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HRDG 4630 - Absence and Leave - Section F - Subsection e

Last Modified:

Subchapter 4630 - Absence and Leave

Section F - Family and Medical Leave

Subsection e - - Parental Bereavement Leave (PBL)

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Background

Added 09/22

Effective December 27, 2021, Parental Bereavement Leave (PBL) is a new form of paid leave established by the National Defense Authorization Act for Fiscal Year 2022 which entitles eligible Federal employees to two (2) workweeks (up to 80 hours) of PBL in connection with the death of a qualifying child who is the employee's son or daughter.

References

Added 09/22

- Title [5 U.S.C. 6329d](#): Parental bereavement leave (Section 1111 of [Public Law 117-81](#), December 27, 2021)
- Office of Personnel Management (OPM) [CPM 2022-8](#), *Parental Bereavement Leave*, April 1 2022
- USDA DR 4060-630-1, *Hours of Duty and Leave Administration*
- Office of Human Resources Management, USDA, Paid Bereavement Leave Memo dated April 14, 2022, with attachment.

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Adopted child is interpreted consistent with the “adoption” definition found in [Title 5 Code of Federal Regulations \(CFR\) 630.1202](#)

except that it includes a child who has been placed with an employee for the purpose of adoption pending finalization of the adoption process.

Foster child must be interpreted consistent with the definition of “foster care” in [5 CFR 630.1202](#).

In loco parentis has the meaning given that term in [5 CFR 630.1202](#).

Qualifying child means the employee’s child (son or daughter) who is under the age of 18 or 18 and older and incapable of self-care because of a mental or physical disability.

Son or Daughter means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis who is:

- a. Under 18 years of age; or
- b. 18 years of age or older and incapable of self-care because of a mental or physical disability. A son or daughter incapable of self-care requires active assistance or supervision to provide daily self-care in three or more of the “activities of daily living” (ADLs) or “instrumental activities of daily living” (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one’s grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using the telephones and directories, using a post office, etc. A “physical or mental disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual as defined in [29 CFR 1630.2](#) (h), (i) and (j). The definition is consistent with the Family and Medical Leave Act (FMLA) as found in [Title 5 United States Code \(USC\) 6381](#) and Office of Personnel Management regulations found in [5 CFR 630.1202](#).

Definitions

Added 09/22

The death of an employee's child triggers the law's one-time entitlement to 2 workweeks of PBL, which must be used within 12 months of the child's death.

Once the initial 12-month period expires, another 12-month period does not begin unless there is another later use of PBL based on another child's death.

Determining the PBL Period

Added 09/22

If an employee endures the death of a second child during the 12-month period, then the employee effectively has two overlapping periods where there is eligibility for PBL. Any time of PBL used during the overlap will count against the 2-week limit for both periods.

Child Eligibility

Added 09/22

To be eligible, the employee's child must be under the age of 18, or 18 and older and incapable of self-care because of a mental or physical disability.

To be eligible an employee must meet the definition of "employee" in the title 5 FMLA provision in 5 U.S.C. 6381 at the time of the child's death. PBL is only available when the death of the child occurs while the parent is an eligible employee. The employee must:

Employee Eligibility

Added 09/22

- a. Be covered under the Title 5 annual and sick leave program;
- b. Serve under a permanent or term appointment;
- c. Have an established part-time or full-time work schedule (i.e., intermittent employees are not eligible), and;
- d. Have completed at least 12 months of service as an employee (as defined in 5 U.S.C. 2105).

PBL must be used during a seasonal employee's scheduled tour of duty hours as established for leave-charging purposes when the employee would otherwise be working or using other paid leave.

Seasonal employees:

**Seasonal
Employee
Eligibility**

Added 09/22

- Are not eligible for PBL during the off-season when placed in nonduty/non-pay status. (See 5 CFR 340.401-402)
- May not use PBL during furlough periods.
- May not use PBL during a period of suspension.
- Who are on LWOP for service in the uniformed services may not use PBL during periods of service in the uniformed service. (Only civilian leave specified in [5 CFR 353.208](#) may be used for periods of uniformed service.)
- May not use PBL during a period of separation from Federal service (i.e., the employee must be currently employed to use PBL).

The following categories of employees are not eligible for PBL:

- Temporary employees serving under a temporary appointment of one (1) year or less.
- Intermittent employees.

PBL may not be granted to employees:

- During furlough periods.
- During a period of suspension.
- Who are on leave without pay (LWOP) for service in the uniformed services. (Only the types of civilian leave specified in [5 CFR 353.208](#) may be used during service in the uniformed services.)
- During a period of separation from Federal service (i.e., PBL is only applicable to employees who are currently employed).
- Who have been found, by proper authority, to have deliberately caused the death of the child whose death gave rise to the potential entitlement. Any PBL that was provided to the employee prior to the finding of culpability must be retroactively canceled.

Exclusions

Added 09/22

PBL is a one-time entitlement and eligible employees receive a total of 2 workweeks of PBL because of the death of an employee's qualifying son or daughter.

**Number of PBL
Hours an
Employee May
Receive**

Added 09/22

- Full-time employees receive 80 hours (2 workweeks).
- A part-time employee receives the number of hours of their scheduled tour of duty over a biweekly pay period as established for leave charging purposes (e.g., if a part-time employee's scheduled tour of duty is 32 hours in a biweekly pay period, then leave entitlement is 32 hours).
- A full-time employee with an uncommon tour of duty receives the hours equivalent of 2 workweeks. This is equal to the number of hours in the employee's biweekly scheduled tour of duty (e.g., if the employee's uncommon tour consists of six 24-hour shifts [144 hours] per biweekly pay period, then the leave entitlement would be 144 hours).

