

Medically Mandated or High Risk

Question 1: An employee provided a note from the doctor stating they are not allowed to work because they fall within a high-risk category. Does this fall under “medically mandated” and the employee will be paid Administrative Leave?

Answer: Yes, a note from the doctor stating an employee is not allowed to work because they fall within the high-risk category does fall under “medically mandated.” Employees who are medically mandated by a health care provider to remain at home due to being exposed to, diagnosed with, or at high-risk for COVID-19 shall be encouraged to telework if the position is suitable for telework, teleworking supplies such as laptops and cell phones are available, and the network is adequate and is allowed by the health care provider. If telework is unavailable, the employee shall receive paid Administrative Leave until medically released to work.

Question 2: Do we need to verify an employee is in a “high-risk” category before treating them as such?

Answer: No. The LOA does not require that the agency verify an employee is in a high-risk category, and CHRO advises against this. The agency may, however, ask for a note from a medical professional when an employee designated as “essential personnel” states they cannot work due to falling in a high-risk category.

Question 3: What sort of documentation does an employee need to provide for the ‘medically mandated’/have been exposed situation?

Answer: A note from the employee’s healthcare provider may be requested if the employee is medically mandated to work from home. A note from a healthcare provider is **not** needed for employees wishing to self-quarantine due to exposure or being high risk.

Question 4: What if an employee tells us they have people in their home who are at high risk?

Answer: Employees who live with others who are at high-risk may choose to self-quarantine. If so, these employees shall be encouraged to telework. If telework is unavailable or the employee chooses not to telework, they may use accrued leave, borrow leave or request donated leave as outlined in their collective bargaining agreement’s Letter of Agreement or policy under the category of “Self Quarantined Employees.”

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Question 6: My employee shared that they live with others in their household who are considered high risk. Would the employee be considered “employees with compromised immune systems and high risk groups.” Should they be encouraged to “self-quarantine”?

Answer: No, they would not be considered to be “employees with compromised immune systems and high risk groups.” Unless they themselves actually have a compromised immune system or are over 60 years old, they are not “high risk” employees. If they believe they have been exposed to COVID-19, they may request to telework and/or self-quarantine.

Question 7: Who determines if an employee falls into a High-Risk Group?

Answer: According to the CDC, **older adults and people of any age who have serious underlying medical conditions** may be at higher risk for more serious complications from COVID-19. These people who may be at higher risk of getting very sick from this illness, includes:

- Older adults over 60
- People who have serious underlying medical conditions like:
 - Heart disease
 - Diabetes
 - Lung disease

Who makes the determination? Generally, the employee will self-identify that they are high risk. Typically, if the employee believes they need to quarantine because they fall into a high-risk group, they will provide a doctor’s note medically mandating them to remain at home, where they can either telework or receive paid administrative leave. If the employee self-identifies as high-risk, but chooses not to obtain a medical mandate from their doctor, they can telework, or they may use accrued leave, borrow leave or request donated leave as outlined in their collective bargaining agreement’s Letter of Agreement or policy under the category of “Self Quarantined Employees.” It is advisable to be as generous as possible in granting the ability to telework.

Question 8: With respect to employees with compromised immune systems and high-risk groups, does the employee have to exhaust their own accrued leave prior to coding LWOP or is it their choice to use accrued leave or LWOP?

Answer: Employees with compromised immune systems or in a high-risk group must exhaust their leave accruals before using LWOP.

Question 9: With respect to employees with compromised immune systems and high-risk groups, sick leave must be reduced to 40 but VA can be any accrual balance in order to be eligible for donated leave?

Answer: All accrued leave must be exhausted, with the exception of up to 40 hours of sick leave, prior to requesting donated leave.

Donated Leave

Question 1: Can sick leave be donated to staff for reasons other than those related to COVID-19?

Answer: No, currently the ability to donate sick leave is specifically related to the COVID-19 pandemic.

Question 2: Can employees donate comp time?

Answer: Yes. While the LOA states it allows for sick, vacation, and/or personal leave to be donated, employees can also donate comp time.

Question 3: As for the hardship donations, do employees still need to meet the 30 consecutive day requirement?

Answer: No. Unrepresented, management service and executive service employees do not have to meet the 30 consecutive day requirement.

Question 4: Are all employees in each category able to get donated leave if exhausted?

Answer: AFSCME and SEIU-represented employees, and classified unrepresented, unrepresented temporary employees, management service, and unclassified executive service employees may request donated leave after all accrued leave has exhausted with the exception of 40 hours of sick leave.

