complications due to pregnancy or delivery that qualify as a Catastrophic Illness or Injury will be considered.

- 4.** SLP time may not be granted to an Employee when he or she is receiving worker's compensation benefits under the Texas Workers Compensation Act, and/or any other 3rd party benefit (i.e. Short Term/Long Term Disability). SLP time will also not be granted in cases where the Employee's receipt of SLP time would allow such employee to have paid time past the ending date of their current entitlement to FMLA leave.
- 5.** SLP benefits will be granted in six (6) weeks increments.
- 6.** During each twelve (12) month period following an Open Enrollment Period, the maximum amount of SLP time that may be granted to an eligible Employee shall not exceed one-third (1/3) of the total amount of the SLP, or 12 weeks/84 calendar days, whichever is less as of the time of the employee's application.
- 7.** Requests for the granting of an extension from the SLP must be applied for by the employee and shall not be automatically granted.
- 8.** An employee cannot receive time from the SLP if the employee is placed on temporary suspension, is on approved leave of absence or is otherwise terminated.
- 9.** All unused time that was granted to an employee from the SLP shall be returned to the SLP.
- 10.** The grant of time from the SLP to an employee shall terminate upon the earliest occurrence of the following:
 - a.** The date the employee returns to work; or
 - b.** The exhaustion of the specific amount of time that the SLP Committee granted to the employee, unless the SLP Committee has granted the employee additional SLP time and, in such case, upon the exhaustion of any additional SLP time that was granted to the employee; or
 - c.** The effective date of the employee's termination (including termination due to the employee's death), suspension, leave of absence, retirement, or resignation; or
 - d.** The employee has used the maximum amount of SLP time allowable under this policy; or
 - e.** The SLP Committee determines that the employee is no longer eligible to receive any further or additional time from SLP.
- 11.** No employee may receive or use leave time from the Sick Leave Pool once he/she has been off active-duty work, for any reason, for six (6) months or more.

PROCEDURE

1. An eligible employee must apply for permission to receive time from the SLP by submitting a SLP Withdrawal Request Form to the SLP Administrator. The SLP Withdrawal Request Forms shall be available at the Webb County Administrative Services Department. Each SLP Withdrawal Request Form must be completely filled out and include the following:

- a.** The date on which the Catastrophic Illness or Injury commenced;
- b.** The probable duration of the Catastrophic Illness or Injury;
- c.** The Attending Physician Statement Form from the Licensed Health Practitioner that is treating the catastrophic condition stating that the employee is unable to perform the functions of his or her position and the anticipated date the employee will be eligible to return to work;
- d.** Any other information that the Administrator or the SLP Committee deems necessary.

2. The completed SLP Withdrawal Request Form, along with all of the required documentation and information must be submitted no more than ten (10) days prior to the exhaustion of all of the employee's accrued sick leave, vacation, personal holidays, and compensatory time to avoid a gap in compensation because retroactive benefits will not be granted in any case.

The obligation to submit said form and required documentation and information shall be the employee's responsibility. The employee's failure to complete the said form and provide the required documentation and information may result in the denial or delay of any grant of time from the SLP. If an employee is critically ill and unable to file the SLP Withdrawal Request Form and required documentation and information, the employee's immediate family may, submit the request form and required documentation and information;

3. Upon receipt of an employee's completed SLP Withdrawal Request Form (along with all required documentation and information); the SLP Administrator shall review the request and provide a recommendation to the SLP Committee.

4. The SLP Committee shall call a meeting in order to review both the employee's completed SLP Withdrawal Request Form (along with all required documentation and information) and the Administrator's recommendation. At such called meeting, the SLP Committee shall vote based on the terms and conditions of this policy to approve, deny or modify the amount of time that an Employee is requesting from the SLP. The SLP Committee's decision to approve, deny or modify) the amount of time that an Employee is requesting from the SLP shall be on record. The requesting employee or a member of his or her family may be required to appear at a called meeting before the SLP Committee in order to substantiate the request. The SLP Committee may, at its sole

discretion, require that the supervisor, department head and/or elected official under which the requesting employee works appear and/or provide any information and testimony that the SLP Committee deems necessary for its deliberation of whether or not to approve, deny or modify the amount of time that an Employee is requesting from the SLP.

