



ADMINISTRATIVE PROCEDURE 99-05

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Executive Director

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EMPLOYEES' SICK LEAVE BANK PROGRAM

I. **AUTHORITY**

The policy was last amended by the Executive Director on August 12, 2022.

II. **APPLICATION**

This Administrative Procedure applies to career Merit System employees who meet the criteria for participation in the Sick Leave Bank (SLB) Program, as outlined in the section titled, "Membership Eligibility."

III. **PURPOSE AND BACKGROUND**

This Procedure describes the Employees' SLB Program and establishes the terms and conditions for participation. The Program was initially implemented by the Commission on November 8, 1989. Since its initial adoption, the SLB Program has been amended, as follows:

- January 1, 2004: Amended to clarify the eligibility requirements for joining the SLB Program, the procedures for enrollment, and automatic review for eligibility for Long-Term Disability benefits when employees use SLB Program hours for sixty (60) days or longer.
- November 12, 2008: Amended to reflect the use of a Third-Party Program Administrator, eliminate waivers of the "waiting period" for SLB Program benefits, and reduce the percentage of an employee's workday the SLB Program will cover from one hundred percent (100%) to seventy-five percent (75%).
- January 1, 2016: Amended to permit use of up to eighty (80) hours from the SLB Program for the care of an immediate family member with a serious medical condition, using the criteria for the Family Medical Leave Act (FMLA).
- January 1, 2017: Amended to reduce the SLB Program's waiting period from twenty-eight (28) to fourteen (14) calendar days and increase the maximum number of hours annually available to an employee from three hundred ninety-six (396) to four hundred fifty-six (456) for full-time employees, and from one hundred ninety-eight (198) to two hundred twenty-eight (228) for part-time employees.

- November 14, 2019: Amended to clarify the roles of the Health and Benefits Office and the Third-Party Administrator for administering the SLB Program, the process to submit a claim, and requirements for waiting periods.
- January 1, 2021: Amended to: (i) reduce the SLB Program's waiting period from fourteen (14) to seven (7) calendar days (ii) increase the percentage of workday hours the SLB Program will cover from seventy-five percent (75%) to eighty percent (80%) and (iii) Increase the maximum number of SLB benefit hours available annually to an employee from four hundred fifty-six (456) to five hundred eighteen (518) for full-time employees, and from two hundred twenty-eight (228) to two hundred fifty-nine (259) hours for part-time employees.
- September 15, 2021: Effective 01/01/2021, amended to: (i) remove waiting periods before and after enrollment (ii) require exhaustion of all leave except for 80 hours of annual leave before eligibility to use SLB hours (iii) provide a maximum leave of 480 hours to employees for parental responsibilities including birth, adoption, or foster care (iv) expand the definition of covered family members to mirror those defined under FMLA (v) increase the age of a covered child to those under age 26, when caring for a sick child and (vi) extend care for an ill family member from 80 hours to 160 hours.
- August 12, 2022: Amended to add a provision called Actively at Work (AAW) as a condition for an employee to receive SLB benefits.

IV. **QUESTIONS**

For questions regarding the SLB Program, contact the Health and Benefits Office, Division of Human Resources, in the Department of Human Resources and Management, at 301-454-1694 or benefits@mncppc.org. For copies of the policy, contact the Corporate Policy Office at policyreview@mncppc.org or 301-454-1736.

V. **REFERENCES**

- M-NCPPC Merit System Rules and Regulations
- M-NCPPC Collective Bargaining Agreements
- Family and Medical Leave Act of 1993, as amended
- Maryland Organ Donation Act of 2019

VI. PROCEDURE

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A. DEFINITIONS

Actively at Work (AAW) means performing the usual and customary duties of an employee's assigned job. AAW includes work done at an M-NCPPC facility, an alternate work-location approved by a supervisor, or a place to which the employee is required to travel for work. The employee will also be deemed AAW during weekends, holidays, business closures, scheduled time off, and supervisor approved leave, provided the employee was Actively at Work on the last scheduled workday before taking time off.

Commission means the governing body of the Maryland-National Capital Park and Planning Commission, which is comprised of five members from each of the agency's two Planning Boards for Montgomery County and Prince George's County.

Family Member means for purposes of this procedure, a family member includes an employee's spouse, domestic partner (as qualified under the Commission's Health and Benefits Program), parent, or child up to the age of twenty-six (26) (older if disabled).

Long-term Disability (LTD) means an income replacement plan that allows participants to receive a portion of their income while they recover from a serious medical condition or until they reach their maximum benefit period.

Maryland-National Capital Park and Planning Commission means the organizational entity. For purposes of this Procedure, the terms "M-NCPPC" or "agency" shall be used to reference the organizational entity.

Parental Responsibilities means for purposes of this policy, parental responsibilities are defined as either parent's involvement within the first 12 months following:

- Birth of a child
- Adoption of a child or
- Foster placement of a child.

Workers' Compensation means the agency's program that covers a work-related injury or illness, consistent with State laws.

B. OVERVIEW

The purpose of the Employees' Sick Leave Bank Program (SLB Program) is to provide paid leave to cover a portion of an eligible employee's lost time from work due to the employee's own serious health condition or parental and other family-related caregiving responsibilities. The SLB Program may be used by an employee for reasons covered by the Maryland Organ Donation Act or the Family Medical Leave Act (FMLA). SLB Program benefits are available to eligible Merit System employees, who have enrolled in the program and have exhausted all accrued leave balances, except for 80 hours of annual leave. SLB Program members may also request benefits

to care for an eligible seriously injured or ill immediate family member, as described in this Procedure.

C. MEMBERSHIP ELIGIBILITY

Merit System employees and appointed positions are eligible to participate in the SLB Program. The following employees are not eligible to enroll in the SLB Program:

1. Employees who participate in the Municipal and County Government Employees' Organization (MCGEO) union's Sick Leave Donor Program. These employees may not participate in both the agency's and the MCGEO's programs at the same time.
2. Employees represented by the Fraternal Order of Police (FOP), as they have their own SLB Program.

D. BENEFITS OF PROGRAM AND QUALIFYING EVENTS

The SLB Program will cover eighty percent (80%) of a full-time employee's regularly scheduled hours, up to an annual maximum. For part-time employees, SLB Program hours will be given based on a twenty (20)-hour maximum workweek, regardless of the number of hours scheduled to work.

The SLB Program may be used for the following qualifying events:

1. **Employee's Own Serious Medical Condition**

For an employee's own serious medical condition:

- A full-time employee may receive up to six hundred and eighty-eight (688) hours each calendar year.
- A part-time employee may receive up to three hundred and forty-four (344) hours each calendar year.

A licensed medical practitioner must certify that the employee is unable to work.

2. **Parental Responsibilities**

For parental responsibilities:

- A full-time employee may receive up to four hundred and eighty (480) hours each calendar year.
- A part-time employee may receive up to two hundred and forty (240) hours each calendar year.

For purposes of this policy, parental responsibilities are defined as either parent's involvement within the first 12 months following:

- Birth of a child

- Adoption of a child or
- Foster placement of a child.

For purposes of adoption and foster placement, a child shall be defined consistent with Maryland state laws governing adoption and foster placement.

3. **Immediate Family Member's Serious Medical Condition**

For the serious medical condition of an employee's family member:

- A full-time employee may request to receive up to one hundred sixty (160) hours per calendar year.
- A part-time employee may request up to eighty (80) hours per calendar year.

For purposes of this Procedure, an immediate family member includes an employee's spouse, domestic partner (as qualified under the Commission's Health and Benefits Program), parent, or child up to the age of twenty-six (26) (older if disabled).

SLB Program hours used for parental responsibilities and to care for an immediate family member are in addition to those available to the employee for their own serious medical condition.

4. **Intermittent Use of Benefits and Long-Term Disability Eligibility**

Use of the SLB benefits may be approved for a continuous or an intermittent basis, depending upon the nature of a serious medical condition, as described in Section F(1), How to Submit a Claim for a Member's Own Serious Medical Condition. When use of SLB Program benefits is approved on an intermittent basis, the benefits must be used within 6 months.

