

Memorandum

Date: June 10, 2021

From: Acting Under Secretary for Health (10)

Subj: One-Time Modification of Leave Conversion Rates and Change in Use of Frozen Annual Leave (VIEWS 5120995)

To: Veterans Integrated Service Network (VISN) Directors (10N1-23), VISN Chief Medical Officers, VISN Chief Human Resource Officers, Veteran Health Administration (VHA) Chief Officers, VHA Medical Center Directors, VHA Chiefs of Staff, and VHA Central Office (VHACO) Human Resource Officers

1. The purpose of this memorandum is to authorize a one-time modification of the annual and sick leave conversion rates and maximum annual leave carryover for full-time employees who transitioned from a daily to hourly leave system on September 15, 2019, and to comply with the Arbitration award in FMCS Case No. 200207-03752 dated December 28, 2020. The authorization only applies to full-time physicians, dentists, chiropractors, podiatrists, and optometrists on established and approved work schedules as of September 14, 2019. This modification is not authorized for leave conversions that are effective on a date other than September 15, 2019, or for other, unrelated leave conversions that are effective on September 15, 2019.

2. VA Handbook 5011/32, Hours of Duty and Leave, dated July 26, 2018, changed the leave charge, leave accrual rate, and maximum carryover for full-time physicians, dentists, chiropractors, podiatrists, and optometrists from days to hours. The policy also established the annual leave maximum carryover amount to be 685 hours. The implementation; however, was placed on hold pending the modification of Information Technology (IT) systems (i.e. VA Time and Attendance System, HR Smart, and Defense Civilian Pay System). On August 28, 2019, the Office of Human Resources Management (OHRM)¹ Worklife and Benefits Service issued a policy update notice that the policy and system changes to leave would be implemented on September 15, 2019.

3. The conversion of leave balances for employees converted from the daily to the hourly leave system was 8 hours per 1 day of annual leave and 8 hours per 1 day of sick leave. The annual and sick leave conversion rate was the same for employees on compressed work schedules as for employees on 8-hour regular work schedules.

4. For employees on regular work schedules, this memorandum authorizes a one-time transfer of annual leave hours in excess of the 685-hour maximum carryover limit to a frozen annual leave account; this schedule consists of 10, 8-hour days per pay period. Annual leave is converted at a rate of 8 hours per 1 day of leave. Frozen annual leave

¹ OHRM is now the Office of the Chief Human Capital Officer (OCHCO).

Page 2.

Subj: One-Time Modification of Leave Conversion Rates and Change in Use of Frozen Annual Leave (VIEWS 5120995)

will be provided for the hours of leave that exceed the new maximum carryover limit of 685 hours at the time of conversion on September 15, 2019. For example, an employee with an annual leave balance of 100 days was converted as 800 hours (100 days times 8 hours per day); the one-time modification will reflect 685 hours of regular annual leave and 115 hours of frozen annual leave as of September 15, 2019. The frozen annual leave may be used until an employee separates or retires and is not subject to the maximum leave accumulation policy. Any unused frozen annual leave to the employee's credit at the time of separation or retirement will be paid out at a reduced rate, using the annual salary divisor of 2,912 for the computation for frozen annual leave payments. VA Handbook 5007, Part IV, Chapter 3 provides policy guidance regarding the lump sum payment of frozen annual leave.

NOTE: This modification does not change the original conversion rate converting 1 day of leave to 8 hours, it only prevents forfeiture of those hours that were in excess of 685 hours as of September 15, 2019, by placing the excess hours into frozen annual leave.

5. For employees on compressed work schedules, this memorandum authorizes a one-time supplement to the annual leave conversion rate for affected employees as of the pay period that ended September 14, 2019. The conversion rate of the annual leave balance will be based on the number of hours in the most common regularly scheduled daily tour for the pay period that ended September 14, 2019, per 1 day of annual leave. For example, an employee on a compressed work schedule of six 10-hour tours, two 8-hour tours, and one 4-hour tour would have an annual leave conversion rate of 10 hours (most common tour hours) per 1 day of annual leave. Upon recalculation, the additional annual leave hours authorized for the one-time annual leave supplement will be provided as regular annual leave, with annual leave in excess of 685 hours credited as frozen annual leave. The frozen annual leave may be used until an employee transfers, separates or retires and is not subject to the maximum leave accumulation policy. Any unused leave balance at the time of transfer, separation or retirement will be paid out at a reduced rate using the annual salary divisor of 2,912 for the computation for frozen annual leave payments provided in VA Handbook 5007, Part IV, Chapter 3.

NOTE: This modification will adjust the original conversion rate for annual leave from 8 hours per 1 day of leave, to the rate of the most common daily tour hours per day of leave, and establishes frozen annual leave for the supplemental hours provided as a result of the modified annual leave conversion rate authorized in this memorandum.

6. The use of existing frozen annual leave from the conversion as a result of policy update VA Handbook 5011/6, dated January 26, 2006, will no longer be restricted to

Page 3.

Subj: One-Time Modification of Leave Conversion Rates and Change in Use of Frozen Annual Leave (VIEWS 5120995)

emergency leave events. Physicians, dentists, podiatrists, chiropractors and optometrists who had in excess of 86 days of annual leave had the excess amount placed in a frozen annual leave account. All hours of frozen leave are available for any annual leave purpose or may be retained without carryover limit application through separation for lump sum payout at the reduced rate. VA Handbook 5007, Part IV, Chapter 3 provides policy guidance on lump sum payments of frozen annual leave.

7. Employees who retired or separated prior to the one-time modification provided herein and for whom the transfer of hours to frozen annual leave would result in a lower lump sum annual leave payment, will have no action taken to redistribute the excess annual leave hours to frozen annual leave.

8. This memorandum authorizes a one-time modification of the sick leave conversion rates for employees on compressed work schedules. The conversion rate of the sick leave balance will be based on the number of hours in the most common regularly scheduled daily tour for the pay period that ended September 14, 2019, per 1 day of sick leave. For example, an employee on a work schedule of six 10-hour tours, two 8-hour tours, and one 4-hour tour per pay period would have a sick leave conversion rate of 10 hours (most common tour hours) per 1 day of sick leave. The additional leave hours authorized for the one-time sick leave supplement will be provided as frozen annual leave. An employee with a sick leave conversion rate of 10 hours per 1 day of sick leave will have 8 hours of regular sick leave and 2 hours of frozen annual leave. All hours of frozen annual leave are available for any annual leave purpose or may be retained without carryover limit application through separation for lump sum payout at the reduced rate.

NOTE: Frozen annual leave is only authorized for employees on a compressed work schedule for the pay period that ended September 14, 2019.