5. In the event the SLP Committee votes in favor of granting time from the SLP to a requesting Employee, the SLP Committee shall notify the Administrator of the amount of SLP time that has been granted. The Administrator shall then approve the transfer of that amount of time from the SLP to the employee. The amount of SLP time granted to an employee shall be credited to the employee and shall be used in the same manner as accrued sick leave. Furthermore, in accordance with state law, an employee absent on sick leave assigned from the SLP is treated for all purposes as if the employee were absent on earned sick leave.

6. The SLP Committee may require an employee, who has been granted time from the SLP, to undergo periodic return visits to his or her Licensed Health Practitioner to assess progress and make continuing reports to the Committee. If the SLP Committee determines that the employee) is no longer eligible to receive time from the SLP, the SLP Committee can withdraw its existing grant of SLP time to the employee and discontinue any further transfers of SLP time to such employee.

7. Sick leave granted from the SLP shall only be used to pay approved workdays.

8. Each employee that receives a grant of time from the SLP must return to work after he or she has been released by his or her Licensed Health Practitioner. A Medical Release Form must be completed by a Licensed Health Practitioner and be returned to the Webb County Administrative Services Department before an Employee on a SLP grant may return to work. The Medical Release Form shall advise if the employee may return to work and list any and all restrictions relating to the employee's return to work.

9. FMLA leave shall run concurrently with leave granted from the SLP.

10. The estate of a deceased employee shall not be entitled to payment for unused sick leave acquired by the employee from the SLP.

MISCELLANEOUS PROVISIONS

1. The County may discontinue and/or terminate the SLP program without cause or legal repercussions or ramifications upon one hundred twenty (120) days written notice to all employees that are participating in the SLP program as of the date of its termination.

2. If any provision of this SLP shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire SLP will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. If any provision of this SLP is determined to be invalid or unenforceable, it is the desire and

intention of the County that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this SLP.

3. The guidelines, terms and conditions of this SLP program may be amended at anytime upon the recommendation of the SLP Committee. Any recommended amendments must be approved by the Commissioners Court.

SLP REQUIRED FORMS

Withdrawal Packet forms needed to process request of SLP hours must be submitted no more than ten (10) days prior to the exhaustion of all of the employee's accrued sick leave, vacation and compensatory time to avoid a gap in compensation because retroactive benefits will not be granted in any case.

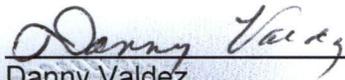
- A. SLP Withdrawal Request Form (Employee)
- B. Attending Physician Statement (Employee)
- C. Attendance Record (Department)
- D. Job Description (Department)
- F. FMLA (Department)

Return to Work Packet form(s):

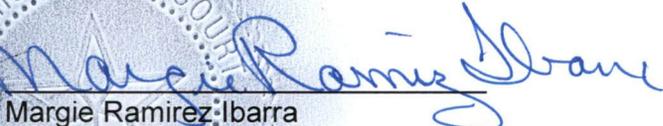
- A. Medical Release Form

NOTE: The above referenced forms may be revised periodically. It is the Employee's obligation and responsibility to check with the Webb County Administrative Services Department to ensure correct forms are used.

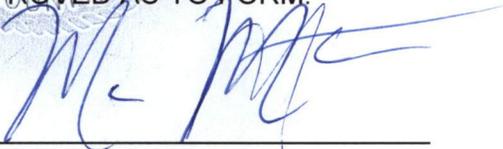
ATTEST:



Danny Valdez
Webb County Judge


Margie Ramirez-Ibarra
Webb County Clerk

APPROVED AS TO FORM:



Marco A. Montemayor
Webb County Attorney

*By law, the county attorney's office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).