Question 5: Does donated leave still require an approved FMLA/OFLA event, or is the donated leave language applicable in all situations?

Answer: Per AFSCME, SEIU, and the Donated Leave policy, employees do not have to be on an approved FMLA/OFLA event to receive donated leave.

Question 6: Can compensatory time and straight time be donated?

Answer: Sick leave, vacation leave, personal business and compensatory time may be donated.

Question 7: Can an employee first ask for donated leave (keeping only 40 hrs SL), use all donated leave, and then exhaust their banked 40 hours in order to borrow leave? Once they use the borrowed leave, can they then ask again for donated leave in order to repay the borrowed leave??

Answer: Yes, they can. However, the employee will only be credited the actual amount of donated leave to cover the period of absence. The key is that the donation requests must be tied to the current public health situation.

Question 8: Are unrepresented limited duration employees and/or unrepresented trial service employees eligible for donated leave, the additional leave benefits, and the borrowing against future accruals?

Answer: Yes, they are. The purpose of the LOA and the policy change is in part to accommodate for employees that may be new to state service and who do not have leave available to use during this emergency.

Question 9: For employees who have been approved for donated leave for conditions other than the specific scenarios outlined in the COVID-19 LOAs, can employees donate SL and PB to them as well now, until the LOA expires? Or do they follow the standard rules and only CT and VA can be donated?

Answer: No, currently the ability to donate sick leave and personal business is specifically related to the COVID-19 pandemic.

Borrowed Leave

Question 1: If someone borrows leave and then decides to quit and they still owe repayment of the borrowed hours do we take that from their last check?

Answer: Yes, if an employee separates prior to being able to repay the borrowed leave it will be taken from their final check. If there's not enough to cover the amount owed, it will be handled like an overpayment to the state.

Question 2: Will the borrowing of leave and paying back leave process be automated via Workday, payroll or time systems?

Answer: We are currently developing the process to borrow leave in Workday.

Question 3: Can an employee borrow 80 hours per month for up to 5 months?

Answer: No, an employee may borrow five (5) months of leave up to 80 hours total.

Question 4: How will employees repay the leave they borrow?

Answer: Employees may borrow sick leave or vacation leave or a combination thereof against future leave accruals. This leave will be paid back at a rate of 50% of the amount of hours borrowed per month. Payback begins the month after the employee has returned. Employees on approved FMLA/OFLA may delay repayment until they are no longer on such leave or one year, whichever comes first. The concept is aimed at employees who are new to the workforce who may be high risk and who don't have leave accruals.

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Question 5: Does an employee need to request it all at one time or can they submit multiple requests? If more than one request can be made, who will track this to ensure they stay below the max?

Answer: There are no restrictions on the number of requests an employee may make. However, they may not exceed borrowing up to five (5) months' worth of future leave, and the leave borrowed may not exceed a total of eighty (80) hours. We are currently working on a process to track these requests. Payroll will ensure borrowed leave does not exceed five months.

Question 6: Are new hires on trial service allowed to borrow against future leave or get donated leave?

Answer: Yes, new hires on trial service are allowed to borrow against future leave and request donated leave.

Question 7: Are unrepresented limited duration employees and/or unrepresented trial service employees eligible for donated leave, the additional leave benefits, and the borrowing against future accruals?

Answer: Yes, they are. The purpose of the LOA and the policy change is in part to accommodate for employees that may be new to state service and who do not have leave available to use during this emergency.

Leave without Pay (LWOP)

Question 1: Does an employee receive pay for a holiday if they are in leave without pay during this emergency?

Answer: Holidays will be paid according to collective bargaining agreements and policy.

Question 2: Can employees use LWOP if they still have sick leave, vacation leave and personal business on the books if they miss work due to school closures, being self quarantined or home due to having a compromised immune system or being in the high risk group?

Answer: No, all accrued leave must be exhausted prior to entering into leave without pay.

Telework

Question 1: An employee submitted a request to telework. What is the review process?

Answer: If not already completed, management will review the duties of the position and determine if it is suitable for teleworking. If appropriate, an employee may telework provided they have their supervisor's approval, if telework resources are available, and if the network can accommodate it.

An employee whose doctor has determined they are unable to work may not telecommute.

For the period of March 1, 2020, through at least June 30, 2020, employee telework requests will be presumed to be acceptable unless denied within seventy-two (72) hours of the request.

Telework shall only be denied for the following reasons:

- position is not suitable for telecommuting or telework; or
- lack of telework equipment including, but not limited to, laptops, cell phones, or network adequacy.

Question 2: What are the reasons telework may be denied?

