



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

Friday, January 29, 2010
CPM 2010-02

MEMORANDUM FOR: Chief Human Capital Officers

FROM: John Berry, Director

Subject: Additional Guidance for the 2009-2010 Influenza Season

Thank you for your continued vigilance and preparedness in protecting Federal employees and maintaining operations during the 2009-2010 flu season. As part of the U.S. Office of Personnel Management's (OPM's) ongoing efforts to support agencies and employees, we are supplementing the questions and answers published on July 31, 2009, at <https://chcoc.gov/content/pandemic-influenza-2009-additional-guidance>. I strongly encourage you to share this supplement with managers and supervisors at your agency.

Has the Government Issued Specific Flu Guidance for the Federal Workforce?

The Department of Health and Human Services' Centers for Disease Control and Prevention (HHS/CDC) and OPM have published a communications toolkit for the Federal workforce that summarizes the Government's latest flu recommendations and contains communications resources and guidance for Federal employees and supervisors. The toolkit also contains questions and answers, helpful fact sheets, posters for workspaces, sample emails, and additional Web resources that will help the Federal workforce prepare for the flu season. This guidance complements, but does not replace, the information already available on OPM's website at www.opm.gov/policy-data-oversight/pandemic-information/. The toolkit is available at http://www.flu.gov/professional/federal/workplace/federal_toolkit.pdf.

How Long Should Sick Employees Stay Away from the Office?

An important way to reduce the spread of influenza is for sick employees to stay home. HHS/CDC recommends that individuals with influenza-like symptoms remain at home until at least 24 hours after they are free of fever (without the use of fever-reducing medicine). While every agency has different workforce and resource needs, all agencies should encourage employees to contact their supervisor to request leave and stay at home when they are sick. I strongly encourage agencies to administer flexible leave and workplace policies, including telework and flexible work schedules for employees facing absences from work during a pandemic influenza.

Why Should Agencies Consider Relaxing Leave Documentation Requirements During a Pandemic Influenza?

If influenza becomes widespread in a given geographic area, the demands on medical providers and facilities could be great, and employees may have difficulty obtaining timely sick leave and Family and Medical Leave Act (FMLA) documentation. Agencies should consider relaxing sick leave and FMLA leave documentation requirements for this reason. OPM's sick leave and FMLA regulations do not require medical certification when granting sick leave and FMLA leave. See 5 CFR 630.403 and 630.1207. Agencies have both the flexibility and the specific authority to administer their programs as circumstances dictate. Accordingly, OPM recommends relaxing any agency-imposed medical certification requirements for sickness related to influenza during a pandemic, and asks agencies to consider whether it is necessary for employees to visit a health care provider to obtain medical certification to support a request for leave for influenza. OPM does recognize, however, that medical certification may remain necessary for employees on restricted leave because of leave abuse.

What Should a Federal Supervisor Do if an Employee Appears to be Sick at Work?

Supervisors may express general concern regarding the employee's health and remind the employee of his or her leave options for seeking medical attention, such as requesting sick or annual leave. A supervisor may encourage an employee to go home if he or she is not feeling well. If the employee has no leave available, supervisors are authorized to approve requests for advanced leave or leave without pay in certain circumstances.

When leave options are not practical and the employee is able to work, a possible alternative may be to allow the employee to work from home, either under a voluntary telework agreement or in accordance with the agency's policy on telework and any applicable collective bargaining agreement. The feasibility of working from home is dependent on several factors, including the nature of the employee's duties, the availability of any necessary equipment (personal computer, etc.), and computer and communication connectivity. Supervisors should check with their human resources office from time to time for the latest agency policy on flexibilities.

As a means of preventing the spread of the flu, supervisors are strongly encouraged to remind employees to stay home for at least 24 hours after they no longer have a fever (100 degrees Fahrenheit or 37.8 degrees Celsius) or signs of a fever (have chills, feel very warm or cold, have a flushed appearance, or are sweating). This should be determined without the use of fever-reducing medicines (any medicine that contains ibuprofen or acetaminophen).