9. The Arbitrator's Award provided that the Agency must (a) Within 60 days, and consistent with the award, make whole any Physician impacted by the Agency's violations; (b) During this 60 day period both parties must act in good faith in making whole the Physicians impacted by the Agency's violations; and (c) within 45 days, and consistent with the Award, the Agency shall distribute a remedial notice posting to all AFGE bargaining unit employees (BUE) by email which shall be signed by the appropriate person consistent with statute. Consistent with the Arbitrator's Award and a related settlement agreement executed on April 27, 2021, the Department of Veterans Affairs (VA) will email notices to AFGE BUEs. If an AFGE BUE is either separated or retired from VA as of the date of the settlement agreement's execution (April 27, 2021), VA will issue a lump sum payment for any "frozen annual leave" consistent with the settlement agreement. In addition, an AFGE BUE that is separated or retired after

Page 4.

Subj: One-Time Modification of Leave Conversion Rates and Change in Use of Frozen Annual Leave (VIEWS 5120995)

April 27, 2021 (and has not been rehired in a position eligible for frozen annual leave) will be issued a lump sum payment for any "frozen annual leave" provided subsequent to the date of separation from VA.

10. Questions may be directed to Mr. Jeffrey Kleiner, HR Consultant, HR Center of Expertise, Workforce Management and Consulting, at Jeffrey.Kleiner2@va.gov.

A handwritten signature in black ink, appearing to read 'R. Stone', with a long horizontal flourish extending to the right.

Richard A. Stone, M.D.

Attachments

HOURS OF DUTY AND LEAVE

1. **REASON FOR ISSUE:** To issue Department of Veterans Affairs (VA) procedures regarding hours of duty and leave.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook sets forth mandatory procedures previously contained in numerous other issuances. The pages in this handbook replace the corresponding page numbers in VA Handbook 5011. Revised text is contained in [brackets]. These changes will be incorporated into the electronic version of VA Handbook 5011 that is maintained on the [Office of Human Resources Management Web site](#). Significant changes include:
 - a. Establish the Variable Work Schedule for full-time physicians; and
 - b. Change the leave charge, leave accrual rate and maximum carryover for full-time physicians, dentists, chiropractors, podiatrists and optometrists from days to hours.
3. **RESPONSIBLE OFFICE:** The Human Resources Management Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources.
4. **RELATED DIRECTIVE:** VA Directive 5011, “Hours of Duty and Leave.”
5. **RESCISSIONS:** None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY OF
VETERANS AFFAIRS:**

/s/
Melissa S. Glynn, Ph.D.
Assistant Secretary for
Enterprise Integration

\s\
Nathan H. Maenle
Principal Deputy Assistant Secretary for
Human Resources and Administration

DISTRIBUTION: Electronic Only

CONTENTS

PARAGRAPH	PAGE
CHAPTER 4. ALTERNATIVE WORKPLACE ARRANGEMENTS (FLEXIPLACE)	
1.PURPOSE.....	II-41
2.COVERAGE.....	II-41
3.EXCLUSIONS.....	II-41
4.RESPONSIBILITIES.....	II-41
5.DEFINITIONS.....	II-42
6.POLICIES AND PROCEDURES.....	II-43
7.TELEWORK CRITERIA.....	II-45
8.PROCESS FOR ESTABLISHING A TELEWORK AGREEMENT.....	II-49
9.REFERENCES.....	II-49
APPENDICES	
II-A.SAMPLE LETTER - ELIGIBLE TO TELEWORK.....	II-A-1
II-B.SAMPLE LETTER - NOT ELIGIBLE TO TELEWORK.....	II-B-1
II-C.[VARIABLE WORK SCHEDULE AGREEMENT].....	II-C-1
II-D.SAMPLE REQUEST FORM FOR ALTERNATE SCHEDULES – VA FORM 0870a.....	II-D-1
II-E.SAMPLE NOTICE ON THE 9-MONTH WORK SCHEDULE REGARDING THE IMPACT ON BENEFITS AND OTHER CONDITIONS OF EMPLOYMENT(NEW EMPLOYEE).....	II-E-1
II-F SAMPLE NOTICE ON 9-MONTH WORK SCHEDULE REGARDING THE IMPACTON BENEFITS, PROBATIONARY STATUS AND OTHER CONDITIONS OFEMPLOYMENT – CONVERSION FROM FULL-TIME TO PART-TIME/CURRENTPART-TIME TO 9-MONTH WORK SCHEDULE.....	II-F-1
II-G.SAMPLE CONSENT FORM FOR APPOINTMENT TO A 9-MONTH/3-MONTH OFFALTERNATE WORK SCHEDULE AGREEMENT – VA FORM 0870b	II-G-1
II-I.PRESCHEDULED PART-TIME TOURS AND THE UTILIZATION OFADJUSTABLE WORK HOURS (TITLE 38).....	II-I-1
II-J.MEMORANDUM OF SERVICE LEVEL EXPECTATIONS FOR PART-TIMEPHYSICIANS ON ADJUSTABLE WORK HOURS.....	II-J-1
II-K.WORKSHEET FOR DETERMINING PERCENTAGES ON MEMORANDUM OFSERVICE LEVEL.....	II-K-1

2. For part-time employees, overtime hours are those hours of work performed in excess of the basic work requirement for a scheduled period of service day (but must be in excess of 8 consecutive hours) or for a week (but must be in excess of 40 hours), or in excess of 80 hours in the pay period.
- (14) Tour of Duty. Under a flexible work schedule, the limits set by the authorizing official within which employees must complete their basic work requirement. Under a fixed schedule, such as a compressed work schedule, an employee's tour of duty is synonymous with the employee's basic work requirement.

[(15) Variable Work Schedule (Full-time Physicians).

- (a) The variable work schedule is an irregular work schedule only available to full-time physicians in which a full-time physician has a basic work requirement of more or less than 80 hours each biweekly pay period, but for the purpose of determining pay and leave benefits, such a physician shall receive 80 hours of pay for each biweekly pay period. VHA may require a covered physician on a variable work schedule to work core hours (those designated hours and days during the biweekly pay period when an employee on a variable schedule must be present for work). Prior to working a variable work schedule, a physician must submit a request in writing (Variable Work Schedule Agreement – see Part II, Chapter 3, Appendix C) to his/her supervisor and have the variable work schedule approved in advance. As part of the variable work schedule, a physician is obligated to account for at least 2080 hours of employment in a calendar year or the prorated equivalent ratio of 80 hours per biweekly pay period. Hours of employment include: performance of work, use of leave, or other paid time off. The 2080 hour requirement can be accomplished on a current basis, or retroactively, due to an annual or earlier reconciliation or upon termination of the agreement (Restrictions on retroactive use of leave are as follows: (1) cannot charge more than 80 hours of leave in any pay period; (2) cannot use paid leave in excess of the amount available in the pay period for retroactive use that also remained available through reconciliation; and (3) retroactive LWOP used may remove some accrued leave and can result in additional debt). Retroactive use of LWOP is not intended to meet the 2080 hour requirement under this policy. Frequent use of LWOP should be addressed as noted in paragraph c below.
- (b) In order to ensure that the 2080 hours of employment in a calendar year requirement is accomplished, Supervisors are required to conduct a quarterly reconciliation of the physician's subsidiary time card and provide the physician with his/her status toward accomplishing the 2,080 work requirement.
- (c) If a full-time physician on a variable work schedule fails to meet the requirement to account for 2080 hours of employment for a calendar year agreement period during two separate Variable Work Schedule Agreement periods, the variable work schedule arrangement will be terminated. The physician will not be eligible to participate in the variable work schedule again unless justification is provided by the Service Chief/Service Line Manager to support the physician's participation and to identify what the factors that have changed that will allow for the physician to complete the requisite 2080 hour requirement of the variable work schedule. This justification must be made in writing and approved by the Medical Center Director. Copies of the supporting documentation must be retained. This approval may not be delegated below the Medical Center Director level.

