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HRDG 4630 - Absence and Leave - Section C - Subsection d - Wounded Warrior Sick Leave

Last Modified:

Subchapter 4630 - Absence and Leave

Section C - Sick Leave

Subsection d - Wounded Warrior Sick Leave

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The Wounded Warriors Federal Leave Act of 2015 (P.L. 114-75, Nov. 5, 2015) (5 U.S.C.6329):

What is the Wounded Warriors Federal Leave Act?

- Is also known as “Disabled Veterans Leave” (DVL).
- Creates an additional but temporary sick leave category for 30% or more disabled veterans.
- Is for new employees.
- Entitles veterans with a 30% or more service-connected disability to 104 hours of sick leave while undergoing medical treatment for the disability.
- Makes the sick leave available on the first day of employment and continues for a 12-month period.

Note: Such new appointees are concurrently accruing sick and annual leave.

Legislative history provides information on Congressional intent when enacting this new benefit, including:

Supporting Legislative History

- Congressional Record for the House, H6268-H6269, Sept. 28, 2015;
- Congressional Record for the Senate, S6085-S6088, July 18, 2015;
- House Report 114-180, Wounded Warriors Federal Leave Act of 2015 (report issued by the House Committee on Oversight and Governmental reform to accompany H.R. 313); and
- Senate Report 114-89, Wounded Warriors Federal Leave Act of 2015 (report issued by the Senate Committee on Homeland Security and Governmental Affairs to accompany S242).

12-month eligibility period means the continuous 12-month period that begins on the first day of employment. If an employee was eligible (or is later determined to have been eligible) for Wounded Warrior Leave while previously employed by the U.S. Postal Service or the Postal Regulatory Commission and subsequently begins employment covered by 5 CFR 630 Section M and this HRDG, then the 12-month eligibility period is the period that began on the first day of employment with the U. S. Postal Service or the Postal Regulatory Commission.

Active Military, Naval, or Air Service means active military, naval, or air service and includes:

- Active duty;
- Any period of active duty for training during which the individual concerned was disabled from a disease or injury incurred or aggravated in the line of duty; and,
- Any period of inactive duty training during which the individual concerned was disabled from an:
 - Injury incurred or aggravated in the line or duty, or
 - Acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident occurring during such training.

See: 38 U.S.C. 101(22-24).

Employment means service as an “employee” (5 USC 2105) who is covered by a leave system under which leave is charged for periods of absence.

First day of employment means the first position to which hired in the Federal civilian service. This includes the date an employee returns to a civilian duty status after a break in civilian duty (with the employee in continuous civilian leave status) to perform military service.

Health care provider is defined as in OPM’s broad definition found in the Family and Medical Leave Act regulations. This definition may be found in the Glossary section [HRDG 4630, