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Sick Leave for Federal Employees: In Brief

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Summary

This brief provides an overview of sick leave for federal employees, including leave options for employees when sick leave has been exhausted. Full-time federal employees can earn up to 104 hours (13 days) of sick leave per year and are entitled to use such leave for four primary reasons: (1) personal medical needs, (2) care of a family member, (3) death of a family member, and (4) adoption of a child.

A federal employee might experience a situation in which he or she does not have enough accrued sick leave to cover a prolonged absence from work for personal or family medical reasons. In these instances, a federal employee can often use alternative leave options to cover the absence. Alternative paid leave options include advanced sick leave, using annual leave for sick leave purposes, and voluntary leave donation programs. Alternative unpaid leave options include leave without pay and leave under the Family and Medical Leave Act of 1993 (P.L. 103-3).

In recent years, both the Administration and Congress have attempted to expand the availability and use of paid leave for family care and related activities. On January 15, 2015, President Obama signed a presidential memorandum that appears to encourage expanded use of existing paid leave for parental activities. Namely, the memorandum directed agencies to ensure that their policies offer the maximum amount of advanced annual and sick leave for childbirth or adoption, or care of a newborn or newly adopted child.

Legislation has also proposed enhancements to leave options available to federal employees for purposes of family care. Specifically, H.R. 532 (114th Congress) has proposed paid leave for parental responsibilities and H.R. 2698 (113th Congress) proposed short-term disability insurance that could be used for purposes of childbirth or adoption. Expansion of existing unpaid leave options for care of sick relatives or bereavement has also been proposed (see, for example, S. 846 and S. 226 in the 113th Congress). Finally, H.R. 3028 (112th Congress) proposed expanded voluntary leave donation programs to include the donation of sick leave to federal employees experiencing a medical emergency.

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Federal Sick Leave Use and Accrual

According to the Office of Personnel Management (OPM), sick leave is defined as a “paid leave of absence from duty.”¹ Federal employees are entitled to use sick leave for four primary reasons: (1) personal medical needs, (2) care of a family member, (3) death of a family member, and (4) adoption of a child.² **Table 1** describes specific medical situations that warrant the use of sick leave. Federal employees must formally request and receive approval from their respective agencies in order to receive their sick leave entitlements.³

Table 1. Approved Reasons and Annual Usage Limits for Federal Sick Leave

Reason	Approved Reasons	Annual Usage Limit
Personal medical needs	Incapacitation due to physical or mental illness, injury, pregnancy, or childbirth	Unlimited
	Medical, dental, or optical examination or treatment	
	Exposure to a communicable disease that would “jeopardize the health of others” as determined by health care providers or health authorities	
Care of a family member	Serious health condition	480 hours (60 days)
	Illness or injury (physical or mental)	104 hours (13 days) ^a
	Medical, dental, or optical examination or treatment	
	Exposure to a communicable disease that would “jeopardize the health of others” as determined by health care providers or health authorities	
Bereavement	Arrangements related to death of or funeral for a family member	104 hours (13 days) ^a
Child adoption	Appointments with adoption agencies, travel, court proceedings	Unlimited

Source: 5 C.F.R. §630.401; CRS analysis of laws and regulations governing federal employee sick leave.

Notes: Annual usage limit refers to the maximum amount of accrued sick leave that can be used in any given leave year. For a list of terms and definitions for leave programs, see 5 C.F.R. §630.201.

- a. A federal employee is authorized to use at least 40 hours (5 days) and up to an additional 64 hours (8 days) of his or her accrued sick leave to care for an ill or injured family member or for purposes relating to the death of a family member. Federal law requires employees to maintain a balance of at least 80 sick leave hours (10 days) in order to use the additional 64 hours for family care. See 5 U.S.C. §6307.

Federal employees earn paid sick leave hours at varied accrual rates depending on their employment status (**Table 2**). For example, a full-time federal employee accrues four hours of sick leave per bi-weekly pay period (a total of 104 hours, or 13 days, per year).⁴ There is no limit on the amount of sick leave hours an employee can accumulate and carry over to a new leave

¹ U.S. Office of Personnel Management (hereafter OPM), “Fact Sheet: Sick Leave (General Information),” at <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/sick-leave-general-information/>.

