

**Questions and Answers Regarding Duty Status, Pay, and Leave Issues
Resulting from the Ebola Outbreak in West Africa**

1. May an employing agency adopt its own policies regarding whether or not employees potentially exposed to the Ebola virus are able to report to their normal worksite?

- A. In general, agencies should follow the recommendations provided by the Centers for Disease Control and Prevention (CDC) in determining the worksite and duty restrictions (if any) placed on employees potentially exposed to the Ebola virus. However, employees may be subject to other restrictions on movement established by applicable State or local health authorities (or health authorities of foreign governments for employees serving outside the United States). If an employee is quarantined or placed under other movement restrictions (due to potential exposure to the Ebola virus) that prevent the employee from reporting to his or her normal workplace—whether under CDC protocols or directives of State/local (or foreign government) health authorities—the employing agency is required to support those restrictions. (Hereafter, in these Qs and As, we will use the term “quarantine” to describe those who are restricted from reporting to their normal workplace.)

CDC recommendations can be found at its website www.cdc.gov. In particular, see Interim U.S. Guidance for Monitoring and Movement of Persons with Potential Ebola Virus Exposure at <http://www.cdc.gov/vhf/ebola/exposure/monitoring-and-movement-of-persons-with-exposure.html>. CDC has established four categories of risk level, which are used to determine the applicable monitoring and movement restrictions under its recommendations. See <http://www.cdc.gov/vhf/ebola/exposure/risk-factors-when-evaluating-person-for-exposure.html>.

2. What will be the duty status of an employee who has a potential exposure to Ebola virus and is asymptomatic but is not allowed to report to the normal worksite (quarantined) until 21 days after his/her last possible exposure?

- A. The duty status of the employee depends on the circumstances. Employees have certain entitlements but may also be subject to conditions or restrictions. Agencies have certain discretionary authorities that may also be subject to conditions or restrictions. For example, agencies may allow for ad hoc telework arrangements to be used to the extent appropriate. Other possible actions include allowing the employee to take sick leave, annual leave, advanced sick or annual leave, other accrued paid time off, or leave without pay, or placing the employee on excused absence (sometimes called administrative leave). While excused absence is generally used as a last resort, it may be approved in special circumstances. Question #3 addresses the use of excused absence in the special circumstances in which an employee’s possible exposure to Ebola and placement in quarantine status is the direct result of a work assignment, including an assignment to support efforts to control spread of the disease. Question #4 addresses quarantined

employees whose possible exposure to Ebola was not the direct result of a work assignment.

3. What will be the duty status of an employee who is asymptomatic but quarantined due to possible exposure to Ebola directly resulting from a work assignment?

- A. Given the special circumstances that exist in connection with the current Ebola outbreak, which President Obama has declared a “top national security priority,” (See <http://www.whitehouse.gov/the-press-office/2014/10/06/remarks-president-after-meeting-ebola>.) OPM believes that it would be appropriate for an employing agency to provide some amount of excused absence to an employee who is quarantined for potential exposure to the Ebola virus if that potential exposure is determined to be the result of a work assignment given to the employee. For example, if an employee is sent to perform a work assignment in a West African country where there is an Ebola epidemic and is placed under quarantine for up to 21 days upon return to the United States because of potential exposure during the work assignment, the employing agency could place the employee in excused absence status, without charge to annual or sick leave during the period of quarantine. Providing excused absence is an inherent agency management authority based on the broad authority of an agency head to manage his/her workforce under 5 U.S.C. 301-302. It is generally used as a last resort when other personnel tools are not sufficient or appropriate. While OPM sick leave regulations anticipate that sick leave would generally be used when an employee is exposed to a quarantinable communicable disease (see 5 CFR 630.401(a)(5)), in the case of the Ebola outbreak agencies face special circumstances where the employee’s exposure to a life-threatening disease is directly attributable to a work assignment, including an assignment to support efforts to control the spread of the disease. In these special circumstances, an agency head may reasonably determine that excused absence is the appropriate tool.

The agency authority to provide excused absence is discretionary. Thus, an agency may attach conditions to its use. Given that the employees in question may be otherwise healthy and capable of working but for the quarantine, an agency may request that a quarantined employee who is able to work at least part of the time, enter into an ad hoc telework arrangement to perform work as practicable as a condition of being granted excused absence for the balance of the quarantine period.

4. What will be the duty status of an employee who is asymptomatic but quarantined due to possible exposure to Ebola that was not the direct result of a work assignment?