**PART II
CHAPTER 3**

Note: In order for the physician to remain in full-time pay status, a standard 80-hour time card must be certified each pay period. The only adjustment to the standard time card will be leave or other absences that reduce the physician's hours worked from the 80 hour standard. No more than 80 hours may be accounted for as hours absent in any pay period. A subsidiary time card of actual hours worked must be maintained and approved following the end of the administrative pay period by the Supervisor.

Physicians on variable work schedules remain ineligible for premium pay.]

[(16)] **Work Unit.** An entity located in one place with a specific mission and with homogeneous procedures or technology, and headed by a supervisor or manager authorized to certify the employee's VA Form 4-5631, Time and Attendance Report, or other applicable agency documents for reporting employees' work schedules.

d. Planning Flexible and Compressed Work Schedules. (See chapter 2, paragraph 11d of this part.)

e. Review of Alternative Work Schedules. (See chapter 2, paragraph 12g(5).)

f. Approval Authority and Responsibilities

(1) Facility directors are authorized to approve flexible, compressed and variable work schedules for employees under their jurisdiction. They are also responsible for ensuring that approved flexible and compressed work schedules are consistent with the criteria contained herein, and with periodically reminding employees of workplace flexibilities available.

(2) Supervisors are responsible for assuring that sufficient numbers and kinds of personnel are scheduled to be present to carry out operations in an efficient and economical manner. To meet this responsibility, supervisors may place restrictions on the starting and stopping times of individual employees. Supervisors are also responsible for taking appropriate action if an employee under his or her jurisdiction fails to meet his or her responsibilities under subparagraph (3) below.

(3) Employees using flexible or compressed work schedules are responsible for fulfilling their obligations to account for a full day's work. Abuse of flexible or compressed work schedules may result in restrictions on the employee's starting and stopping times, termination of the employee's flexible schedule and/or appropriate disciplinary action.

g. Flexitime

(1) General Requirements

(a) The establishment of flexible tours of duty is limited to flexitour and modified flexitour, as defined in paragraph 5c above.

(b) Core time bands shall be determined by field facility directors; however, core time bands should be the same for employees performing similar work under similar situations. Facility directors may authorize deviations from approved core times in individual cases.

[APPENDIX C. VARIABLE WORK SCHEDULE AGREEMENT

I (Physician's Name) request to establish a full-time tour of duty, which includes hours that are more or less than 80 hours in a pay period, with a minimum of 2080 hours of work in a calendar year. I understand that any hours I work in excess of 2080 in a calendar year will not result in an entitlement to additional compensation or premium pay of any kind.

I understand that under VA Handbook 5011, Part II, Chapter 3, I am to provide to the Veterans Health Administration (VHA) of the Department of Veterans Affairs (VA) a minimum of 2080 hours of service in a calendar year while approved for this work schedule. I understand that my pay will continue to be paid at the equivalent of an 80 hour per pay period rate while in a duty or paid leave status, and my benefits will be based on this rate, subject to the reconciliation of any difference in the actual hours I work, if less than 80 hours in a biweekly pay period, and the 80 hour full-time rate upon termination of the agreement.

I understand that it is recommended that I work the minimum required hours of (520) for each quarter of the calendar year. Should my work schedule for each quarter not reach a minimum of 520 hours, I understand I must request leave or work the additional hours with supervisory approval in the next quarter to ensure my hours of employment reach a minimum of 2080 hours in the calendar agreement period. I also understand that if I do not account for 2080 paid hours annually, my Thrift Savings Plan contributions, VA employer contributions, and any related interest earnings will be collected from my account for hours I did not work or use paid leave. I further understand that my failure to account for 2080 hours of employment within a calendar year may result in a debt for my federal employee's health benefit (FEHB) and/or federal employee's group life insurance (FEGLI) premiums and reduce my future federal retirement benefits.

This agreement shall be effective upon approval by the Secretary of Veterans Affairs, hereinafter referred to as the Secretary (or designee), provided I am otherwise eligible, and shall commence on the date prescribed in accordance with VA Handbook 5011, Part II, Chapter 3. I understand that I may request termination of this work schedule with 60 days' notice to my Supervisor. I also understand that if this agreement expires or is terminated, the hours of work I have provided and the salary and benefits I have received during the term of this agreement will be reconciled. A deficit in hours accounted for will result in additional leave charges; if Leave Without Pay (LWOP) is used, it may result in a debt. I further understand that when the agreement ends, any hours of work that are in excess of the required 80 hours per biweekly pay period as of the date the agreement is terminated will be forfeited.

If I have been compensated for hours of work I have not provided, I agree to refund any such excess compensation to VA in accordance with VA Handbook 5011, Part II, Chapter 3. I understand that any amount due on my behalf will be considered to be a debt due to the United States and agree to pay such an amount in full as directed by VA.

I understand that VA may terminate my eligibility for the variable work schedule when any of the following occur:

- a. Separation from VHA employment for any reason.
- b. Transfer to another VHA facility.

**PART II
APPENDIX C**

- c. Assignment to a position that does not have approved variable work schedules.
- d. Failing to account for sufficient hours under any two separate Variable Work Schedule Agreement periods.
- e. This agreement is otherwise terminated by the Secretary or designee.

I acknowledge that VA Directive 5011 and VA Handbook 5011, part II, is incorporated into and made a part of this agreement and I have read a copy.

Physician Signature

Date Signed

Physician Printed Name

Supervisor Signature

Date Signed

Supervisor Printed Name

Supervisor Title

cc: Servicing VA HR and payroll offices]

**PART III
CHAPTER 3**

b. Leave Charges

- (1) The minimum charge for leave shall be [one hour] and multiples thereof for full-time physicians, dentists, podiatrists, chiropractors, and optometrists. The minimum charge shall be a quarter hour (15 minutes) or multiples thereof for nurses, nurse anesthetists, PAs, EFDAs and part-time physicians, dentists, podiatrists, chiropractors, and optometrists. The minimum charge for leave for 7306 appointees shall be a quarter hour (15 minutes) and multiples thereof.
- (2) Holidays and in-lieu days granted thereof will not be charged to leave.

