



STATE OF MISSISSIPPI
HALEY BARBOUR, GOVERNOR

DEPARTMENT OF FINANCE AND ADMINISTRATION
J.K. STRINGER, JR
EXECUTIVE DIRECTOR

To: Agency Human Resource Officer
Agency Payroll Officers
Agency Finance Officers

From: J. K. Stringer, Jr. 
Executive Director

Date: October 28, 2008

Subject: Implementation of SB 2977 for Changes to State Leave Statute

Preliminary information regarding the change to the State leave statute as prescribed in Section 25-3-95 (2) (b), (Senate Bill 2977, passed during the 2008 Regular Session of the Mississippi Legislature), was provided in our June 27, 2008 memorandum (copy attached). Senate Bill 2977 limits a State employee who is absent due to a work-related injury from the use of accrued personal and/or major medical leave and the receipt of certain workers' compensation benefits simultaneously if the combined amount of both results in the employee receiving more than one hundred percent of his regular gross wages. As a follow-up to our earlier memorandum, we have developed the attached policy and procedures to assist you in providing notification to your employees of the change to the leave statutes and in accounting for the recovery of employees' excess wages. The policy and procedures are available on our website at www.dfa.state.ms.us under Direct Links, DFA Policies and Procedures.

The policy and procedures are effective immediately. Should you have questions concerning the policy or procedures, please contact the MMRS Call Center at 601-359-1343 or mash@dfa.state.ms.us.

Attachments

Department of Finance and Administration

Mississippi Management and Reporting System

501 North West Street, 1201A Woolfolk Building, Jackson MS 39201

P. O. Box 267, Jackson, MS 39205-0267

Phone: (601) 359-6570 - Fax: (601) 359-6551

TO: Agency Human Resource Officer
Agency Payroll Officers
Agency Finance Officers

FROM: J. K. Stringer, Jr.
Executive Director



DATE: June 27, 2008

SUBJECT: Implementation Approach to SB2977 for Changes to State Leave Statute

Senate Bill #2977, 2008 Regular Session of the Mississippi Legislature, charges the Department of Finance and Administration (DFA) with implementing the new language in the State's leave law as prescribed in Section 25-3-95, Mississippi Code of 1972, as amended. This change limits the amount paid to an employee entitled to certain workers' compensation benefits to their regular gross pay for the period in which the benefits were paid.

In summary, if the workers' compensation benefit payment added to the employee's regular pay for the pay period is greater than the employee's normal pay for the pay period, the employee is expected to return the excess amount to the agency. This can be accomplished by one of the following methods:

1. The employee can issue a personal check payable to the agency for the excess amount. The agency will receipt the check into SAAS on a CR document using revenue code 49925 – Recovery WorkComp Related.
2. The agency can recover the excess amount from the employee by setting up deduction code WCREC to be withheld from the next pay period. The vendor number must be the primary agency fund number assigned to the default distribution for the employee's PIN. A vendor warrant will be issued and must be deposited on the CR document using revenue code 49925 - Recovery WorkComp Related.
3. The employee can have the leave they took re-instated rather than pay back the excess amount. The time sheet will be adjusted to reflect LWOP hours for the amount they received in excess of 100% of their wages. Adjusting the timesheet will reduce the salary the employee received and adjust taxes and PERS benefits accordingly in SPAHRS. In addition, the employee's health insurance could be affected. More detailed information will be provided in the coming days regarding the potential impact of the employee's health insurance.

If your agency third party administrator for workers' compensation is FARA, the DFA Office of Insurance is working with FARA to produce an additional report that will provide the basic information required by your payroll officers for processing timesheet corrections to recover the workers' compensation overpayment. DFA/MMRS is also initiating conversations with other TPAs to have similar information provided to the agencies not covered by FARA. More information will be distributed as soon as that information is available. **It will be the agency's responsibility to ensure that the workers' compensation overpayment is recovered from the employee.**

Please contact the MMRS Call Center at 601-359-1343 or mash@dfa.state.ms.us if there are any questions.