² 5 U.S.C. §6307; 5 C.F.R. §630.401.

³ 5 C.F.R. §630.404.

⁴ 5 U.S.C. §6307; 5 C.F.R. §630.401. For the purposes of this report, a work day is defined as an 8-hour day.

year. In contrast, accumulation of annual leave is subject to statutory ceilings at the end of a leave year, at which point a “use or lose” policy is enforced.⁵

Federal employees can receive service credit for unused sick leave at the time of retirement. For example, an employee covered under the Civil Service Retirement System or Federal Employees Retirement System with 30 years of service and one year of accumulated sick leave would be considered to have 31 years of service for purposes of annuity computation.⁶

Table 2. Sick Leave Accrual Rates for Permanent Federal Employees

Type of Employment	Accrual Rate
Full-time	4 hours per biweekly pay period (80 hours of paid work)
Part-time	1 hour for each 20 hours in a pay status
Uncommon tour of duty	(4 hours) x (average # of hours per biweekly pay period) divided by 80 = biweekly accrual rate

Source: 5 U.S.C. §6307. Table adapted from OPM, “Fact Sheet: Sick Leave (General Information),” at <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/sick-leave-general-information/>.

Notes: An uncommon tour of duty is defined as “an established tour of duty that exceeds 80 hours of work in a biweekly pay period” provided that the tour meets certain additional criteria. See 5 C.F.R. §630.201.

Alternative Leave Options for Exhausted Sick Leave

A federal employee might lack the amount of sick leave necessary to cover a prolonged medical absence from work. For example, under the aforementioned accrual system, a new federal employee typically begins his or her career with a zero balance of sick leave hours. As such, a new employee might not have the sick leave necessary to manage an unforeseen medical emergency. The following sections summarize leave options that are available to federal employees who must be absent from work due to medical reasons, but do not have the amount of sick leave hours necessary to cover the absence. The extent to which a federal employee can use some of these options is at the discretion of an agency.

Advanced Sick Leave

A federal agency may, but is not required to, offer advanced sick leave to an employee for personal or family medical reasons.⁷ An advance of sick leave provides an employee with leave hours that have not yet been accrued. The maximum total number of leave hours that can be advanced depends on the medical situation. **Table 3** describes the specific personal or family medical situations that may warrant advancement of sick leave.

⁵ 5 U.S.C. §6304; 5 C.F.R. §630.302. Annual leave accumulation for most federal employees is limited to 30 to 45 days per leave year depending on the employment category. Under the use or lose policy, annual leave hours exceeding the applicable leave ceiling cannot be carried over and must be used or forfeited by the end of a leave year.

⁶ For more information on sick leave balances and credit toward retirement annuities, see CRS Report RL32596, *Sick Leave: Usage Rates and Leave Balances for Employees in Major Federal Retirement Systems*, by (name redacted).

⁷ 5 C.F.R. §630.402.

It is important to note that the leave amounts listed in **Table 3** represent the maximum number of sick leave hours employees *can* receive, not necessarily what employees *will* receive, from their respective agencies. Agencies have wide discretion in determining (1) whether to offer advanced sick leave to their employees, (2) the total number of sick leave hours advanced, and (3) the specific requirements and approval procedures for granting advanced sick leave. It is possible that employees might receive less advanced sick leave hours than the maximums depending on their agencies' specific sick leave policies.

Table 3. Characteristics of Advanced Sick Leave for Full-Time Employees

Maximum Amount of Leave Per Year	Approved Medical Reasons for Advanced Sick Leave
240 hours (30 days)	<ul style="list-style-type: none"> • Incapacitation due to physical or mental illness, injury, pregnancy, or childbirth • Serious health condition • Exposure to a communicable disease that would “jeopardize the health of others” as determined by health care providers or health authorities • Activities related to child adoption • Care of an ill child • Care of a servicemember with a serious injury or illness • Care of a family member with a serious health condition
104 hours (13 days)	<ul style="list-style-type: none"> • Medical, dental, or optical examination or treatment (self or family member) • Care of a family member with physical or mental injury or illness • Arrangements related to death or funeral of a family member

Source: 5 U.S.C. §6307; 5 C.F.R. §630.402; OPM, “Fact Sheet: Leave And Work Scheduling Flexibilities Available for Childbirth,” at <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/leave-and-work-scheduling-flexibilities-available-for-childbirth/>.