- A. An employee who is quarantined for possible exposure to Ebola that was not directly caused by the employee’s work assignment may request leave as provided under 5 U.S.C. chapter 63. While excused absence would generally not be appropriate for such employees, there may be special circumstances in the case of Ebola as discussed in the next paragraph. These employees should, in any event, be permitted to enter into ad hoc arrangements with the agency to telework to the maximum extent possible. Even if the employee is not showing symptoms of Ebola, he or she may be granted or advanced sick leave, at the employee’s request, if the quarantine was directed by health authorities to protect the health of others. (See 5 CFR 630.401(a)(5).) In addition, an employee may

use sick leave to care for a family member who is quarantined for possible exposure to Ebola even though the family member is not showing symptoms of Ebola. (See 5 CFR 630.401(a)(3)(iii).) Employees in this situation who exhaust their personal annual and sick leave balances may request donated annual leave under the Voluntary Leave Transfer Program, since the quarantine would qualify as a “medical emergency”—subject to statutory and regulatory requirements. (See 5 U.S.C. 6331-6338 and 5 CFR part 630, subpart I.)

As noted above, moreover, the President has declared the current Ebola outbreak a “top national security priority,” and has encouraged health care volunteers and others with much-needed skills to serve in affected West African countries in support of the Ebola response efforts. (See <http://www.whitehouse.gov/ebola-response>.) The President has also called on Americans to honor, respect, and support this voluntary service. (See <http://www.whitehouse.gov/the-press-office/2014/10/28/remarks-president-ebola> and <http://www.whitehouse.gov/the-press-office/2014/10/29/remarks-president-american-health-care-workers-fighting-ebola>.) Given the special circumstances that exist in connection with the current Ebola outbreak, OPM believes that it would be appropriate for an employing agency to provide some amount of excused absence to a Federal employee who is quarantined for potential exposure to the Ebola virus if that potential exposure is determined to be the result of volunteer service with a non-Government organization responding to the Ebola outbreak in West Africa. If the employee in question is otherwise healthy and capable of working but for the quarantine, the agency may request that the quarantined employee enter into an ad hoc telework arrangement to perform work as practicable as a condition of being granted excused absence for the balance of the quarantine period.

- 5. What actions should an agency take if an employee refuses to come to work because another employee who has recently traveled to a country with widespread Ebola virus transmission will be working at the same location (i.e., the employee who traveled is not quarantined since health authorities have determined he/she is in the low [but not zero] risk category, or in the some risk category but that quarantine is not warranted)?**
 - A.** An employee has no right to refuse to report to work in this situation and no right to special accommodations. At its discretion, an agency may grant the employee’s requests for use of annual leave, compensatory time off, or credit hours. Ad hoc telework arrangements are also an option under the agencies’ normal policies and collective bargaining agreements. While the employee’s concerns may be medically unwarranted, the employing agency may, at its discretion, use the above flexibilities to respond to the employee’s concerns. If an employee refuses to report to work without agency approval, the employee would be considered to be absent without leave (AWOL) and appropriate disciplinary action could be taken.

6. What actions should an agency take if an employee is diagnosed as having Ebola virus disease?

- A. An employee with confirmed Ebola will be isolated in a hospital and receive medical care and will not report to work. If the employee was exposed to Ebola directly in the performance of his or her Federal job duties through a work assignment, the employee may be eligible for workers' compensation benefits under the Federal Employees' Compensation Act (FECA). Workers' compensation benefits are administered by the Office of Workers' Compensation Program (OWCP) in the Department of Labor (DOL). See the DOL-OWCP website at <http://www.dol.gov/owcp/dfec/ebolaguidance.htm> for additional information. An employee with confirmed Ebola attributable to a work assignment may be granted excused absence as described in Question #3 before receiving any applicable workers' compensation wage loss benefits. When such an employee is confirmed to be free of the Ebola virus, excused absence may be used for a short period of recovery after isolation ends based on a physician's recommendation. The same use of excused absence would be appropriate for an employee with confirmed Ebola attributable to volunteer service (e.g., as a health care worker) with a non-Government organization responding to the Ebola outbreak in West Africa (as described in Question #4.)

An employee with confirmed Ebola whose exposure to the Ebola virus was not directly caused by the employee's work assignment or by voluntary service for a non-Government organization may request leave as provided under 5 U.S.C. chapter 63. For example, at the employee's request, sick leave should be granted or advanced, as appropriate. Employees in this situation who exhaust their personal annual and sick leave balances may request donated annual leave under the Voluntary Leave Transfer Program, since the illness would qualify as a "medical emergency"—subject to statutory and regulatory requirements. (See 5 U.S.C. 6331-6338 and 5 CFR part 630, subpart I.) When the employee is confirmed to be free of the Ebola virus, the isolation status will end but the agency may grant sick leave, at the employee's request, for a reasonable period of recovery or allow the employee to enter into an ad hoc telework arrangement, at the employee's request, to the extent that work from an alternative work site is practicable.