An employee who changes their scheduled tour of duty (e.g., goes from FT to PT) before the use of the full 2-workweek allotment of bereavement leave, must have the remaining balance of PBL recalculated based on the change in the number of average hours in the employee's scheduled tour of duty.

**Moving from
Full Time (FT) to
Part Time (PT)**

Added 09/22

For example, if a regular FT employee has a balance of 40 hours of unused bereavement leave and then converts to a PT schedule of 24 hours per week, the balance would be recalculated to be 24 hours. (Since the old schedule was FT, 80 hours biweekly, and the new PT schedule is 48 hours biweekly, the new PT tour is 60 percent ($48/80$) of the former FT tour. Thus, the converted unused balance should be 60 percent of the pre-conversion balance. 60 percent or $48/80$ times 40 equals 24.)

PBL is a new, stand-alone type of paid leave entitlement that is administered independently from any other type of leave, including sick leave.

PBL Effect on Sick Leave

Added 09/22

An employee is entitled to use sick leave for family care and bereavement purposes to make arrangements necessitated by the death of the employee's child or to attend the child's funeral. PBL is used for the broader purpose of bereavement and does not affect the accrual or balances of an employee's other paid leave, including sick leave, or paid time off.

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Relationship to FMLA

Added 09/22

Even though PBL links to certain statutory terms in the FMLA, PBL is not authorized under the FMLA. PBL and FMLA are separate and distinct. PBL may not be substituted for unpaid FMLA leave.

Programs must accommodate employee requests to use FMLA leave, sick leave, and PBL, as appropriate (e.g., if a child dies during the post-birth recovery period for an employee who gave birth to the child, the employee may be able to use FMLA leave, sick leave, or bereavement leave during certain periods of time).

Intermittent Use of PBL

Added 09/22

PBL may be used intermittently. For example, supervisors may approve PBL to permit an employee to work partial workdays or schedule other types of paid leave or other paid time off on the same workday (e.g., sick leave for some hours and PBL for other hours of a given workday).

Retroactive Use of PBL

Added 09/22

PBL may be used retroactively in connection with the death of an eligible employee's qualifying child on or after December 27, 2021.

PBL may not be used before December 27, 2021, the date of enactment of

[Public Law 117-81](#).

**Documentation
to Support PBL**

Added 09/22

Supervisors may require a written self-certification or death certificate to verify that the requested PBL is being used for bereavement purposes. In any case where the need for leave is foreseeable (e.g., if taking the leave intermittently), an employee must provide advance notice, as practicable.

If an employee has an unused balance of PBL and transfers between eligible positions, then the unused balance transfers with the employee if it is within the 12-month eligibility period.

Employees receive a total of 2 workweeks in connection with the death of a qualifying child. An employee will not receive an additional 2 workweeks if transferring to a different agency or within USDA . If an employee is permitted to use PBL intermittently and moves outside of USDA, then the gaining agency is not obligated to continue permitting the use of PBL on an intermittent basis. However, employees moving within USDA, e.g., ARS to APHIS or APHIS to AMS, are permitted to continue using PBL intermittently.

**Transfer to
Another Agency**

Added 09/22

The gaining agency must determine whether a newly hired or transferred employee is within a 12-month period based on the date of death of the employee's child, and, if so, how many hours of PBL the employee has already used. When an agency prepares a Standard Form 1150, *Record of Leave Data*, for a transferring employee who is in the middle of a PBL 12-month period, it must record in the Remarks section (block 24) the beginning date of the 12-month period and the aggregate amount of PBL used by the employee (as of the time of transfer).

Note: In this instance, OPM's use of the term "Agency" means "Department." Therefore movement of employees within USDA mission areas is movement within the same agency aka Department, USDA.

**Lump Sum
Payment for
PBL**

Added 09/22

A cash payment may not be made for unused PBL at any time (including transfer to another agency or separation from Federal service). An employee who separates with an unused amount of PBL loses the PBL unless the employee returns to an eligible Federal position within the 12-month eligibility period.

The National Finance Center (NFC) has established transaction code (TC) 66 – Parental Bereavement Leave for PBL. The new TC is expected to be available by December 2022.

**Timesheet
Coding**

Added 09/22

Updated 08/23

Until NFC has the PBL codes ready for use, employees will code any PBL used as TC 66 – Admin/Excused Absence. Use the comment section within WebTA to indicate PBL.

Once Now that the TC is available, timekeepers will need to prepare corrected time sheets for any PBL that was used from December 27, 2021, to the present.

**Night
Differential (ND)**

Added 09/22

Employees performing regularly scheduled night work, will receive night differential for the PBL hours claimed at night. (For regularly scheduled work paid under 5 USC 5545[a], ND is paid without regard to the 8-hour rule found in 5USC 5545[a][2] and 5 CFR 550.122[b].)

If working at night is not part of the regularly scheduled tour of duty, then an employee does not receive night differential.

**Sunday
Differential**

Added 09/22

Sunday differential is not included in payment of any type of paid leave. (See [Public Law 105-277](#))

**Holidays and
Other Non-
workdays**

Added 09/22

A holiday is a non-workday and for this reason, PBL may not be used on a holiday.

It also may not be used on any other non-workday that is established by Federal statute, Executive order, or administrative order.

**Records
Retention**

Added 09/22

The General Services Administration requirement for retention of T&A records is 3 years; however, the statute of limitations on pay claims against the Federal Government is 6 years. It is necessary to have detailed records to adjudicate claims. NFC maintains the submitted electronic data but is not able to capture all documents pertaining to T&A issues. Sufficient data is necessary to reconstruct work records for adjudication of claims. The absence of agency records will not excuse the agency or cause the Office of Personnel Management to dismiss the pay claim. Any supporting data, therefore, must be maintained locally and securely for a 6-year period.

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