Notes: Advanced sick leave can be offered to part-time employees or employees on an uncommon tour of duty. The listed amounts, however, must be prorated “according to the number of hours in the employee’s regularly scheduled administrative workweek” for these two types of employment.

Annual Leave for Sick Leave Purposes

An employee may request the use of accrued annual leave for sick leave purposes. According to OPM, annual leave can be used for emergencies and medical needs, such as caring for a sick family member.⁸ Such requests, however, must be approved by the employee’s supervisor and “may be denied.”⁹ A federal employee can also request advanced annual leave for sick leave purposes, including pregnancy, childbirth, or bonding with a baby.¹⁰ Similar to advanced sick leave, advanced annual leave provides, at an agency’s discretion, an employee with annual leave hours that have not yet been accrued. In contrast to advanced sick leave, however, the total

⁸ OPM, “Attachment 1 – Human Resources Flexibilities and Authorities for Dealing with Quarantinable Communicable Diseases and Seasonal Influenza,” November 25, 2014, p. 3, at <http://www.chcoc.gov/files/human-resources-flexibilities-and-authorities-for-dealing-with-quarantinable-communicable-diseases-and-seasonal-influenza.pdf>. Although this guidance was constructed for communicable diseases and influenza, the cited section appears to reflect broader annual leave policies for federal employees.

⁹ OPM, “Fact Sheet: Annual Leave (General Information),” at <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/annual-leave/>.

¹⁰ OPM, *Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care*, April 2015, at <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/handbook-on-leave-and-workplace-flexibilities-for-childbirth-adoption-and-foster-care.pdf>.

amount of annual leave advanced may not exceed the total number of annual leave hours that the employee would accrue in the given leave year.¹¹ For example, an employee who is slated to accrue 50 hours of annual leave by the end of a leave year can receive up to 50 hours of advanced annual leave.

Voluntary Leave Donation Programs

Federal employees lacking sufficient sick leave to cover a prolonged medical absence from work can receive leave hours from other federal employees through two programs: the Voluntary Leave Transfer Program and Voluntary Leave Bank Program. Both programs allow an employee to donate his or her unused annual leave, not sick leave, to an employee who experiences a medical emergency and has exhausted all paid leave options.¹² The availability, amount, and processes for receiving donated leave, however, vary by program and agency. **Table 4** describes the structure and functions of both voluntary leave donation programs.

Table 4. Characteristics of Federal Voluntary Leave Donation Programs

Program Characteristics	Voluntary Leave Transfer Program	Voluntary Leave Bank Program
Availability to employees	Agencies are required to offer program.	Agencies are permitted, but not required, to offer program.
Rationale for use	Personal or family medical emergency	
Requirements for use	An employee must exhaust his or her accrued sick and annual leave before receiving leave through the program.	
Process	An employee, upon agency approval, donates annual leave hours <i>directly</i> to the employee in need.	An employee donates annual leave hours to an agency's <i>centralized leave bank</i> . Employees who are members of the leave bank can request use of hours donated to the bank.
Limit on hours received from leave donor	Unlimited ^a	Agencies determine the total number of donated leave hours an employee can receive.

Source: 5 U.S.C. Chapter 63, Subchapter III; 5 U.S.C. Chapter 63, Subchapter IV; 5 C.F.R. Part 630, Subpart I; 5 C.F.R. Part 630, Subpart J.

Notes: A medical emergency is defined as “a medical condition of either the employee or the employee’s family member that is likely to require the employee to be absent from duty for a prolonged period and to result in a substantial loss of income because of the employee’s lack of available paid leave.” See 5 C.F.R. §630.902 and 5 C.F.R. §630.1002.

- a. While no limitation exists on the number of leave hours that can be received, federal regulations limit the amount of leave that can be donated to no more than one-half of the amount of leave the donating employee would accrue in the year the donation is made. See 5 C.F.R. §630.908.

¹¹ 5 U.S.C. §6302; OPM “Fact Sheet: Advanced Annual Leave,” at <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/advanced-annual-leave/>.