Mississippi Department of Finance and Administration

Policy for Implementation of SB 2977

Introduction

The Mississippi Department of Finance and Administration (DFA) is responsible for promulgating the policy and procedures for implementing the changes to Section 25-3-95, Mississippi Code of 1972, brought about by the passage of Senate Bill #2977, 2008 Regular Session of the Mississippi Legislature. SB 2977 limits a State employee who is absent due to a work-related injury for which the employee is receiving temporary disability benefits under Section 71-3-17 (b) or 71-3-21, from the use of accrued personal leave and/or major medical leave and the receipt of workers' compensation temporary disability benefits simultaneously if the combined receipt of both results in the employee being paid a total amount that exceeds one hundred percent (100%) of his wages earned in State employment at the time of injury.

An employee may choose to use any combination of personal leave and/or major medical leave and temporary disability benefits provided the total receipt of both does not exceed 100% of his wages earned in State employment at the time of injury. When the total amount received by the employee exceeds 100% of his wages, the employee must remit to his agency an amount equal to the excess of 100% of his wages at the time of injury. That portion of time not charged to personal leave and/or major medical leave will be considered administrative leave without pay (Unpaid Workers Comp Leave). All necessary accounting adjustments and the employee's leave balance adjustments will be made at the time the Unpaid Workers Comp Leave is recorded.

Purpose

The purpose of this policy is to provide guidance to agencies in employee communications relative to compliance with SB 2977, and the accounting for the recovery of excess wages resulting from an employee receiving more than one hundred percent (100%) of his wages through the use of accrued personal leave and/or major medical leave combined with temporary disability benefits.

Employee Notification

General Notice

Agencies must provide to each employee a *general notice* that explains the employee's rights and responsibilities should he suffer a work-related injury that results in the receipt of temporary disability benefits. All current employees should be provided a copy of the *general notice* as soon as possible. All new employees should receive the *general notice* at the time of hire. This notice should clearly describe the circumstances under which an employee is required to remit excess wages to his agency and describe the employee's options relative to the use of leave. The *general notice* should also advise the employee that should he elect to be placed on administrative leave without pay rather than use personal leave and/or major medical leave, his employment benefits (i.e., employer-paid life and/or health insurance, leave accrual, FICA and PERS contributions) may be adversely affected. It should likewise explain that it is the employee's responsibility to promptly remit to the agency the amount of excess wages received. The notice should address the remittance options available to the employee, including endorsing to the agency his temporary disability check, issuing a check or money order payable to the agency, authorizing the agency to payroll deduct the amount owed, authorizing the agency to reclassify his personal leave and/or major medical leave taken during the affected pay period to administrative

leave without pay, or using a combination of direct repayment, payroll deduction and/or reclassification of paid leave to administrative leave without pay. The *general notice* should further advise the employee that any excess wages that are not remitted to the agency shall be deemed to be a debt owed to the State of Mississippi, and are subject to the provisions of Section 7-7-43 of the Mississippi Code.

Each agency should develop a *general notice* on the agency's letterhead. Following is suggested language for the *general notice*.

“As an employee of (agency name), you must comply with the provisions of Section 25-3-95 (2)(b), (Senate Bill 2977, 2008 Regular Session of the Mississippi Legislature) that limits a State employee who is absent due to a work-related injury for which the employee is receiving temporary disability benefits under Section 71-3-17 (b) or 71-3-21, from the use of accrued personal leave and/or major medical leave and the receipt of workers’ compensation benefits simultaneously if the combined receipt of both benefits results in the employee being paid a total amount that exceeds one hundred percent (100%) of his wages earned in State employment at the time of injury. It is your responsibility to cooperate with (agency name) to determine if you have received excess wages, and if so, to notify (agency name) of how such excess wages will be recovered, i.e. through direct repayment (by endorsing the temporary disability benefit check over to (agency name) or remitting a personal check/money order), through a payroll deduction, through a payroll adjustment by which your personal leave and/or major medical leave taken during the affected pay period is reclassified to administrative leave without pay, or by a combination of direct repayment, payroll deduction and/or reclassification of paid leave to administrative leave without pay. Should you elect to be placed on administrative leave without pay rather than use accrued personal leave and/or major medical leave, your employment benefits (i.e., employer-paid life and/or health insurance, leave accrual, FICA and PERS contributions) may be adversely affected. Any excess wages that are not remitted to (agency name) shall be deemed to be a debt owed to the State of Mississippi, and are subject to the provisions of Section 7-7-43 of the Mississippi Code.”