Answer: Telework shall only be denied for the following reasons:

- position is not suitable for telecommuting or telework; or
- lack of telework equipment including, but not limited to, laptops, cell phones, or network adequacy.

Question 3: If a request to telework is denied, what should be included in the denial?

Answer: Denials must be written and include specific details to adequately explain the rationale:

The position is not suitable for telecommuting or telework; or
There is a lack of telework equipment including, ie. laptops, cell phones, or network adequacy.
An employee may appeal a denial directly to DAS LRU within five (5) calendar days of receipt of the decision using the telework denial appeal form.

Question 4: May an agency require an employee complete a telework agreement?

Answer: Yes. But agencies have the ability to waive this requirement.

Question 5: If not enough equipment is available to approve all who request to telework, what process may be used to determine who may telework?

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Answer: There is not set criteria. However criteria may include:

1. Employees in high-risk groups (over 60 and those with serious chronic medical conditions).
2. Employees whose work is critical to the continuity of operations (essential personnel).
3. Employees whose work needs to continue to support those operations.

Question 6: Can employees who are medically mandated to be at home because they have been exposed to COVID-19 telework?

Answer: Yes, however, the employee must have approval from the doctor to telework.

Question 7: If an employee who is teleworking needs to take time to care for a child, must leave be taken or can their work schedule be adjusted with approval by the supervisor?

Answer: When working remotely, employees keep track of the time when they are not engaged in work and report such time to their supervisor, and code their time accordingly. An employee may flex their schedule with approval from their supervisor.

Question 8: If an employee approved to telework is unable to perform work due to technology issues, how do they code their time?

Answer: If the employee is approved to telework and they are unable to perform work due to technology issues, we recommend the employee and the supervisor work together to identify work they can still perform when there are system problems. If there is no longer work the employee can perform remotely, the employee's telework is then denied and the employee should be directed to return to the office to work. If the employee is unable to return to the office due to a worksite closure, then follow the LOA or policy regarding closure.

Question 9: What options does an agency have if there are not enough people to perform the essential functions offsite due to technology limitations?

Answer: In order to deliver services, employees may need to be re-designated as essential and report to work if alternatives are not found.

Question 10: May an employee refuse to work from home?

Answer: We are not requiring telework, but we are encouraging it. Barring knowledge that the employee has been diagnosed with COVID-19, a decision to send the employee home or a worksite closure, the employee can continue to work in the office.

Question 11: Can an employee be required to use their personal computer or cell phone to telework?

Answer: No, an agency may not require employees to use their personal equipment for teleworking.

Question 12: Can an agency offer to pay a flat monthly payment amount to cover personal cell phone use, or reimburse on a per call basis?

Answer: Please check with your agency's accounting department.

Notice Of Exposure

Question 1: An employee notified management they were exposed to someone who is diagnosed with COVID-19. Does management need to notify the other employees in the office within one day?

Answer: No, the requirement to notify employees they may have been exposed within one (1) day is only when the agency has knowledge an employee has been diagnosed with COVID-19 and knows that particular employees have been exposed to that individual.

Question 2: Do employees have a duty to report to their supervisor if they have been diagnosed with COVID-19?

Answer: Employees should follow current [guidance](#) from the Oregon Health Authority (OHA) regarding notification of possible exposure to their supervisor.

Question 3: Do employees have a duty to report to their supervisor if they have COVID-19 like symptoms?

Answer: Employees should follow current [guidance](#) from the Oregon Health Authority (OHA) regarding notification of possible exposure to their supervisor.

Question 4: If an agency has knowledge that someone who has a presumptive test or diagnosis for COVID-19 has been in contact with our staff, what should the agency do in response? Do they notify potentially exposed employees and clients? Should temporary closure of the facility and subsequent interruption of employment be considered?

Answer: Please refer to "Guidance for Agency Heads" document sent out on March 18, 2020. There will be additional information forthcoming that will help with the question, including scripts to use, additional guidance, forms.

Business Operations

Question 1: Can the way business is conducted be modified to reduce contact with the public?

Answer: Agency Executive teams and management will need to make these decisions regarding alternate methods of conducting business while continuing to provide high-quality customer service to the public while ensuring the safety of staff.

Question 2: Can employees work split or different shifts to reduce the number of people in the office at once?

Answer: Agency Executive teams and management will need to make these decisions regarding alternate methods of conducting business while continuing to provide high-quality customer service to the public while ensuring the safety of staff.

Question 3: If an employee requests to telecommute from an out-of-state location, does the agency still have to get a Workers Comp waiver from DAS Risk Management?

