



STATE OF MISSISSIPPI  
GOVERNOR PHIL BRYANT

DEPARTMENT OF FINANCE AND ADMINISTRATION  
LAURA D. JACKSON  
EXECUTIVE DIRECTOR

MEMORANDUM

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TO: Agency Human Resource Directors  
Agency Payroll Directors  
Agency Finance Directors

FROM: Laura Jackson   
Executive Director

SUBJECT: SB 2977 State Leave Statute Update

DATE: August 30, 2016

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State leave statute, prescribed in Senate Bill 2977 (2008 Regular Session of the Mississippi Legislature) limits a State employee, 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 more than 100 percent of his regular gross wages. The attached policy and procedures is an update based on the implementation of MAGIC. The policy and procedures are available on our website at [www.dfa.ms.gov](http://www.dfa.ms.gov) 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.ms.gov](mailto:mash@dfa.ms.gov).

Attachments

**Mississippi Department of Finance and Administration  
Policy for SB 2977; State Leave Statute**

**Introduction**

The Mississippi Department of Finance and Administration (DFA) is responsible for promulgating the policy and procedures for 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 procedures, refer to the *Procedures for Section 25-3-95 (SB 2977)*.**

**Mississippi Department of Finance and Administration**  
**Revised Procedures: Section 25-3-95 (SB 2977: 2008RLS)**  
**Issued August 25, 2016**

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 MAGIC on a Cash Receipt (YC) document using revenue code 43532000-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 MAGIC on a YC document using revenue code 43532000-Recovery WorkComp Related.

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

The agency will set up a miscellaneous deduction using deduction code WCREC to be withheld from the employee's next payroll warrant/EFT. The vendor number associated with WCREC should be the 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 MAGIC on a YC document using revenue code 43532000 – 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). Leave without Pay is calculated by dividing the Workers' Comp payment by the employee's hourly rate. This amount of leave is entered on the employee's timesheet because it represents the amount of time the employee is being paid through Workers Comp. This adjustment can result in negative net pay which will need to be processed with a payroll that has sufficient net pay to offset the adjustment. The SPAHRS adjustment 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.

If an employee is working intermittently, while receiving workers compensation, it is recommended that the agency pay the employee for the actual time worked and use this to calculate the time the employee is on workers compensation.

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 MASH and SPAHRS banner screens at that time.