In addition, the *general notice* should include agency contact information should the employee have questions regarding compliance with this statute.

Specific Notice

Upon notification that a workers’ compensation injury has occurred, agencies must provide to the injured employee a *specific notice* advising of the employee’s rights and responsibilities should his work-related injury result in the receipt of temporary disability benefits. This *specific notice* should be provided to the injured employee as soon as possible after the agency becomes aware of the injury. This *specific notice* should include essentially the same language recommended for the *general notice*, and should be customized to reflect the employee’s name and date of injury. Two copies of the *specific notice* should be provided to the employee, one for the employee to retain for his records and one for the employee to sign and return to the agency. Should the employee refuse to sign and return the notice, the agency should document this refusal in its records and the date the notice was sent to the employee. An employee’s refusal to sign the *specific notice* does not relieve him of the responsibility to comply with the law. Following is a suggested *specific notice*.

(AGENCY LETTERHEAD)

Workers' Compensation SB 2977 Specific Notice

DATE: _____

TO: _____

We have received notice that you may have suffered a work-related injury on or about _____ that could result in the receipt of temporary disability benefits under the Mississippi Workers' Compensation Act. This notice is to remind you that as an employee of (agency name), you must comply with the provisions of Senate Bill #2977, 2008 Regular Session of the Mississippi Legislature that limits "a State employee who is absent due to a work-related injury for which the employee is receiving temporary disability benefits under Section 71-3-17 (b) or 71-3-21, from the use of accrued personal leave and/or major medical leave and the receipt of workers' compensation benefits simultaneously if the combined receipt of both benefits results in the employee being paid a total amount that exceeds one hundred percent (100%) of his wages earned in State employment at the time of injury". It is your responsibility to cooperate with (agency name) to determine if you have received excess wages, and if so, to notify (agency name) as to how such excess wages will be recovered, i.e. through direct repayment, through a payroll deduction, through a payroll adjustment by which your personal leave and/or major medical leave taken during the affected pay period is reclassified to administrative leave without pay, or by a combination of direct repayment, payroll deduction, and/or reclassification of leave. Direct repayment includes endorsing the temporary disability benefit check over to (agency name) or remitting a personal check/money order to (agency name). Should you elect to be placed on administrative leave without pay rather than use accrued personal leave and/or major medical leave, your employment benefits (employer-paid life and/or health insurance, leave accrual, FICA and PERS contributions) may be adversely affected. Any excess wages that are not remitted to (agency name) shall be deemed to be a debt owed to the State of Mississippi, and are subject to the provisions of Section 7-7-43 of the Mississippi Code.

Date Signed

Employee's Signature

Please return signed original to (agency contact) and keep a copy for your records. Should you have any questions, please contact _____.

