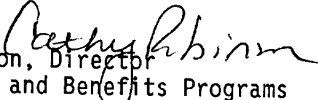


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92-19

Date: October 21, 1992

To: Personnel Officers

To: 
From: Cathy Robinson, Director
Compensation and Benefits Programs
Human Resources

Subject: CATASTROPHIC LEAVE PROGRAM

Last year, Employee Relations reached agreement with all CSU unions on a uniform Catastrophic Leave Donation program. The Trustees extended the program to all nonrepresented employees last September. However, there was a syntactical error in the agreed upon language which has raised questions about whether the represented and nonrepresented programs are the same. In addition, there have been many questions about specific interpretations of various provisions of the program.

The CSU's intent was to have a single leave donation program with uniform procedures for all represented and nonrepresented employees. After consulting with many campus Benefits Officers, Payroll Supervisors, and the Executive Committee of the Personnel Directors' Council, my office has developed the attached guidelines in question and answer format.

Our purpose is to suggest uniform practices within the parameters set by the negotiated language. However, we also recognize each campus' need for some flexibility in administering the program. We hope the attached guidelines will assist you in grappling with the day-to-day issues raised by this type of program.

If you have any additional questions, please do not hesitate to contact me in the Systemwide Benefits Office at (310) 985-2669.

CR/pb
Attachment

Distribution: Presidents (w/o attachment)
Vice Chancellor, Human Resources & Operations "
Benefits Officers (with attachment)
Payroll Supervisors "
Employee Relations Designees "

The CSU Catastrophic Leave Donation Program

Questions and Answers
October 1992

What is the definition of catastrophic illness or injury?

The negotiated language defines a "catastrophic" illness or injury as one which has totally incapacitated the employee from work. The name of the program implies that the nature of the illness or injury must be catastrophic. Some conditions, such as heart attack, are clearly considered catastrophic, but others, such as pregnancy, may not be as clear. Generally speaking, if the medical substantiation indicates that the condition causes total incapacitation from work, the condition can be considered catastrophic. Chronic conditions such as cancer, AIDS, and residual effects of a stroke, may also be considered catastrophic, even if the condition results in only intermittent absences.

Conditions which are short term in nature, such as colds, flu, or minor injuries, are generally not deemed catastrophic. The campus must make a case by case determination. If any given circumstance is borderline, remember that the program is somewhat self-policing in that employees can donate or not when a solicitation notice goes out to the campus.

Catastrophic illness/injury also includes incapacitating conditions of immediate family members when the employee must take an extended period of time off to care for the family member. The campus is responsible for determining what constitutes appropriate verification of illness or injury. The campus also determines the employee's eligibility to receive the benefit.

In the case of family illness/injury, how is "immediate family" defined?

For represented employees, campuses should use the definition in the sick leave provisions of the collective bargaining agreement covering the employee receiving the leave donations.

For nonrepresented employees, the campus should be consistent with its past practice regarding the use of sick leave for family illness. Generally, this includes close relatives. It also includes other individuals who are close to the employee and reside in the employee's home.

What is the definition of appropriate verification of illness or injury for this program?

This is a question which must be answered by the campus. Specific documentation requirements may vary from campus to campus.

What constitutes "exceptional circumstances" for the disabled employee to be approved for an additional three months' of catastrophic leave?

The campus must answer this question on a case by case basis. The decision may be influenced by the severity of the illness or injury. In addition, the campus may consider other benefits, such as CSU-provided long term disability which may become payable and may mitigate the employee's need.

Who is eligible to donate leave credits?

Any employee who accrues sick leave and/or vacation may donate leave credits to other employees on the same campus, regardless of bargaining unit. When the program was extended to nonrepresented employees, it became available to all employees who are not represented by a bargaining unit. This includes executives, Management Personnel Plan employees, confidential employees, and nonrepresented teaching associates. Although student assistants and graduate assistants are nonrepresented, they do not accrue sick leave or vacation; therefore, they are ineligible for the catastrophic leave donation program.

Who is eligible to receive leave donations?

Any employee who accrues vacation and/or sick leave credits may receive donations if he/she has a catastrophic illness or injury and has exhausted all CTO, vacation and sick leave available for use during the absence.

Can participants in the Faculty Early Retirement Program donate and receive leave credits?

FERP participants who have a leave balance are eligible to donate credits at any time. This is true even during their scheduled non-work periods, if the faculty member is expected to return to work the following academic term.

However, FERP participants may receive and use donations only during scheduled work periods. In other words, if the recipient faculty member normally works during the fall semester or quarter and is off during the subsequent term within the same academic year, catastrophic leave credits may be used only during the fall. If the faculty member is appointed for one academic year, leave credit may be used until the end of that appointment. As with any other temporary appointment, the person should not be reappointed until he or she is able to return to work.