It will be very hard to tell if someone who is sick has 2009-2010 H1N1 flu or seasonal flu. The symptoms of seasonal and H1N1 flu virus include fever, cough, sore throat, runny or stuffy nose, body aches, headache, chills and tiredness. Some people may also have vomiting and diarrhea. People may be infected with the flu, including 2009-2010 H1N1, and have respiratory symptoms without a fever.

A sick employee's right to privacy should be protected to the greatest extent possible; therefore, his/her identity should not be disclosed when providing reports to higher level management or to co-workers regarding the number of confirmed cases of 2009-2010 H1N1 flu in a particular work

unit or organization. In the case of 2009-2010 H1N1 flu, or any communicable disease, management should share only that information determined to be necessary to protect the health of the employees in the workplace and to ensure the continuity of Federal Government operations.

Should an Agency Close Because a Sick Employee May Expose Other Co-workers to Influenza?

There is no need to close an agency worksite or ask employees exposed to a sick co-worker to stay away from the worksite. Employees exposed to a sick co-worker should monitor themselves for symptoms of influenza-like illness and stay home if they are sick. An employee who has flu-like symptoms should be encouraged to contact his/her supervisor to request leave in accordance with leave regulations, policies and practices. See OPM's Planning for Pandemic Influenza: Human Resources Information for Agencies and Departments at www.opm.gov/policy-data-oversight/pandemic-information/ for more information.

Should Excused Absence Be Used Instead of Sick Leave During a Pandemic Influenza?

When an employee or his/her family member is sick, excused absence should not be used; sick leave or other paid time off would be appropriate. OPM reiterates that excused absence should be used only as the tool of last resort. OPM will coordinate the use of excused absence in the event of a severe pandemic influenza and publish additional guidance when necessary. To help create a consistent Governmentwide policy, OPM would be appreciative if agencies kept OPM apprised of any special policies or practices they adopt with regard to granting excused absence attributable to 2009-2010 H1N1 flu.

What Leave Is Appropriate When Schools Close?

Leave requests due to school closures should be handled the way they would in non-pandemic influenza situations. The fact that schools have closed due to the 2009-2010 H1N1 flu or any other emergency, should not be a factor in determining the type of leave an employee may use. Therefore if the school is closed and:

If the child is healthy and has not been exposed to a communicable disease, the employee cannot take sick leave.

If the child is sick, due to a communicable disease or otherwise, the employee may use up to 13 days of sick leave to care for that child. If the child's illness rises to the level of a "serious health condition," the employee may use up to 12 weeks of sick leave and may also invoke FMLA, which would provide up to an additional 12 weeks of unpaid leave (with substitution of annual or sick leave, according to the appropriate regulations).

OPM has proposed regulations that would allow an employee to use sick leave if a family member has been exposed to a communicable disease, even if that family member is not sick. However, these are proposed regulations and not yet final. Therefore, agencies may not use this new authority until these regulations become final. See <http://edocket.access.gpo.gov/2009/pdf/E9-20610.pdf>.

The use of sick leave is appropriate only if the child is sick. The employee may also use annual leave, leave without pay, other paid time off, or request a flexible work schedule. When appropriate, an employee may be able to telework with the permission of the supervisor. While telework is not a substitute for child care, it can be very valuable to employees with care giving responsibilities. Provided the employee has telework capabilities and work to perform, the agency should be flexible in determining whether the employee can accomplish his or her duties from home while caring for a child. An agency may allow an employee to telework during the time he or she is not responsible for child care, such as when a child is able to safely care for him or herself, or when another adult is directly providing care to a child. An employee must request accrued annual leave, advance annual leave, other paid time off, or leave without pay while performing child care responsibilities during work hours.

Although unlikely under current 2009-2010 flu conditions, it is possible that schools and day care centers could be closed for extended periods of time in order to reduce the spread of pandemic influenza. An employee's request to telework from home while caring for a child may be approved for the length of time the employee has work to perform that effectively contributes to the agency's mission. An employee requesting to telework must plan ahead to ensure he or she has sufficient work to perform at home. If the employee has completed all work assignments and can no longer contribute to the agency's mission while working at home, he or she should contact his or her supervisor to discuss what other work or leave options are available.