4. ANNUAL LEAVE

- a. Annual Leave.** The granting of annual leave shall be a matter of administrative discretion as to when and in what amount it may be authorized. Requests for annual leave shall be acted upon in the light of essential medical services and with due regard to the welfare and preferences of individual employees. Employees should be encouraged to take annual leave for at least 2 consecutive weeks each year for purposes of rest and relaxation.

b. Charging Annual Leave

- (1) **Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs, 7306 Appointees in Title 5 or Hybrid Title 38 Occupations and Part-Time Employees.** The minimum charge of annual leave for these employees is one quarter hour (15 minutes) and multiples thereof. *When leave is charged because of absence from duty or tardiness, the employee will not be required to work during the period covered by the leave.*
- (2) **Full-Time Nurses and Nurse Anesthetists on the Baylor Plan.** Such nurses and nurse anesthetists shall be charged one hour of annual leave for each hour of annual leave taken. The minimum charge of annual leave for these employees is one quarter hour (15 minutes) and multiples thereof. *When leave is charged because of absence from duty or tardiness, the employee will not be required to work during the period covered by the leave.* Leave shall be charged only for absences from the basic workweek. (For the definition of basic workweek for these employees, see paragraph 2d of chapter 3, part II).
- (3) **Full-Time Nurses and Nurse Anesthetists on 72/80 Work Schedule.** Such nurses and nurse anesthetists shall be charged leave at a rate of ten hours of leave for every nine hours of absence (charged 1.111 for each hour). Leave shall be charged only for absences from the basic workweek.
- (4) **Full-Time Physicians, Dentists, Podiatrists, Chiropractors, and Optometrists Appointed Under 38 U.S.C. 7401, 7405 or 7306**
 - (a) **Minimum Charge.** The charge of annual leave for these employees is [one hour and multiples thereof]. *[When leave is charged because of absence from duty or tardiness, the employee will not be required to work during the period covered by the leave].*

**PART III
CHAPTER 3**

appropriate as a guide in determining the charge to leave for excessive absence by an employee who travels by privately owned conveyance for the individual's convenience.

(2) Travel time used to transfer from one facility to another, when the transfer is arranged for reasons other than for the convenience of the Government, will be charged to annual leave or to leave without pay when annual leave is not available.

g. **Involuntary Leave.** Employees may be placed on involuntary annual leave when the needs of the service dictate. When an employee reasonably may not be regarded as ready, willing and able to work, the employee may be placed on involuntary annual leave or in a leave without pay status, as the employee's leave account and the circumstances may require.

h. **Voluntary Leave Transfer Program.** See paragraph 19 of chapter 2, this part.

5. SICK LEAVE

a. **Sick Leave.** Sick leave shall be granted to employees when they are incapacitated for the performance of their duties because of personal illness, disease, injury, pregnancy and confinement, for necessary medical, dental or optical examination or treatment, or when a member of the immediate family of the employee is afflicted with a contagious disease and requires the care and attendance of the employee; or when through exposure to contagious disease the presence of the employee at the post of duty would jeopardize the health of others.

b. Charging Sick Leave

(1) The minimum sick leave charge for full-time physicians, dentists, podiatrists, chiropractors, and optometrists appointed under 38 U.S.C. 7401, 7405 or 7306 is [one hour and multiples thereof]. No charge to sick leave will be made for absence of these employees on administrative nonduty days.

(2) Except as provided in subparagraph (3), the minimum sick leave charge for full-time nurses, nurse anesthetists, including those on the Baylor Plan, PAs, EFDAs, 7306 appointees in Title 5 and Hybrid Title 38 occupations and part-time employees is one quarter hour (15 minutes) and multiples thereof. *Sick leave for these employees will be charged as approved and used.*

(3) Full-time nurses and nurse anesthetists on a 72/80 Work Schedule shall be charged 1.111 hours of sick leave for each hour of sick leave taken. Leave shall be charged only for absences from the basic workweek. The minimum charge of annual leave for these employees is one quarter (15 minutes) and multiples thereof.

(4) Medical and dental residents covered by disbursement agreements shall be granted sick leave in accordance with those agreements.

(2) Employees who can reasonably be expected to return to duty after a prolonged period of incapacitation may be advanced sick leave and annual leave or granted LWOP.

i. **Sick Leave for General Family Care or Bereavement Purposes**

(1) **Definition.** For purposes of this subparagraph, "family member" means: spouse, and parents thereof; sons and daughters, and spouses thereof; parents; and spouses thereof brothers and sisters, and spouses thereof; grandparents and grandchildren, and spouses thereof; domestic partner and parents thereof, including domestic partners of sons and daughters and spouses thereof; parents, and spouses thereof; brothers and sisters, and spouses thereof; and grandparents and grandchildren, and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(2) **Leave for Family Care or Bereavement Purposes.** In addition to the reasons for granting sick leave in this paragraph, leave approving officials may grant or advance sick leave for:

- (a) Care of a family member who is incapacitated as a result of physical or mental illness; injury; pregnancy, or childbirth;
- (b) Care of a family member as a result of medical, dental or optical examination or treatment;
- (c) Making arrangements necessitated by the death of a family member;
- (d) Attending the funeral of a family member; or
- (e) Adoption (this may include appointments with adoption agencies, social workers and attorneys; court proceedings; required travel; or any other activities necessary for the adoption to proceed).

(3) **Limitations on Sick Leave for Family Care or Bereavement Purposes.** Leave under paragraphs (2)(a) through (2)(d) is limited as follows:

- (a) Full-time employees [] may take up to [104 hours] (13 days) of sick leave in a leave year.
- (b) Leave taken by employees on the 72/80 AWS is multiplied by 1.111 when determining these limitations.
- (c) Part-time employees may take up to the amount of sick leave they would accrue in a leave year.

(4) **Sick Leave to Care for a Family Member with a Serious Health Condition.** An employee may use up to a total of 12 administrative workweeks of sick leave each leave year to care for a family member with a serious health condition subject to the following limitations:

- (a) Full-time employees charged leave on a[n][hourly] basis may take up to a total of 12 administrative workweeks ([480 hours]) of sick leave in a leave year to care for a family member with a serious health condition subject to the following limitations;

- (1) If an employee previously has used any portion of the [104 hours] (13 days) of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12 workweeks [480 hours] entitlement.
- (2) If an employee has already used 12 weeks ([480 hours]) of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general family care or bereavement purposes.
 - (a) Full-time employees charged leave on an hourly basis may take up to a total of (480 hours) 12 administrative workweeks of sick leave in a leave year to care for a family member with a serious health condition subject to the following limitations:
 - (1) If an employee previously has used any portion of the 104 hours of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 480 hours (12 workweeks) entitlement.
 - (2) If an employee has already used 480 hours (12 workweeks) of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 104 hours in the same leave year for general family care or bereavement purposes.
 - (a) Part-time employees and employees on uncommon tours of duty are also covered and may take up to the an amount of sick leave equal to 12 times the average number of hours in his or her scheduled tour of duty each week during a leave year, subject to the following limitations:
 - (1) If an employee previously has used any portion of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the total number of available hours.
 - (2) If an employee has already used the maximum amount of sick leave permitted to care for a family member with a serious health condition, he or she cannot use additional hours in the same year general for family care or bereavement purposes.
 - (3) Medical and dental residents covered by disbursement agreements shall be granted sick leave in accordance with those agreements.
 - (4) **Relation to Family and Medical Leave Act.** Sick leave under paragraph i(2) above does not count towards an employee's entitlement under the Family and Medical Leave Act (5 U.S.C. 6381-6387) unless the employee notifies the leave approving official in advance of intent to substitute sick leave for leave without pay taken under the Family and Medical Leave Act.
 - (5) **Leave Approving Officials.** Leave approving officials may grant or advance sick leave to title 38 employees as described in paragraph (2); however, approvals or denials are to be consistent with the limitations in paragraph (3) as well as the criteria for approving or advancing sick leave.

