



1. Where can I find the policy and procedure for Workers' Compensation Changes to State Leave Law?

You can view the memo and policy and procedures on the DFA Website at <http://www.dfa.ms.gov/direct-links/> > DFA Policies and Procedures > Workers' Compensation Changes to State Leave Law- Revised.

2. I received the DFA policy and procedures letter. Based on the information in the letter, I don't understand Option 5. Please explain Option 5 which states, "...an employee may select any combination of Options 2, 3, and/or 4." Can I select Options (2 and 3), (2, 3, and 4), (2 and 4) or (3 and 4)?

The employee can use ANY combination of options 2, 3, and or 4. There are no limits on how those options may be combined.

3. Does Option 4 reinstate leave? How does it affect retirement and Social Security?

When an employee elects to take leave without pay (UNWKR or UNWKF), the leave will be reclassified from personal and/or major medical leave to leave without pay. This action will add the leave taken back to the employee's leave balance(s) and reduce the salary paid to the employee. It also reduces PERS and Social Security contributions (both employer and employee shares).

4. How does Option 4 affect leave accruals?

Leave accruals will be prorated just as SPAHRs prorates any leave without pay.

5. Why can leave be reclassified in Option 4 but not in the other options?

Options 1 – 3 require paying back the excess wages while Option 4 involves reclassifying leave taken to leave without pay.

6. A. Can an employee have leave reclassified over multiple pay periods?

Yes, at the discretion of the agency head, an employer may reclassify leave taken in prior pay periods and make adjustments over multiple future pay periods, but reclassification must be done over a reasonable amount of time.

B. Do we need to make adjustments on the leave the employee has taken during that period?

Leave would not have to be adjusted unless ULWOP, UNWKR, or UNWKF was recorded in lieu of personal and/ or major medical leave.

7. **Can an employee choose not to use any leave time while absent due to a workers' compensation injury?**

Yes. This is Option 4 in the DFA policy and procedures.

8. **If an agency knows exactly the hours an employee will take for Workers' Comp in the current pay period, can the agency code the leave on the front end and run it with the current payroll?**

Yes.

9. **Can the agency deduct excess wages from separation pay?**

Yes.

10. **Does Option 3 reduce PERS contribution?**

No.

11. **Is the amount in Option 3 taxed?**

Yes.

12. **Can an employee write a check for Option 4 in lieu of having his next payroll reduced?**

Yes, see Option 2.

13. **If an employee refuses to sign the Workers' Compensation SB 2977 specific notice, what are the agency's options?**

The last part of the specific notice paragraph states that "failure of an employee to sign the specific notice does not relieve the employee of the obligation to repay the amount received by the employee that is over and above the amount required for the employee to receive 100% of their salary."

When an employee refuses to sign the document, the supervisor/personnel officer should sign and date the document and indicate the employee's refusal to sign the document.

14. **An employee refuses to sign the Specific Notice and refuses to choose an option on how to repay the debt. Can the agency decide how the excess wages will be recovered?**

Yes. Since this is a debt owed to the State, the agency can set up a debt deduction for the agency to recover the money.

15. **Does an agency have the authority to designate how an employee can repay excess wages? If so, can we put in our Specific Notice that payroll deduction is the only method that our agency will accept?**

No. According to the Procedures for the Implementation of SB 2977, the employee has a choice as to how excess wages will be recovered.

16. How should an agency reclassify leave?

Follow the instructions in Option 4 of the Procedures by adjusting the time sheet.

17. Are the five (5) options supposed to have the same outcome?

Yes, each option will return to the agency the amount of the excess wages paid to the employee.

18. If an employee does not use leave time and the agency posts workers' compensation leave without pay, is there a cap as to how long the employee can be on workers' compensation leave without pay?

Limits for being on leave without pay for workers' compensation or for any other reason would be the same as prior to this change in law. The revision to the leave law does not address this situation.

19. Can an employee choose to pay the excess wages in multiple pay periods through SPAHRS?

An employee's option to repay excess wages in installments is left to the discretion of each agency head. Should the agency head allow repayment over a reasonable amount of time, please refer to Option 3 of the Procedures for Implementation of SB 2977.

20. Do workers' compensation checks for "Permanent Partial (Scheduled) Disability" apply to the new law if the amount paid is in excess of normal wages?

SB2977 applies to temporary disability benefits only. Permanent disability benefits received by an injured State employee are excluded from the provisions of SB2977. Accordingly, such benefits would not be considered in any excess wages calculations described in the policy and procedures implementation memorandum issued by DFA.

21. The procedures for implementation of SB 2977 Option #3 state to set up a miscellaneous deduction code to withhold funds from the employee's pay. The code is not under the miscellaneous option, but it is under debt deduction.

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.

22. The agency was informed by FARA that the 14 days an employee is on workers' compensation does not have to be consecutive. Is that correct?

Yes. Lost days do not have to be consecutive in order for the injured worker to be entitled to temporary disability payments.

- 23. Is there a deadline to collect the excess funds an employee receives when receiving workers' compensation? Also, is there a deadline to collect back funds or funds received since July 1, 2008?**

An employee's option to repay excess wages in installments is left to the discretion of each agency head. Should the agency head allow repayment over a reasonable amount of time, please refer to Option 3 of the Procedures for Implementation of SB 2977.

- 24. Do employees on workers' comp and are using comp time have to comply with the SB 2977 Workers' Compensation Policies and Procedures?**

SB 2977 does not address comp time.

- 25. How does an agency receipt repayment money into a General Fund?**

The money should be receipted into Fund 2999.

- 26. Is the excess wages calculation based on gross pay or net pay?**

Gross pay.

- 27. Do you add the gross pay for the affected pay period to the temporary disability benefits received to determine if the employee has received excess wages?**

Yes

- 28. If the employee repays the excess wages using Option 1, does this affect the amount reported to PERS? Does this action credit leave back to the employee?**

The amount reported to PERS will not be affected by Option 1. The employee will not have any leave credited back.

- 29. Which agency is responsible if an employee writes a bad check?**

The agency to which the check was written is responsible.

- 30. Is payment of mileage by Workers' Comp included in the calculation?**

No. Only temporary disability benefits are to be included when calculating excess wages.

- 31. How long does an agency have to reclassify leave in order for the information to be reported on the W-2 for that calendar year?**

The leave will need to be reclassified by the last payroll run in December of the calendar year. However, the leave could be reclassified the next calendar year, and the adjustments would be reflected on the W-2 for that calendar year. The net effect of the two years would be correct.

- 32. How should an agency recoup excess wages paid to an employee who has terminated?**

The agency would need to follow the same collection procedures used for any person or entity that owes the agency money.

33. Can an employee sign over his temporary disability check to the agency?

Yes.

34. Can an employee change the way a previous excess wage amount was handled with his agency?

An employee cannot change how the excess wages were repaid in the past. An employee can, however, select a different option for future repayments.

35. When computing the excess wages, is holiday leave included in the computation?

Yes, holiday leave is included in the computation as these are regular work days that employees are paid for but do not have to report to work.

36. How do you adjust FMLA leave accrual for an employee who is in Workers' Comp status?

The UNWKF (UNPAID WORKERS COMP LEAVE, FMLA) code should be used on the time sheet.