Are Evacuation Payments Likely to Be Used During a Pandemic Influenza?

In most cases, no. An evacuation due to a pandemic influenza is different from other evacuations because in this unique circumstance, employees may be ordered to work at home or at an alternative worksite (e.g., a relative's home) not under the Government's control that is mutually agreeable to the agency and the employee. (The Federal Government always retains the right to direct employees to work at a Government worksite.) During the evacuation, there will be different categories of employees all of whom will likely receive their regular pay, not evacuation pay, during the course of the evacuation. These employees include—

- emergency employees,
- mission critical employees,
- evacuated employees working from home or an alternate worksite, and
- evacuated employees placed on excused absence because they are prevented from reporting to work and have not been ordered to work at home, an alternative worksite, or at a Government worksite during the evacuation.

The assumption is that all of these employees would be able to report their time and attendance electronically or by phone and that they would all continue to receive their actual pay entitlements during the evacuation.

Evacuation pay is used only when the standard time and attendance procedures cannot be followed, e.g., the employee cannot report the use of annual or sick leave or the agency and payroll providers cannot process normal time and attendance reports. In effect, evacuation pay is designed as a form of pay protection that allows employees to continue to receive their normal pay, allowances, and differentials on their regular pay days, as feasible, when employees are

ordered to evacuate from their regular worksites to work from home (or an alternative worksite mutually agreeable to the agency and the employee) under an evacuation, but, only when the normal system fails. When evacuation pay is used, upon return to work, each employee will be required to report any annual leave, sick leave, or leave without pay that could not be documented because of the inability to communicate or process time and attendance.

What Happens to Employees on Detail to Another Agency During a Pandemic Influenza?

When an employee is detailed to another Federal agency (detail agency), the employee's position of record remains with the original agency (home agency). The policies an employee follows should be established in the detail agreement. For example, if the need for leave during a pandemic influenza is a short-term issue or the home agency closes, the employee will remain on detail and follow the policies of the detail agency. If the pandemic influenza is severe enough for the detail agency to issue an evacuation order and returning to the home agency is not possible, then evacuation pay, if invoked, would be granted by the paying agency. If the home agency agrees to manage and pay the employee, then it will pay evacuation pay in these circumstances even if the employee's detail agency remains in an operating status.

What Steps Can Be Taken to Prevent the Spread of Influenza?

Provide employees with messages on the importance of covering coughs and sneezes with a tissue or, in the absence of a tissue, one's sleeve. Influenza viruses are thought to spread mainly from person to person in respiratory droplets of coughs and sneezes. Provide tissues and no-touch disposal receptacles for use by employees. Influenza may also be spread via contaminated hands. Instruct employees to wash their hands often with soap and water especially after coughing or sneezing. If soap and water are not available, instruct them to use an alcohol-based hand rub.

During the 2009-2010 flu season, frequently clean all commonly touched surfaces in the workplace, such as workstations, countertops, and doorknobs. Use the same cleaning agents that are normally used in these areas and follow the directions on the label.

If the sick employee shares a work station with other employees, clean the sick worker's work station after he or she leaves for home. Use the cleaning agents that are normally used in these areas and follow the directions on the label. HHS/CDC does not believe any additional disinfection of environmental surfaces beyond the above recommended cleaning is required.

Where Can I Find the Latest Information?

For ongoing updates in both preparing for and responding to 2009-2010 H1N1 influenza, we encourage you to visit the Federal Government's website at www.flu.gov. This website will be updated continually with the latest information. For detailed guidance on human resources policies, please continue to use OPM's website at www.opm.gov/policy-data-oversight/pandemic-information/.

Additional Information

For additional information, agency Chief Human Capital Officers and/or Human Resources Directors should contact their assigned OPM Human Capital Officer. Employees should contact their agency human resources offices for assistance.

cc: Human Resources Directors