- (6) **Record Keeping.** Title 38 employees are not covered by the "Federal Employees Family Friendly Leave Act," Pub. L. 103-388. However, to monitor use of this type of leave and to ensure consistency between payroll practices for title 5 and title 38 employees, the record keeping procedures found at 5 CFR 630.408 will be used.

6. ACCRUALS OF ANNUAL AND SICK LEAVE

- a. **Accruals for Full-Time Physicians, Dentists, Podiatrists, Chiropractors, or Optometrists Appointed Under 38 U.S.C. 7401, 7405 or 7306.** Annual and sick leave shall accrue to full-time physicians, dentists, podiatrists, chiropractors, or optometrists during full biweekly pay periods while in a leave with pay status or in a combination of pay and nonpay status. Annual and sick leave will accrue for fractional pay periods as authorized by the Under Secretary for Health [].
- b. **Accruals for Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs, 7306 Appointees in Title 5 or Hybrid Title 38 Occupations, or Part-Time Employees.** Annual and sick leave shall accrue to full-time nurses, nurse anesthetists, PAs, EFDAs, 7306 appointees **in Title 5 or Hybrid Title 38 occupations**, or part-time employees during each full biweekly pay period while in a leave with pay status or in a combination of pay and leave without pay status. Such an employee who initially enters on duty on the first workday after the beginning of the pay period shall be deemed to have been appointed at the beginning of the pay period, thereby enabling completion of a full biweekly pay period for leave accrual purposes. For example, an employee whose first workday is after a Monday holiday which occurs the first week of the pay period shall be deemed to have been appointed at the beginning of the pay period for leave accrual purposes.
- c. **Accruals During Periods of Suspension.** Annual and sick leave shall accrue to full- and part-time employees during a period of suspension provided the employee is restored to duty and it is determined that the suspension was not justified.

d. Accrual Rate

(1) Full-time Physicians, Dentists, Podiatrists, Chiropractors, and Optometrists [Appointed Under 38 U.S.C. 7401, 7405 or 7306]

- (a) Annual leave shall accrue for full-time physicians, dentists, podiatrists, chiropractors, and optometrists at the rate of [8 hours for each full biweekly pay period].
- (b) Sick leave shall accrue for full-time physicians, dentists, podiatrists, chiropractors, and optometrists at the rate of [4 hours for each full biweekly pay period].

(2) Full-Time Nurses, Nurse Anesthetists, PAs and EFDAs

- (a) Annual leave shall accrue for full-time nurses, nurse anesthetists, PAs and EFDAs at the rate of 8 hours for each full biweekly pay period.
- (b) Sick leave shall accrue for full-time nurses, nurse anesthetists, PAs and EFDAs at the rate of 4 hours for each full biweekly pay period.

(3) [Full-Time 7306 Appointees in Title 5 and Hybrid Title 38 Occupations]

- (a) Annual leave shall accrue for full-time 7306 appointees in non-Title 38 occupations at the rate of 8 hours for each full biweekly pay period [].
- (b) Sick leave shall accrue for full-time 7306 appointees in non-Title 38 occupations]at the rate of 4 hours for each full biweekly pay period [].
- (c) Upon conversion to an appointment, covered by a different leave system, the leave accrual rate for 7306 appointees will be determined based on the applicable regulations and policies for the new leave system.

(4) Part-Time Employees

- (a) Annual leave shall accrue for part-time employees at rate of 1 hour for each 10 hours in a pay status.
- (b) Sick leave shall accrue for part-time employees at the rate of 1 hour for each 20 hours in a pay status.
- (c) Hours in a pay status which do not equal the number necessary for a minimum annual or sick leave credit of 1 hour for part-time employees will be carried forward and combined with subsequent pay status hours.

e. Reduction of Leave Accruals

(1) Full-Time Physicians, Dentists, Podiatrists, Chiropractors, and Optometrists Appointed Under 38 U.S.C. 7401, 7405 or 7306.

- (a) Annual leave accruals for full-time physicians, dentists, podiatrists, chiropractors, and optometrists shall be reduced when the individual has had 1 full pay period of absence without pay in a leave year. This reduction shall be at the rate of [8 hours] for each full pay period.
- (b) Sick leave accruals for full-time physicians, dentists, podiatrists, chiropractors, and optometrists shall be reduced when the individual has had 2 pay periods or more of absence without pay in a leave year. This reduction shall be at the rate of [4 hours of sick leave for each 80 hours in a nonpay status].

(2) Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs, and 7306 Appointees in Title 5 and Hybrid Title 38 Occupations. A full-time nurse, nurse anesthetist, PA, EFDA, or 7306 appointee **in a Title 5 or Hybrid Title 38 occupation** who is in a nonpay status for the entire leave year shall not earn leave for the year. Leave accruals shall be reduced for a nonpay status of 80 hours or more in a leave year. This reduction shall be at the rate of 8 hours of annual leave and 4 hours of sick leave for each 80 hours in a nonpay status. **NOTE:** *In making this computation each hour a full-time nurse or nurse anesthetist on the 72/80 alternate work schedule is in a nonpay status shall be considered to be 1.111 hours.* For this purpose, included shall be all hours in a nonpay status (other than nonpay status during a fractional pay period when no leave accrues) while the individual is on the rolls during the leave year in which the leave accrues; excluded shall be a period covered by refund for unearned advance leave. If a reduction in leave credits results in a debit to the annual leave account at the end of the leave year:

- (a) The debit may be carried forward as a charge against annual leave to be earned in the next leave year; or
- (b) The individual may be required to refund the amount paid to the employee for the period covering the excess leave that resulted in the debit.