Employees using the SLB Program for their own serious medical condition for sixty (60) calendar days or longer will be automatically reviewed for eligibility for Long-Term Disability (LTD) benefits however, a member may not use SLB Program hours for more than one hundred twenty (120) calendar days.

E. ENROLLMENT IN THE PROGRAM

1. **How to Enroll**

Merit System employees may enroll by completing a SLB Program Membership Application and making the necessary leave contribution (see Section 2, below). The application can be obtained by calling the Health and Benefits Office at 301-454-1694 or by visiting www.mncppc.org and entering *Employee Benefits Information* in the search bar and navigating to the SLB Program. Employees eligible to use the Employee Self Service System may enroll online during the annual open enrollment season. Enrollment may occur, as follows:

- a. Upon Hire
 - i. Eligible Merit System employees may enroll in the Employees' SLB Program within sixty (60) calendar days of hire. This can occur at any time during the calendar year and is not restricted to the open enrollment period. If the employee does not enroll within the sixty (60) daytime period, they must wait until the next open enrollment period.
 - ii. Membership becomes effective the first (1st) day of the month, following receipt of the membership application, provided it is received within the sixty (60) day initial eligibility period and remains in effect indefinitely until terminated by the employee during any subsequent open enrollment period.
- b. During Annual Open Enrollment Period
 - i. Eligible employees may enroll during the agency's open enrollment period which occurs during the fall of each year and is announced by the Health and Benefits Office.
 - ii. Membership becomes effective January 1st of the following year and remains in effect until terminated by the employee during any subsequent open enrollment period.
- c. Employees Returning from Leave-Without-Pay Status
 - i. Employees who are in a leave-without-pay (LWOP) status during the open enrollment period and have exhausted all their accrued sick or annual leave, may join the SLB Program within sixty (60) days of their return to work date by completing the membership application.
 - ii. An employee who was in an LWOP status and desires to enroll in the SLB Program must make the required leave contribution to the Sick Leave Bank by the close of the third full pay period following the return to work date.
 - iii. Membership becomes effective the first (1st) of the month, following receipt of the membership application, and remains in effect until terminated by the employee during any subsequent open enrollment period.

2. Required Leave Contributions

- a. SLB Program members must make the following minimum contributions, which are deducted automatically at the time of enrollment and on an annual basis thereafter:
 - i. A full-time employee must contribute a minimum of eight (8) hours annually from their accrued sick leave balance, or annual leave balance, if there is an insufficient number of sick leave hours.

- ii. A part-time employee must contribute a minimum of four (4) hours annually from their accrued sick leave balance, or annual leave balance, if there is an insufficient number of sick leave hours.
- b. Employee leave contributions will not be returned for any reason after the leave has been deducted from the employee's leave balance.

3. Automatic Re-enrollment and Ending Enrollment

- a. All SLB Program members are automatically re-enrolled each year unless the member elects to end participation. A member may end their participation in the SLB Program only during the Open Enrollment Period.
- b. To end participation, a member must use the SLB Program Membership Application check the appropriate box to end enrollment and submit the form to the Health and Benefits Office. Employees eligible to use the Employee Self Service system may end enrollment online during the annual open enrollment season.

F. HOW TO APPLY FOR BENEFITS

1. How to Submit a Claim for a Member's Own Serious Medical Condition

- a. To submit a claim for a member's own serious medical condition, the employee or the employee's representative must call the Health and Benefits Office at 301-454-1694.
- b. The Health and Benefits Office will provide the employee with instructions on how to file an application with the Third-Party Program Administrator (TPA). The employee or the employee's representative must contact the TPA to have their claim processed.
- c. If eligible for Family Medical Leave Act (FMLA) benefits, the employee must also complete an FMLA form and submit it to his/her Department Head for approval. In such cases, Bank use will run concurrently with FMLA use. (For details on eligibility for FMLA, *see*: Merit System Rules and Regulations, Section 1640, Family and Medical Leave Status.) The FMLA form may be obtained from the Health and Benefits Office. The form can also be downloaded and completed online by visiting www.mncppc.org and entering "Employee Benefits Information" in the search bar and navigating to the SLB Program.
- d. Requests for medical documentation must be provided to the TPA within fourteen (14) calendar days after the request is made. Failure to provide requested medical information within fourteen (14) calendar days from the initial request date could result in a denial of benefits until the TPA receives the documentation.
- e. The TPA will notify the Health and Benefits Office of approval to use SLB Program benefits from a start date to an end date for the member's serious medical condition.