¹² 5 U.S.C. §6332; 5 U.S.C. §6333; 5 U.S.C. §6362; 5 U.S.C. §6367.

Leave Without Pay

Employees who have exhausted their paid leave balances may request leave without pay (LWOP), or unpaid leave, for medical reasons. In general, employees are not statutorily entitled to LWOP and can only be granted such leave upon approval from their supervisors. According to OPM, an agency has wide discretion in determining the availability, use, and approval of unpaid leave for its employees.¹³ One exception is unpaid leave under the Family and Medical Leave Act of 1993 (FMLA; P.L. 103-3), which is a type of LWOP. Extended LWOP can affect an employee's eligibility for certain federal benefits.¹⁴

Family and Medical Leave

Federal employees covered by the FMLA are entitled to unpaid leave for certain personal and family medical circumstances. Under the act, eligible employees are entitled to a total of 12 weeks of unpaid leave in any 12-month period for childbirth, adoption, or a serious health condition affecting the employee or family member.¹⁵ To be eligible for FMLA unpaid leave, an employee must have worked for a "covered employer" (1) for at least 12 months, (2) for at least 1,250 hours in the 12 months before using the leave, and (3) at a location where the agency has at least 50 employees within 75 miles of the employee's worksite.¹⁶ Federal agencies are covered employers under the FMLA.¹⁷ An employee may use FMLA unpaid leave intermittently and can substitute annual or sick leave for FMLA unpaid leave.¹⁸ An employee must provide at least 30 days' notice of his or her intent to use family and medical leave.¹⁹

Policy Issues

In recent years, both the Obama Administration and some Members of Congress have made efforts to expand the scope and amount of leave available to federal employees for personal or family medical situations. Below is a summary of presidential memoranda and proposed legislation that have addressed federal leave options for personal and family care since the 112th Congress. It is possible for federal sick leave benefits to be scaled back, but recent legislation has not proposed reductions to the amount or availability of sick leave for federal employees.

¹³ Leave without pay (LWOP) is commonly referred to as nonpay status. See OPM, "Fact Sheet: Leave Without Pay," at <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/leave-without-pay/>.

¹⁴ Ibid., and OPM, "Fact Sheet: Effect of Extended Leave Without Pay (LWOP) (or Other Nonpay Status) on Federal Benefits and Programs," at <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/effect-of-extended-leave-without-pay-lwop-or-other-nonpay-status-on-federal-benefits-and-programs/>. For example, an employee may incur no more than two workweeks of nonpay status to remain eligible for a within-grade increase to steps 2, 3, and 4 of the General Schedule.

¹⁵ 5 U.S.C. §6382; 5 C.F.R. §630.1203. For a definition of serious health condition, see 5 C.F.R. §630.1202.

¹⁶ 5 C.F.R. §825.110.

¹⁷ 5 C.F.R. §825.104; 5 C.F.R. §825.109.

¹⁸ 5 U.S.C. §6382; 5 C.F.R. §630.1205; 5 C.F.R. §630.1206.

¹⁹ 5 U.S.C. §6382; 5 C.F.R. §630.1207.

Presidential Memoranda

Enhanced Parental Leave

As noted earlier, agencies have the discretion to determine the availability and amount of advanced sick leave available to their employees. On January 15, 2015, President Barack Obama signed a presidential memorandum that appeared to encourage, among other things, paid parental leave for federal employees.²⁰ The memorandum directed agencies to ensure that their leave policies, pursuant to relevant laws and “irrespective of current leave balances,” offer employees the maximum amount of (1) *advanced sick leave* for birth or adoption of a child (240 hours), and (2) *advanced annual leave* for foster care placement or care of a newborn or newly adopted child.²¹

If implemented, these provisions would (1) extend the use of existing paid leave to both parents to bond with a new child in addition to mothers recovering from pregnancy or childbirth,²² and (2) allow employees to request advanced leave for such parental responsibilities without first exhausting all accrued paid leave. According to the White House, the changes outlined in the memo will “allow mothers to recuperate after child birth” and “allow spouses and partners to care for mothers during their recuperation periods and will allow both parents to attend proceedings relating to the adoption of a child.”²³