(3) Part-Time Employees. Since annual and sick leave for part-time employees will be credited only on pay status hours, no necessity exists for reducing accruals without pay absences.

f. Maximum Leave Accumulation

(1) Annual Leave

- (a) **Full-Time Physicians, Dentists, Podiatrists, Chiropractors, or Optometrists Appointed Under 38 U.S.C. 7401, 7405 or 7306.** A full-time physician, dentist, podiatrist or optometrist may carry forward not more than [685 hours] of accumulated annual leave at the end of any leave year.
- (b) **Full-Time Nurses, PAs or EFDAs.** A full-time nurse, PA, or EFDA may carry forward not more than 685 hours of accumulated annual leave at the end of any leave year.

- (c) **Full-Time 7306 Appointees in Title 5 or Hybrid Title 38 Occupations.** A full-time 7306 appointee in a non-Title 38 occupation is entitled to carry forward not more than 720 hours of accumulated annual leave at the end of the leave year. Upon conversion to another type of appointment covered by a different leave system, any annual leave accumulated while serving as a 7306 (not-to-exceed 720 hours) appointee will remain to the employee's credit until it is reduced through usage to the maximum annual leave accrual limitation of the new position or leave system.
- (d) **Part-Time Employees.** A part-time employee may carry forward not more than 240 hours of accumulated annual leave at the end of any leave year except that an employee converted to part-time from full-time may carry forward more hours of unused annual leave as indicated in subparagraphs 1 and 2.
1. The maximum carryover will be the lesser of the number of hours converted to part-time or the maximum carryover limitation of the employee's former leave system. For physicians, dentists, podiatrists, chiropractors, and optometrists appointed under 38 U.S.C. 7401 and 7405, 5 days of annual leave will equal 5 workdays of annual leave which will be converted to 40 hours.
 2. When accumulated annual leave of more than 240 hours is reduced by usage so that the balance at the end of the leave year is less than the balance at the beginning of the leave year, such difference may not be restored from earnings in the ensuing year. The accumulated leave ceiling of 240 hours may be restored from subsequent earnings. Accrued annual leave not used during the leave year which would cause the maximum ceiling limitation of 240 hours of the balance to be exceeded at the beginning of the ensuing leave year will be forfeited.
- (e) **Restoration of Annual Leave**
1. Annual leave which is lost at the end of a leave year by operation of an accumulated annual leave limit under this chapter because of (1) administrative error when the error causes a loss of annual leave otherwise accruable; (2) exigencies of the public business when the annual leave was scheduled in advance; (3) sickness of the employee when the annual leave was scheduled in advance; or (4) the employee being in a missing status as defined in 5 U.S.C. 5561(5); shall be restored to the employee.
 2. The restoration, maintenance, and disposition of annual leave under subparagraph 1 will be accomplished in the same manner as for VA employees subject to the provisions of 5 U.S.C. chapter 63 under sections 6304(d)(2) and (e), 6302(f), and 5562. (See chapter 2, this part). This includes the same leave restoration approval criteria and requirements and, as applicable, maintenance of leave in separate accounts for the prescribed time limit or payment in lump sum for the value of the leave (including payment for claims by separated employees). This entitlement is provided pursuant to authority of 38 U.S.C. 7421.
- (2) **Sick Leave.** There shall be no limitation on the amount of accumulated sick leave which an employee may carry forward at the end of a leave year.

(3) Advanced Leave

(a) Full-Time Physicians, Dentists, Podiatrists, Chiropractors, and Optometrists [Appointed Under 38 U.S.C. 7401, 7405 or 7306]

1. Annual leave not to exceed [208 hours] at any time may be advanced to full-time physicians, dentists, podiatrists, chiropractors, and optometrists appointed under authority of 38 U.S.C. 7401(1), 7405(a)(1)(A) or 7306, except that such leave for temporary full-time employees appointed under authority of section 7405(a)(1)(A) shall not be advanced in an amount in excess of that amount which could accrue during the remainder of the current appointment.
2. Sick leave not to exceed [360 hours] at any time may be advanced to full-time physicians, dentists, podiatrists, chiropractors, and optometrists appointed under authority of 38 U.S.C. 7401(1), 7405(a)(1)(A) or 7306. However, sick leave shall not be advanced to employees on time limited appointments in an amount in excess of that amount which could accrue during the remainder of the current appointment.

(b) Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs and 7306 Appointees in Title 5 and Hybrid Title 38 Occupations

1. Annual leave, not to exceed 208 hours, may be advanced to these employees at any time except that leave for employees on time limited appointments shall not be advanced in an amount in excess of that amount which could accrue during the remainder of the current appointment.
2. Sick leave, not to exceed 360 hours, may be advanced to these employees at any time. However, sick leave shall not be advanced to employees on time limited appointments in an amount in excess of that amount which could accrue during the remainder of the current appointment.

(c) Part-Time Physicians, Dentists, Podiatrists, Chiropractors, Optometrists, Nurses, Nurse Anesthetists, PAs, EFDAs and 7306 Appointees in Title 5 or Hybrid Title 38 Occupations. Part-time physicians, dentists, podiatrists, chiropractors, optometrists, nurses, nurse anesthetists, PAs and EFDAs may be advanced annual and sick leave based on the ratio which their employment bears to full-time employment and the amount of annual and sick leave that may be advanced to a full-time employee covered by subparagraph (3)(a) and (b). For example, a half-time employee who is not on a time limited appointment may be advanced up to 104 hours of annual leave and up to 180 hours of sick leave at any time during the leave year.

(d) Leave Advanced During Time-Limited Appointments. Advance sick and annual leave may not exceed the amount an employee can accrue during the remainder of any time limited appointment.

NOTE: *Sick leave may be advanced to full- or part-time employees irrespective of whether or not there is annual leave to the employee's credit.*

(e) **Long Term Absences and Adoptions.** In cases of serious disability, ailments, or for adoption-related purposes, an employee with no time limit in his or her appointment may be advanced sick leave not in excess of 30 days (240 hours). An employee serving under a time limited or term appointment may be granted sick leave up to the total leave that would otherwise be earned during the term of the appointment. There may not be more than 30 days (240 hours) of advanced sick leave on an employee's record at any one time. The amount of annual leave to an employee's credit generally will have no bearing on grants of advanced sick leave.