Approval may be given for either continuous or intermittent use, depending upon the nature of the serious medical condition and the determination of benefits.

- i. Continuous Leave: SLB Program hours may be approved for a period during which the employee is not expected to return to work until all hours have been exhausted. In such cases, if the employee returns to work prior to exhausting all hours granted, the employee's SLB Program leave status will be re-evaluated.
 - ii. Intermittent Leave: SLB Program hours may be approved for intermittent periods of time, for employees experiencing episodic health concerns requiring the use of benefits for short periods of time. In such cases, the employee may return to work before taking leave again and may continue this pattern until the hours awarded from the SLB Program have been exhausted. Intermittent use may not extend beyond six consecutive calendar months, even if the employee has not exhausted all SLB benefits. For example, an employee granted use of SLB Program benefits on an intermittent basis beginning January 1st must either use all hours/days granted by June 30th or risk termination of SLB Program benefits for the qualifying event.
- f. The Health and Benefits Office will notify the employee's supervisor or the department's Human Resources (HR) Coordinator of the period of time during which the employee is approved for SLB Program use and instruct the supervisor (or the HR Coordinator) on coding the employee's time card with appropriate codes applicable to SLB Program use.
 - g. The Health and Benefits Office will also notify the Payroll Office of the employee's approval to use SLB Program hours and the time period for which the employee has been approved.
 - h. Long-Term Disability: The TPA will automatically identify and initiate a Long-Term Disability (LTD) benefit claim after sixty (60) calendar days of using the SLB Program for an employee's own serious medical condition.

2. How to Submit a Claim for an Immediate Family Member's Serious Medical Condition

Requests to use SLB Program hours for an employee's immediate family member's serious medical condition are handled in the same manner as those for an employee's own serious medical condition. However, the Health and Benefits Office will process the application instead of the TPA. The employee must complete an FMLA form and submit it to the Health and Benefits Office with the attending provider's certification form. (**Note:** Domestic partners must be certified by the Health and Benefits Office before benefits may be allowed.)

3. How to Submit a Claim for Parental Responsibilities

Requests to use SLB Program hours for parental responsibilities are handled in the same manner as those for the care of a family member's own serious medical condition. The employee must complete an FMLA form and submit it to the Health and Benefits Office with the attending provider's certification form. For adoptions and foster care, the employee must

furnish proof of the placement for the intended adoption or foster care of a child up to the age of 18, or older if disabled. The employee must also demonstrate they are primarily responsible for caring for the child.

G. DONATING LEAVE TO THE PROGRAM UPON TERMINATION OF EMPLOYMENT

1. Employees who plan to resign or retire from the agency may donate up to forty (40) hours of their accrued sick leave to the SLB Program. Employees do not need to be a SLB Program member to make such donations. Hours donated to the SLB Program will not be reinstated if the employee making the donation later returns to a Merit System position within the agency.
2. To make a donation, terminating employees must complete a “Sick Leave Bank Donation Form,” which can be obtained by calling the Health and Benefits Office or by visiting www.mncppc.org and entering “Employee Benefits Information” in the search bar and navigating to the SLB Program.
3. Employees must submit a written request to the Health and Benefits Office at least fourteen (14) calendar days prior to their termination date.