The memorandum established a series of implementation deadlines for OPM and agencies and directs OPM to issue guidance to agencies for implementing advanced sick and annual leave policies by April 15, 2015.²⁴ In accordance with this directive, OPM released a handbook on April 15, 2015, outlining approved uses of annual and sick leave and other workforce flexibilities for childbirth, adoption, and foster care. For example, the guidance notes that federal employees may use *annual leave*, but not *sick leave*, to care for or bond with a healthy newborn child.²⁵

The memorandum further directed agencies to “make any necessary changes” to their advanced annual and sick leave policies within 60 days of OPM’s issuance of guidance (June 15, 2015). Finally, the memo directed agencies to update their overall leave policies no later than January 1,

²⁰ U.S. Executive Office of the President (hereafter EOP), Office of the Press Secretary, memorandum from President Barack Obama, to heads of executive departments and agencies, “Presidential Memorandum – Modernizing Federal Leave Policies for Childbirth, Adoption, and Foster Care to Recruit and Retain Talent and Improve Productivity,” January 15, 2015, at <http://www.whitehouse.gov/the-press-office/2015/01/15/presidential-memorandum-modernizing-federal-leave-policies-childbirth-ad>.

²¹ *Ibid.*, Section 1.

²² Federal regulations permit the use of sick leave for mothers physically recuperating from childbirth or activities related to the adoption of a child, but not for parents who “choose to be absent from work to bond with a birth or adopted child.” See 5 C.F.R. §630.401 and OPM, “Sick Leave for Family Care Purposes,” *Federal Register*, vol. 65, June 13, 2000, p. 37236.

²³ EOP, Office of the Press Secretary, “Fact Sheet: White House Unveils New Steps to Strengthen Working Families Across America,” January 14, 2015, at <https://www.whitehouse.gov/the-press-office/2015/01/14/fact-sheet-white-house-unveils-new-steps-strengthen-working-families-acr>.

²⁴ OPM, *Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care*, April 2015, at <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/handbook-on-leave-and-workplace-flexibilities-for-childbirth-adoption-and-foster-care.pdf>.

²⁵ *Ibid.*, pp. 11 and 13.

2016, to ensure that employees “are aware of the full range of benefits to which they are entitled” for purposes of childbirth, adoption, or foster care placement.²⁶

Maximization of Paid Leave for Family Care

On June 23, 2014, President Barack Obama signed a presidential memorandum that encouraged agencies to maximize the availability and use of workplace flexibilities and work-life programs to increase recruitment and retention of federal employees.²⁷ The memorandum directed agencies to, among other things, ensure that leave options for family care are available to employees “to the maximum extent practicable.” For example, the memorandum directed agencies to ensure employee access to annual and sick leave for care of an ill family member and FMLA unpaid leave for parental responsibilities.²⁸ To help facilitate the use of leave, OPM issued a guidance memorandum in August 2014 that summarized leave options available to federal employees for personal and family medical situations.²⁹

The presidential memorandum directed agencies to submit a report to OPM by October 2014 that identified best practices used to support the “productive and efficient” use of workplace flexibilities and work-life programs, barriers to maximizing their use, and recommendations to overcome such barriers.³⁰ Upon receipt of agency reports, OPM was to submit to the President a summary report on workplace flexibilities that discussed the information contained in the agency reports, as well as proposals for future data reporting and metrics for tracking the “use and cost-benefit” of work-life programs.³¹ In December 2014, OPM issued a memorandum directing agencies to complete a survey that requested information for the report, including data on agency leave programs applicable to personal or family medical situations.³²

²⁶ EOP, Office of the Press Secretary, memorandum from President Barack Obama, to heads of executive departments and agencies, “Presidential Memorandum – Modernizing Federal Leave Policies for Childbirth, Adoption, and Foster Care to Recruit and Retain Talent and Improve Productivity,” January 15, 2015, Sections 1 and 3.

²⁷ EOP, Office of the Press Secretary, memorandum from President Barack Obama, to heads of executive departments and agencies, “Presidential Memorandum—Enhancing Workplace Flexibilities and Work-Life Program,” June 23, 2014, at <https://www.whitehouse.gov/the-press-office/2014/06/23/presidential-memorandum-enhancing-workplace-flexibilities-and-work-life->.