7. OTHER LEAVE

a. Military Leave

- (1) A full-time employee appointed under authority of 38 U.S.C. 7306, 7401(1), 7405 (a)(1)(A) or (D) or 7406 not limited to 1 year or less is eligible for and shall be granted military leave in the same manner as other Federal employees. The granting and charging of military leave contained in chapter 2 of this part for title 5 employees is also applicable to title 38 employees covered under this paragraph. Administrative non-duty days that occur within the period of military service will not be charged to military leave. Full time physicians, dentists, podiatrists, chiropractors, and optometrists employed on a 24/7 availability will be charged military leave on a[n] [hourly] basis for duty days.
- (2) A part-time employee appointed under authority of 38 U.S.C. 7405(a)(1)(A) or (D) or 7406 not limited to 1 year or less is entitled to leave without loss in pay, time or performance or proficiency rating for active duty or engaging in field or coast defense training under sections 502-505 of title 32, United States Code, as a member of the Reserve of the armed forces or member of the National Guard. Leave accrues for these employees at the rate of 15 days per fiscal year (to be credited at the beginning of the fiscal year) and, to the extent that it is not used in a fiscal year, accumulated for the use in the succeeding fiscal years until it totals 15 days at the beginning of a fiscal year. Scheduled workdays and intervening days for which no work is scheduled falling within a period of absence for this duty are not charged to military leave. This entitlement is provided pursuant to authority of 38 U.S.C. 7421.

b. Court Leave. Employees appointed under authority of 38 U.S.C. 7306, 7401(1), 7405(a)(1)(A) or (D) or 7406 are eligible for and shall be granted court leave in the same manner as other eligible Federal employees.

c. Home Leave. Employees shall earn and be granted home leave on the same basis as employees subject to the provisions of 5 U.S.C. chapter 63.

d. Family and Medical Leave Act

- (1) Office of Personnel Management regulations published in 5 CFR 630.1201-1211 will be used to implement the statutory requirements for administering Family and Medical Leave Act entitlements for [full and part-time employees in positions] appointed under 38 U.S.C. 7401(1).
- (2) An employee may substitute up to 26 administrative workweeks of accrued and accumulated sick leave when using FMLA under 5 U.S.C. 6382(a)(3) to provide care for a covered service member. Amounts are prorated for part-time employees and employees on uncommon tours of duty (5 CFR 630.403).

time off without charge to leave when their personal religious beliefs require that they abstain from work during certain periods of the workday or workweek, thereby avoiding an annual leave or leave without pay charge.

- b. State and Local Holidays.** If a facility is closed on a State or local holiday because it is determined that Federal work may not be properly performed as provided in paragraph 5d of part II, chapter 2, absence on such day is not chargeable to leave for an employee of the facility. Such approved time off is considered authorized absence without charge to leave.

9. **AUTHORIZED ABSENCE.** An authorized absence is an absence administratively approved, which does not result in a charge to leave of any kind, or in loss of basic salary. The following will be used as the *guide* in determining the types of absences from duty which may be authorized without charge to leave.

- a. Rest and Relaxation.** The Under Secretary for Health and facility directors or the professional person acting for them are authorized to approve absence [] not to exceed 24 consecutive hours for rest and relaxation for full-time physicians, dentists, podiatrists, chiropractors, and optometrists who have been required to serve long hours in the care and treatment of patients.

b. Tardiness or Absence for Part of a Day

- (1) [An unavoidable or necessary absence from duty and tardiness of less than 1 hour may be excused for full-time physician, dentist, podiatrist, chiropractor, or optometrist. In other instances, absences or tardiness will be charged to annual leave or LWOP (with the employee's consent), or absence without leave, as appropriate]. When approving authorized absence, approving officials will consider any potential adverse impact on patient care as well as the frequency of requests for authorized absence by the employee.
- (2) It is incumbent upon supervisory officials to ensure that full-time nurses, nurse anesthetists, PAs, and EFDAs and part-time employees discharge their obligation to VA in terms of the number of hours for which payment is made and the number of hours actually worked in accordance with the pre-established tour of duty. An unavoidable or necessary absence from duty and tardiness of less than 1 hour may be excused. In other instances, absences or tardiness will be charged to annual leave or LWOP (with the employee's consent), or absence without leave, as appropriate. The charges to leave will come as a result of appropriate reporting in the [timekeeping] system.
- (3) Repeated instances of tardiness or unexcused absences during scheduled working hours will be considered a disciplinary matter under the provisions of VA Handbook 5021 or as a matter for appropriate action with regard to probationary employees and temporary full- and part-time employees under the applicable provisions of VA Handbook 5021.

- c. Hearings Before Federal Boards, VA Boards and Committees.** Absence of employees required to appear before Federal boards, before VHA boards, or before other VA boards or committees as witnesses or as participants in the matter under consideration will be approved without charge against leave.

(4) Employees may be granted LWOP for pregnancy and confinement as provided in paragraph 7d.

(5) The minimum charge for LWOP for full-time physicians, dentists, podiatrists, chiropractors, and optometrists will be [one hour and multiples thereof].[]

b. Conditions Which Will Be Met for Approval of Leave Without Pay. Except for the employees indicated in subparagraph a (2), (3) and (4), LWOP will not be approved unless the following conditions are met.

(1) There is expectation that the employee will return to duty in VA at the expiration of the LWOP period. At the discretion of the facility Director the employee may be required to signify such intentions by submitting a signed statement to that effect to be made a matter of record.

(2) The needs of the service with respect to patient care will not be unduly hampered by the employee's absence.

(3) The contribution or service of the employee is such to merit granting LWOP, as evidenced by supervisory evaluation.

(4) It is clearly indicated that one or more of the following advantages will accrue to the service.

(a) The value of the employee will be increased.

(b) Training of the employee in a specialty needed by VA.

(c) Retention of a capable employee in an area where recruitment of qualified personnel is difficult.

(d) Protection or improvement of employee's health.

c. Notice to Employee. Employees granted LWOP for more than 30 days will be notified in writing by the Chief of Service that:

(1) There is no assurance of their assignment to their former position or facility on the expiration of the approved period of LWOP, although it will be the policy to make every effort to return them to the facility which granted the LWOP, except under the circumstances enumerated below:

(a) When the employee requests reassignment to another facility and there is a suitable vacancy there and both facilities concur in the transfer. Such transfers will be handled by the facilities concerned, if the action normally does not require prior approval of VACO.

- (b) When VACO may wish to offer the employee assignment elsewhere in the interests of the service. For example, the services of a nurse returning from educational LWOP might be required at another facility as an associate chief, nursing service for education.
- (c) In the event a staff adjustment is necessary while an employee is on LWOP, the employee is subject to being declared surplus on the same basis as other on-duty employees.

(2) They should communicate with their supervisor at least 2 weeks before the expiration of their LWOP to arrange for their return to duty.

- d. Action by the Human Resources Office.** The Human Resources Management Office of the facility which granted the LWOP will maintain necessary controls to insure that a vacancy is available for the return of the employee to duty. In unusual circumstances where it is not possible to return the employee to the facility the employee left, VACO assistance in placing the employee may be requested.
- e. Human Resources Office Records.** LWOP for more than 30 calendar days will be documented on Standard Form 52, Request for Personnel Action, forwarded to the Human Resources Management Office for appropriate action and filed in the employee's personnel folder.

11. LEAVE WITHOUT PAY (LWOP) FOR FAMILY SUPPORT PURPOSES. This is sometimes referred to as Expanded FMLA but is not based on the authority of the Family and Medical Leave Act (FMLA) of 1993. Therefore, this LWOP is not counted towards the 12-week FMLA entitlement authorized in 5 U.S.C. 6382. Employees are not required to complete at least 12 months of Federal service to be eligible for this LWOP. The granting of this LWOP shall be a matter of administrative discretion. Annual and sick leave cannot be substituted for this LWOP. Annual leave donated under the Voluntary Leave Transfer Program cannot be substituted to this LWOP.