H. PROGRAM ADMINISTRATION

1. **Health and Benefits Office, Department of Human Resources and Management**
Administration of the SLB Program is the responsibility of the Health and Benefits Office in the Division of Human Resources, Department of Human Resources and Management. The Health and Benefits Office:
 - a. Ensures the total balance of hours held in the SLB Program are sustainable through ensuring that employees comply with the terms and conditions of this Procedure, monitoring the total number of hours donated to the SLB Program and used by participants, and recommending changes in annual contributions to the Commission, as needed.
 - b. Reviews or provides oversight of all requests to use SLB Program hours:
 - i. For employees – Coordinates with the TPA on claims to use SLB Program benefits for an employee’s own serious medical condition.
 - ii. For an employee’s immediate family member – Processes requests to use SLB Program benefits.
 - iii. For parental responsibilities – Processes requests to use SLB Program benefits.
 - c. Ensures that SLB Program benefits are applied consistently with the determinations of coverage provided by the TPA.

I. THIRD-PARTY PROGRAM ADMINISTRATOR

The Third-Party Program Administrator (TPA) is a vendor hired by the agency to review certain applications for SLB Program benefits for an employee's serious medical condition. The TPA:

1. Processes requests to use SLB Program hours for an employee's own serious medical condition, and
2. Provides the Health and Benefits Office with a determination of coverage for each request for SLB Program hours for an employee's own serious medical condition.

J. ADDITIONAL TERMS AND CONDITIONS

1. **Coordination of SLB Program Benefits with Other Leave Benefits**

a. Workers' Compensation

If an employee has been approved for use of SLB Program hours and has also been approved for Worker's Compensation, SLB Program benefits will be automatically terminated. If Workers' Compensation is approved retroactively, any SLB Program hours already used will be reversed in the payroll system and converted to Workers' Compensation.

b. Family Medical Leave Act (FMLA)

Should an employee qualify for leave status under FMLA, any SLB benefits will run concurrently with any time available under the FMLA. FMLA coverage is available to employees who have met the following minimum service and work hour requirements:

- 12 months of employment service with the Commission, not necessarily consecutive and
- 1,250 hours worked during the 12-month period immediately preceding the start of the leave.

c. Other Types of Leave

If other types of accrued paid leave (e.g., annual or sick leave) have been used concurrently with SLB Program hours for any reason, SLB Program benefits will be reversed in the payroll system (i.e., deducted from the employee's other accrued paid leave time).

2. **Prohibition Against Accruing Sick and Annual Leave While Receiving SLB Program Hours**

An employee will not accrue sick or annual leave while the employee is on disability leave and using SLB Program hours.

3. **SLB Program Hours Credited as Employee's Retirement System (ERS) Service Hours**
Hours received from the SLB Program will count as creditable Employees' Retirement System (ERS) service.
4. **Actively at Work (AAW) Status**
For enrollment in the Sick Leave Bank Program to become effective, the employee must be in an "Actively at Work" (AAW) status on the effective date of coverage. The effective date of SLB benefits coverage will be delayed until the employee returns to work, if not in an AAW status. For example, an employee enrolls in the Sick Leave Bank during open season in November of 2022, the employees' effective date of enrollment would be January 1, 2023. The employee would be covered under the Program on January 1st if Actively at Work on the day coverage begins. However, if the employee is not Actively at Work on the scheduled effective date, coverage would be delayed until employee returns to work. **Note:** Once coverage goes into effect the AAW status is no longer applicable. It is a one-time assessment and is never used again once the employee becomes covered.
5. **Use of SLB Program Hours Considered as Leave-Without-Pay Hours**
Hours used from the SLB Program will be concurrently considered Leave-Without-Pay Hours. These hours will count towards the Department's right to waive the employee's rights to the employee's position. These hours will also count toward the one year of leave-without-pay before an employee may be terminated.
6. **Change in Workday Status**
A SLB Program member who changes workday statuses from full-time to part-time or part-time to full-time status during the year will be able to use the SLB Program at the member's current workday status, regardless of the member's status at the time of the enrollment or leave contribution.
7. **Required Regular Contact with Supervisor**
The SLB Program member, or their representative, must maintain regular weekly contact with the employee and advise of any change in expected date of return to work, otherwise Bank benefits will be denied.