²⁸ *Ibid.*, Sec. 2.

²⁹ OPM, memorandum from Katherine Archuleta, Director, to heads of executive departments and agencies, “Enhancing Workplace Flexibilities and Work-Life Programs,” August 22, 2014, at <http://chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=6375>.

³⁰ EOP, Office of the Press Secretary, memorandum from President Barack Obama, to heads of executive departments and agencies, “Presidential Memorandum—Enhancing Workplace Flexibilities and Work-Life Program,” June 23, 2014, Sec. 5.

³¹ *Ibid.*, Sec. 4.

³² OPM, memorandum from Katherine Archuleta, Director, to the heads of executive departments and agencies, “Information Request on Workplace Flexibilities and Work-Life Programs,” December 4, 2014, at <http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=6545>; and OPM, “Request for Information on Workplace Flexibilities and Work-Life Programs,” December 4, 2014, pp. 2-6, at <http://www.chcoc.gov/files/Data-Call-Attachment-Corrected-11-25-14-Clean-Final.pdf>. For example, the survey requested information on the existence of an advanced sick leave program and whether there is a policy that governs the granting of such leave.

Legislation

The sections below summarize proposed legislation from the 112th, 113th, and 114th Congresses that has attempted to enhance federal leave options for personal or family medical situations.

Paid Parental Leave

The Federal Employees Paid Parental Leave Act of 2015 (FEPPLA), introduced in the House on January 26, 2015, would provide federal employees with paid parental leave.³³ The bill would allow a federal employee to substitute up to six weeks of paid parental leave for any of the 12 unpaid weeks of leave granted under the FMLA for the birth of a child or placement of a child in adoption or foster care. Such paid leave would be in addition to any accrued annual or sick leave an employee chooses to use for parental purposes. The bill would also allow employees to use paid parental leave without first exhausting their accrued annual or sick leave.³⁴ Title 5 of the U.S. Code, which governs the majority of federal paid leave policy, already allows federal employees to substitute accrued annual or sick leave for FMLA unpaid leave.³⁵

The bill would also allow OPM to promulgate regulations that would increase the amount of paid parental leave from six weeks to 12 weeks. In making this determination, OPM would have to consider the benefits and costs to the federal government resulting from increased paid parental leave, paid parental leave practices and trends in the private sector and in state and local governments, and the impact on lower-income and economically disadvantaged employees and their children.³⁶

The proposed paid parental leave policy within the FEPPLA is similar, but distinct from, the paid parental leave policy presented in the aforementioned 2015 presidential memorandum. Whereas the 2015 presidential memorandum proposes maximization of *existing* paid leave categories for parental responsibilities not covered under current laws governing sick leave (care of a healthy newborn or newly adopted child), FEPPLA proposes the development of a *new* paid leave category for parental responsibilities covered under current sick leave law (childbirth, adoption, or foster care).

Other Proposed Amendments to FMLA Regarding Federal Employee Leave

Past legislation has proposed changes to the FMLA to provide additional unpaid leave to federal employees for certain family activities. For example, the Family and Medical Leave Enhancement Act of 2014 proposed amending the FMLA to provide federal employees with an additional four hours of leave in a 30-day period for parental involvement activities (e.g., attending a child's school-sponsored program) and up to 24 hours in a 12-month period for family wellness activities (e.g., visiting a relative at a nursing home).³⁷

³³ H.R. 532 (114th Congress).

³⁴ H.R. 532 would allow federal employees to substitute any available paid leave eligible for childbirth or placement of a child in adoption or foster care, including a new category of "paid parental leave" established in the bill. Similar bills have been introduced each year since the 106th Congress, but none were enacted.

³⁵ 5 U.S.C. §6382.

³⁶ H.R. 532 (114th Congress).

³⁷ H.R. 3999. Similar bills have been introduced each year since the 105th Congress, but no further action was taken.