- a. LWOP for family support purposes may be used for any of the following family members: spouse, and parents thereof; sons and daughters, and spouses thereof; parents, and spouses thereof; brothers and sisters, and spouses thereof; grandparents and grandchildren, and spouses thereof; domestic partner and parents thereof, including domestic partners of sons and daughters and spouses thereof; parents, and spouses thereof; brothers and sisters, and spouses thereof; and grandparents and grandchildren, and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- b. Up to 24 hours [] of leave without pay (LWOP) may be granted to employees for the following family support purposes:
 - (1) To participate in school activities directly related to the educational advancement of their child;
 - (2) To accompany their children to routine medical or dental appointments, such as annual checkups and vaccinations; and

PART III

CHAPTER 3

- (3) To accompany their elderly relatives to routine medical or dental appointments or other professional services related to the care of the elderly relative, such as making arrangements for housing, meals, telephones, banking services, and other similar activities.
- c. Full-time employees [] may be granted up to 24 hours of LWOP each leave year for family support services. Part-time employees may be granted LWOP in direct proportion to their regularly scheduled number of hours to the 24-hour limitation each leave year.
- d. Employees may be required to provide administratively acceptable documentation related directly to requests for LWOP for family support purposes, including medical certification, as appropriate.

**PART III
CHAPTER 3****12. UNAUTHORIZED ABSENCE**

- a. **General.** Unauthorized absence is any absence from duty which has not been approved. An employee who is absent without approval for any cause will explain to the person authorized to approve leave, at the earliest practicable time, the cause of this absence and the failure to ask for permission to be absent. If it is found that the employee was absent without sufficient cause, or that the failure to obtain permission to be absent is not satisfactorily accounted for, the time lost will be counted as unauthorized absence and pay will be forfeited in the applicable amount.
- b. **Charging Unauthorized Absence.** The minimum charge for unauthorized absence for full-time physicians, dentists, [] podiatrists, chiropractors, and optometrists is 1 [hour and multiples thereof]. The minimum charge for unauthorized absence for full-time nurses, nurse anesthetists, PAs and EFDAs and part-time employees is 15 minutes and multiples thereof.

13. DISPOSITION OF LEAVE ON TRANSFER, SEPARATION, OR RETIREMENT**a. Lump-Sum Leave Payments**

- (1) The provisions of 5 U.S.C., chapter 55, subchapter VI, which provide for lump-sum payment of annual leave, are for application to employees appointed under 38 U.S.C., chapter 73 and 74. Lump-sum payments are based upon the amount of annual leave to the credit of an employee on the date of separation. There is no authority to grant annual leave immediately prior to separation when it is known in advance that the employee is to be separated except where exigencies of the service require such action (34 Comp. Gen. 61).
- (2) Lump-sum payments for full-time nurses and nurse anesthetists on the Baylor Plan are also based on the amount of annual leave to the credit of a nurse or nurse anesthetist on the date of separation. However, the lump-sum payment to such nurse or nurse anesthetist shall be based on the applicable hourly rate of base pay in effect for a similar employee's service outside the Baylor Plan, i.e., the annual rate of basic pay divided by 2080.
- (3) Special pay for physicians and dentists is considered basic pay for the purpose of lump-sum leave payments unless there is a refund liability. See 38 U.S.C. 7438.

- b. **Recredit of Leave-Different Leave System.** OPM is authorized by 5 U.S.C. 6308 to regulate the transfer and recredit of leave when different leave systems are involved. (See VHA Sup., MP-4, pt. II, par. 1D.05, for conversion formula.)

c. Disposition of Annual Leave Account**(1) Changes During Employment in VHA**

- (a) When an employee is serving in an appointment which provides for leave accrual, and is subsequently converted or appointed without a break in service to another type of appointment which also provides for leave accrual, accumulated and accrued leave

NOTICE TO ALL EMPLOYEES

POSTED PURSUANT TO AN ARBITRATION AWARD BETWEEN THE
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (UNION)
AND U.S. DEPARTMENT OF VETERANS AFFAIRS (AGENCY)

On October 9, 2019, the Union filed a National Grievance against the Agency concerning its implementation of VA Handbook 5011/32 (Hours of Duty & Leave).

On December 30, 2020, Arbitrator Steven C. Kasarda found that the Agency violated the 2011 VA/AFGE Master Agreement by converting the accrued leave balances of certain AFGE bargaining unit employees from “days” to “hours.” The Arbitrator also found that the Agency committed an unfair labor practice under the Federal Service Labor-Management Relations Statute, 5 U.S.C. §7116(a), by failing to satisfy its bargaining obligations with the Union.

The Agency hereby notifies its employees that it will comply with the arbitration award and its bargaining obligations with the Union.

The Agency will not interfere with, restrain, or coerce employees, or their designated representatives, in the exercise of rights assured by law.

You are receiving this email because you are an AFGE bargaining unit employee. No further action is required. Thank you.



04/27/21

Renee Oshinski
Assistant Under Secretary for Health for Operations
U.S. Department of Veterans Affairs

Date

Revised for clarification of the required action:



POLICY UPDATE

Date: 8/28/2019

Policy Office: Worklife and Benefits Service (058)

Contact: Worklife Team, vaco058worklife@va.gov

Handbook Reference: VA Handbook 5011/32, Part III, Chapter 3

VA Handbook 5011/32, Hours of Duty and Leave provides the following changes:

- Change the leave charge, leave accrual rate, and maximum carryover for full-time physicians, dentists, chiropractors, podiatrists, and optometrists from days to hours; and
- Establish the variable work schedule for full-time physicians.

The attached policy revision to VA Handbook 5011 was signed on July 26, 2018; however, the implementation of the policy was delayed until the three supporting information technology systems could be updated to accommodate the policy changes. On August 2 and August 3, 2018, OHRM issued two Human Resources Management Letters (HRMLs), No. 05-18-05 and 05-18-06, to provide guidance regarding the delayed implementation of VA Handbook 5011/32.

Implementation is as follows:

- **September 15, 2019**, (pay period 19) for policy and system changes to leave charge, accrual rate, and maximum carryover amounts for full-time physicians, dentists, chiropractors, podiatrists, and optometrists. Additional information can be found at: <https://vaww.va.gov/OHRM/Worklife/DailytoHourlyLeaveChange/index.asp>.

Required Action: As it relates to this implementation, Supervisors, and Payroll staff must ensure all affected employees have hourly work schedules established and approved **after the conversion action processes** (anticipated 9/19/19) and the schedules are visible in the VA Time and Attendance System (VATAS). Failure to establish the hourly work schedules before the end of the pay period may result in a delay to pay for the affected individual(s). For questions regarding VATAS, please submit a case ticket to VAFSC Payroll Support Tier 1 using the customer service portal at: <https://vaww.cpm.fsc.va.gov>.