There is currently a 160-hour maximum accrual of sick leave for FERP participants. Does this mean that FERP participants can receive only a total of 160 hours of donated time, no matter what the length of the illness?

No. FERP participants have the same catastrophic leave eligibility as any other employee who has exhausted all leave credits. However, remember that FERP participants may use donated time only during their normally scheduled work periods.

What types of leave credits can be donated?

Sick leave and vacation credits may be donated. Each donating employee may give up to 16 hours of leave credits per fiscal year. In determining the donation limit, the controlling date is when the donation is pledged, regardless of when the credits are actually used by the recipient employee.

Can an employee donate CTO credits?

No, only sick leave and vacation may be used for this program.

Is it permissible for the campus to establish a "pool" of donated time?

One campus established a pool when the first catastrophic leave program was implemented. However, neither the negotiated language nor the Title V language support such an approach. While the Chancellor's Office would not ask a campus to abandon an existing practice, no new pools can be established.

May the campus administration be the spokesperson or coordinator for this benefit, rather than the union?

Yes, if the campus wishes. The negotiated language for a prior version of this program placed the union in the role of requesting donations for disabled employees, but this language no longer exists in the collective bargaining agreements. While the unions may continue to submit such a request, many campuses may find it more efficient to initiate the donation process as soon as the individual's situation becomes known.

Can the campus limit or restrict solicitations by union representatives?

The negotiated language gives any union the right to solicit leave donations from bargaining unit employees for employees eligible to receive donated leave credits. If the campus questions the propriety of the union's procedures, the campus must make a determination and take action based on the circumstances of the particular case.

Must an employee have used his/her Personal Holiday prior to using catastrophic leave?

The intent of this program is to assist an employee who has exhausted all types of pay normally available to cover the absence. Generally, this would also include the employee's personal holiday.

Is supplementation with NDI, IDL or TD a requirement for an employee to be eligible for donated leave credits?

The purpose of the catastrophic leave program is to supplement any disability benefits for which the employee is eligible. Therefore, if the employee is eligible for NDI, catastrophic leave should be used only to supplement the NDI. The employee should not be allowed to waive NDI at his/her option and still apply for catastrophic leave donations. However, if the employee is ineligible for NDI (because he/she is part-time temporary, for example), catastrophic leave may be used without supplementation. The campus may use discretion in allowing the use of catastrophic leave when an employee has applied for a disability benefit but that benefit is pending approval.

When applying for NDI, an employee has a choice whether to use just sick leave or to use all available leave credits prior to NDI. If the employee chooses to use only sick leave, would he/she still be eligible for catastrophic leave?

No. The vacation credits are available for the employee's use during a nonindustrial disability, so they must be exhausted prior to receiving catastrophic leave donations.

If an academic employee supplements NDI with catastrophic leave, how will the pay during July and August be processed? How is the academic settlement calculated?

Because the employee receives full pay during the catastrophic leave, there is no adjustment due. There is no year-end calculation unless there has also been a period of leave without pay or only partial pay. The year-end calculation is required only for periods for which the employee is "docked."

Can an employee use catastrophic leave to supplement IDL when all his/her sick leave has been exhausted but there is still a vacation balance?

No. All leave credits must be exhausted before an employee is eligible to use catastrophic leave donations.

IDL allows employees to use only sick leave accrued as of the date of injury; leave accrued after that date is not available for IDL supplementation. Can the employee use donations when there is a balance of recently accrued leave?

No. The IDL Administrative Guide will be revised to provide an exception for catastrophic leave program participants. During a catastrophic leave, the employee's leave credits should be used as accrued. Do not continue to process donated leave without also exhausting the employee's own leave credits.

What about supplementation for family illness?

In the case of catastrophic family illness or injury, there is no disability benefit available to the employee. Therefore, there is no supplementation.

Can an employee use catastrophic leave donations for family illness even if he/she has a sick leave balance?

Possibly. The employee must have exhausted all vacation and CTO credits, as well as the maximum amount of sick leave available for family illness. Generally, an employee can use only 5 days of sick leave for family illness each year but the employee's MOU may permit the campus to waive this limit. The employee must exhaust all sick days allowed for family illness before receiving catastrophic leave; the remaining sick leave balance is unavailable for use during this type of absence and does not prohibit participation in the program. (Family illness is the only exception to the rule that employees must exhaust all leave credits prior to using donations.)

Employees employed in academic year positions do not accrue vacation. Yet, only vacation may be donated for family catastrophic illnesses. Does this mean that academic employees cannot receive donations for family illness?