Other past legislation has attempted to expand the use of existing unpaid leave under the FMLA to care for sick relatives.³⁸ For example, the Family and Medical Leave Inclusion Act, introduced in the 113th Congress, would have allowed federal employees to use the FMLA unpaid leave to care for a grandchild with a serious health condition, a relative who is not currently included in the definition of a “family member” under the FMLA.³⁹ Finally, past legislation has proposed authorizing federal employee use of FMLA unpaid leave for the death of a child.⁷

Short-Term Disability Insurance

Currently, the federal government does not offer short-term disability coverage to its employees.⁴⁰ Short-term disability insurance provides partial income replacement to an employee who is temporarily absent from work due to a non-work related injury or disability. In contrast, work-related injuries would be covered by the Federal Employees’ Compensation Act (FECA).⁴¹ A federal employee may elect to purchase short-term disability insurance from a private insurance provider to cover a prolonged medical absence from work. The amount of time covered and income replaced depends on the specific disability insurance plan.⁴²

Both Congress and the executive branch have made efforts to offer a federally administered short-term disability insurance program to federal employees. In 2008, OPM submitted a proposal to Congress to establish a short-term disability insurance program for federal employees to cover non-work related injuries or disabilities.⁴³ According to OPM, a primary purpose of the program was to ensure that there was “an opportunity for employees, particularly new employees, to obtain additional income protection for recovery from accidents or illnesses or for maternity purposes.” OPM further stated that the program would have been “especially beneficial to new employees who have not had sufficient time in service to accrue a bank of leave.”⁴⁴

Under the proposal, a federal employee would have been able to enroll in a short-term disability plan through an approved insurance provider as part of his or her federal benefits package. Enrollment in the program would have been voluntary, and federal employees would have been responsible for paying 100% of insurance premiums. Subsequent legislation was introduced in

³⁸ Three bills introduced in the 113th Congress proposed care for sick or injured extended family members as an acceptable use of unpaid leave under the FMLA. See H.R. 1751, S. 846, and S. 857. Similar bills have been introduced each year since the 108th Congress, but no further action was taken.

³⁹ H.R. 1751. Pursuant to 5 U.S.C. §6382, FMLA leave can be used to care for a “son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.” The Family and Medical Leave Inclusion Act would have expanded the definition of a family member under the FMLA to include a “spouse or domestic partner, parent-in-law, grandparent, grandchild, or sibling.”

⁴⁰ Federal employees who incur a permanent disability may be eligible for disability retirement prior to reaching the statutory retirement age. For more information on disability retirement, see CRS Report RS22838, *Disability Retirement for Federal Employees*, by (name redacted).

⁴¹ For more information on FECA, see CRS Report R42107, *The Federal Employees’ Compensation Act (FECA): Workers’ Compensation for Federal Employees*, by (name redacted).

⁴² For an example of a private short-term disability insurance program, see IHC Financial Group, Inc., “Federal Disability Insurance,” at <http://www.ihcfinancial.com/insurance/government/other-insurance/federal-disability/disability-insurance.cmsx>.

⁴³ OPM, transmittal letter from Linda Springer, former Director of OPM, to the Honorable Nancy Pelosi, former Speaker of the House of Representatives, “Federal Employees Short-Term Disability Security Act of 2008,” March 4, 2008.

⁴⁴ *Ibid.*, p. 1.

the 112th and 113th Congresses that proposed short-term disability insurance programs similar to the program proposed by OPM.⁴⁵ Specifically, the programs would have offered federal employees up to 12 months of coverage for (1) a non-work related injury or disability; (2) care for a family member, including the birth of a child; or (3) activities related to becoming an adoptive or foster parent.⁴⁶ The bills, however, were not enacted.

Voluntary Leave Donation Programs

Past legislation has proposed expanding the type of leave available through leave donation programs. Namely, the Federal Employees Leave Transfer Act of 2011 would have allowed a federal employee to donate his or her *sick* leave through the Voluntary Leave Transfer or Voluntary Leave Bank program for a peer experiencing a medical emergency.⁴⁷ Currently, federal law permits the donation of *annual*, but not *sick*, leave under these leave donation programs.⁴⁸

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⁴⁵ H.R. 2698 (113th Congress); H.R. 2958 (112th Congress).

⁴⁶ Ibid.

⁴⁷ H.R. 3028 (112th Congress).

⁴⁸ 5 U.S.C. §6334; 5 U.S.C. §6362.

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