Wage Calculation

Once an employee begins receiving temporary disability benefits as the result of a work-related injury, the workers' compensation carrier and/or third party claims administrator (TPA) should provide payment information to the agency on a regular basis to confirm the amount and time period for which payments have been made to the employee. This information, along with payroll and leave records, should be reviewed by the agency to determine if the employee has received excess wages. The agency may contact the workers' compensation carrier and/or TPA if the agency needs additional information regarding disability benefits paid to the employee. Once the agency has determined the amount of the excess wages, the agency should contact the affected employee to ensure that the excess amount calculated by the agency is accurate and to determine the employee's choice regarding how the excess wages will be recovered by the agency. The agency should have the employee sign an authorization stating whether the employee will 1) endorse to the agency his temporary disability check, 2) remit a personal check or money order, 3) authorize the agency to payroll deduct any excess wages, 4) authorize the agency to reclassify his leave taken to administrative leave without pay (Unpaid Workers Comp Leave), or 5) authorize the agency to recover excess wages through a combination of 2, 3, and 4, to include the number of hours to be reclassified and the amount of excess wages that will be recovered through a direct payment and/or payroll deduction. If the employee elects to have any portion of his paid leave reclassified to administrative leave without pay, the agency should provide the employee written notification of the number of hours and type of leave reclassified to administrative leave without pay.

If the employee does not remit the excess wages, the agency shall treat such amount as a debt owed to the State in accordance with Section 7-7-43 of the Mississippi Code of 1972.

For implementation procedures, refer to the *Procedures for Implementation of Amendment in Section 25-3-95 (SB 2977)*.

Mississippi Department of Finance and Administration
Procedures for Implementation of Amendment in Section 25-3-95 (SB 2977)
Revised December 10, 2008

Section 25-3-95, Miss. Code Ann. (1972) limits a State employee who is absent due to a work-related injury for which the employee is receiving temporary disability benefits under Section 71-3-17 (b) or 71-3-21, from the use of accrued personal leave and/or major medical leave and the receipt of workers' compensation benefits simultaneously if the combined receipt of both results in the employee being paid a total amount that exceeds one hundred percent (100%) of his wages earned in State employment at the time of injury. An employee may choose to use any combination of personal leave and/or major medical leave and Workers' Compensation temporary disability benefits provided the total does not exceed 100% of his wages earned in State employment at the time of injury. When the total amount received by the employee exceeds 100% of his wages, the employee must remit to his agency the excess amount.

An employee has a choice how excess wages will be recovered by the State. Options include: 1) endorse the Workers' Compensation temporary disability check to the agency; 2) remit a check or money order to the agency; 3) authorize the agency to payroll deduct any excess wages; 4) authorize the agency to reclassify leave taken to Unpaid Workers' Comp Leave; or 5) choose any combination of 2, 3, and 4. Agency procedures for each option are listed below.

Option 1– Employee endorses the Workers' Compensation temporary disability check to the agency.

The agency will receipt the payment into SAAS on a Cash Receipt (CR) document using revenue code 49925-Recovery WorkComp Related.

Option 2 – Employee remits a check or money order for excess wages to the agency.

The agency will receipt the payment into SAAS on a CR document using revenue code 49925-Recovery WorkComp Related.

Option 3 – Employee authorizes the agency to payroll deduct excess wages.

The agency will set up SPAHRS deduction code WCREC under the debt deduction option to be withheld from the employee's next payroll warrant/EFT. The vendor number associated with WCREC should be the V99 vendor number for the fund number assigned to the SPAHRS default distribution for the employee's PIN. A vendor warrant will be issued and deposited by the agency into SAAS on a CR document using revenue code 49925 – Recovery WorkComp Related.

Option 4 – Employee authorizes the agency to reclassify leave taken to Unpaid Workers’ Comp leave.

The agency will reclassify leave taken on the employee’s time sheet to Unpaid Workers’ Comp Leave (UNWKR). A SPAHRS adjustment will be created and should be approved for processing.

Option 5 – Employee may select any combination of Options 2, 3 and/or 4.

An employee may select Option 5 when a combination of options is more beneficial than selecting a single option. If an employee selects to combine Option 4 with any of the other options, the agency must first reclassify the leave taken to determine the amount to be recovered from the employee.

Option 1 or 5 will have to be selected if an employee does not have enough paid wages to cover the excess wages as a result of the Workers’ Compensation benefit payment.

These procedures will be incorporated into the MAAPP Manual in the Payroll Section and will be subject to revision. Agencies will be notified via the SAAS and SPAHRS banner screens at that time.