Answer: Yes, the current process for out-of-state teleworking applies.

Question 4: How does an agency notify an employee of a possible exposure as outline in the LOA if they refuse to update their personal contact information in Workday?

Answer: Notifications may be delivered by email or in person, as well as by mail

Question 6: Are agencies still allowed to complete recruitment processes and hire employees?

Answer: Yes, agencies are still allowed to complete recruitment processes and hire employees. Interviews may be conducted virtually, by utilizing video interviews or by telephone. If in-person interviews are required, take the necessary precautions to ensure everyone's safety (larger room for more distancing).

Question 7: Can an agency delay the start date of an employee who has already signed their offer letter even if the worksite is open because those needed to on-board or train are not in the office? What if we have already completed the hire process in Workday?

Answer: All possible steps should to be taken to begin their employment as offered. If this is not possible, an amended offer letter may be issued. Contact Workday.help@Oregon.gov if you need assistance.

Essential Employees

Question 1: What is the definition of “essential staff”?

Answer: Essential staff are those staff necessary to accomplish essential agency functions during an agency/worksites closure or emergency. Depending upon the position, essential staff may be required to work on site, or may be allowed to telework.

Question 2: Management has designated an employee as “essential” and the employee wants to appeal that decision. Where does that appeal go?

Answer: During this Governor declared State of emergency, management may change an employee’s status to essential at any time. After an employee’s status has been changed to essential, the employee will have 24 hours from the time they are notified of their new status to appeal that decision based on health conditions, such as immune system, respiratory issues, or heart conditions. Such appeals will go to the agency’s Human Resources Department. The Human Resources Department shall respond in writing within five (5) working days to the employee and management regarding the outcome of such appeals. This answer is not subject to the grievance procedure.

If someone designated as an essential personnel appeals the decision based on being in a high-risk group, the agency can ask for a doctor’s note for confirmation of this. If the employee currently has a FMLA/OFLA designation for a serious health condition, as described above, the agency can use that documentation.

Question 3: While an employee has appealed their designation as “essential,” and the building is closed to all but essential personnel, do they report to work?

Answer: Yes, unless there is some other reason such as sick leave or being medically mandated to stay home.

Paid Admin Leave

Question 1: Does an agency issue letters for those on paid admin leave?

Answer: No. Normally, we would require a letter for those on paid admin leave. However, under the medically mandated provision of the LOA and policy, you do not need to issue letters.

FMLA/OFLA

Question 1: Will hours an employee misses work due to being ill with COVID-19 or COVID-19 like systems be counted against their FMLA/OFLA entitlement?

Answer: The Family and Medical Leave policy is still in place and leave designated under the policy will be deducted from an employee's entitlement.

Question 2: Will agency's still be processing FMLA/OFLA for all situations that qualify?

Answer: Yes.

LOA Questions

Question 1: Are temporary employees covered by the LOA?

Answer: Temporary employees in agencies covered by AFSCME are not covered by the AFSCME LOA. However, they are covered under the Temporary Interruption of Employment policy Addendum A.

SEIU temporary employees are covered under the SEIU LOA.

Question 2: Does the LOA cover SEIU only? SEIU and AFSCME or ALL state agencies?

Answer: The LOA's cover AFSCME and SEIU employees; the policy addendum covers classified unrepresented, unrepresented temporary, management service, and unclassified executive service employees.

Question 4: Is there any special coding to track time used under this LOA?

Answer: Not at this time but Payroll and Workday are working on this.

Question 5: May an employee take leave as outlined under "School Closures" if their children are not yet of school age and their daycare provider closes?

Answer: Yes.

Misc.

Question 1: Will parking be reimbursed for daily commuters who cannot (or will not) take public transportation?

Answer: Not at this time.

Question 2: Are there any agreements arranged or in the works to “relax” the hour limitation for state temps, for both PERS retiree and non-retiree assignments?

Answer: Not at this time

Question 3: If someone is going over their accrued balances, do they have to cash out or can they continue to accrue without loss? This may be someone designated as Essential Personnel.

Answer: SEIU and AFSCME employees may be cashed out for hours in excess.

Question 4: Is the payout that at max essential staff can request if at max accrual still 60 hours or has that increased?

Answer: AFSCME and SEIU-represented employees, and classified unrepresented, management service, and unclassified executive service essential personnel will be paid out for hours exceeding 350.

Question 5: Can an agency deny donated leave due to funding restrictions, i.e. they have dedicated grant funding that cannot be used outside the purposes of the grant award.

Answer: Any restrictions of donated leave due to funding requirements remain in place.