No. Once the leave credits have been donated, they lose their identity as "sick" versus "vacation" time. An academic employee who accrues sick leave and has exhausted all sick leave available for family illness may indeed use donated catastrophic leave credits.

Is supplementation limited to 2/3 of the employee's pay?

No. This is a limit which applied to the very first version of catastrophic leave adopted in the CSU system. However, it no longer applies. Under the current program, catastrophic leave may be used to bring the employee up to full pay. In no case can the employee receive more than full pay because of leave donations.

If there is not enough donated time to pay an employee full salary for the entire period of catastrophic leave, can the leave credits be "spread out"?

Yes, if the campus wishes to allow this practice. If the total donated time received is at or near the amount required to cover the entire period, the full subsidy should be processed. If total donations are less than the amount needed, the employee could receive the maximum subsidy until the donated time is exhausted and then revert to straight NDI/IDL/TD payments. Alternatively, the employee could request to distribute the available subsidy over the period of disability so that the monthly income is substantially the same from month to month.

If catastrophic leave is being paid without supplementing NDI, IDL or TD, is there any payroll input required?

No. If 100% of the employee's pay is comprised of donated leave, this is simply regular pay. While there are internal recordkeeping tasks related to the use of leave credits, there is no payroll input required.

Do employees continue to accrue leave credits while on catastrophic leave?

Yes. By law, we are required to continue leave accruals if the cause of the absence is related to an industrial injury or accident. In addition, the donated credits which are not supplementing another benefit "look like" regular pay in the payroll system; so for consistency, all catastrophic leave recipients accrue leave credits at their normal rate for all qualifying pay periods. During any catastrophic leave, the employee's leave credits should be used as accrued. Do not continue to process donated leave without also exhausting the employee's own, newly-accrued leave credits.

Does an employee earn service credit toward retirement and seniority points while on catastrophic leave?

Yes. Retirement service credit is calculated for qualifying pay periods in the same way as for regular pay. Likewise, the donated time counts toward seniority points, just like regularly accrued leave does.

What about service credit toward MSAs, if the employee is not at the top step of classification?

Yes. Again, donated leave should be treated just like regularly accrued leave. If the employee has the number of qualifying pay periods required for MSA eligibility, he/she should be considered for the MSA.

Does a probationary employee earn credit toward permanent status while on catastrophic leave?

No. Generally, the collective bargaining contracts specify that an employee's probationary period is extended for periods of Workers' Compensation, IDL, NDI, or paid sick leave in excess of 30 days. Donated leave should be treated in the same manner as paid sick leave in determining whether or not there has been a break in service for this purpose.

Are catastrophic leave payments subject to PERS retirement contributions?

Yes. And no! Because IDL payments are already subject to retirement with the computation based on the employee's "full pay" and reported to PERS for full service credit, any supplement to IDL is excluded from PERS retirement contributions. In all other cases, the employee and the CSU pay PERS retirement contributions based on the donated leave, just like regular pay. As mentioned before, the employee also receives the benefit of the service time in calculation of a PERS benefit at retirement.

What is considered the first day of catastrophic leave? Is it the first day of disability, the first day of NDI, IDL or TD benefits, the 23rd day of IDL pay, or the date the employee changes from IDL to TD?

The answer could be any of the above; it is the first day for which donated leave credits are used. This will vary in different cases, and it may not have any relationship to the first day of disability. For example, if the absence is being paid under IDL, the first day of catastrophic leave could be either the 23rd day of IDL or the date the employee changes from IDL to TD, depending on whether the employee elects to defer participation until IDL has been exhausted. For family leave situations, the first day will vary widely, depending largely upon the employee's accrued vacation balance.

On the other hand, if there is a period of absence prior to NDI or Workers' Compensation certification of disability, the campus must decide if it has received adequate verification of illness or injury for that portion of the absence. The CSU has complete authority over the catastrophic leave program, and the campus must determine what constitutes appropriate verification for this purpose. The documentation provided to the campus for catastrophic leave donations may or may not completely agree with the information received by the agency administering the other disability program.

When will the PIMS Manual procedures and the SCO Payroll Procedures Manual be updated to reflect the current version of the Catastrophic Leave Donation program?

Completion of the PIMS Manual updates has been delayed pending systemwide review of this program. Now that all the program guidelines have been compiled, the processing procedures can now be completed. The PIMS Unit will complete their manual updates within a few weeks and distribute them immediately upon printing. The State Controller's Payroll Procedures Manual generally takes longer to update, but again that process is underway now that most of the interpretive issues have been resolved.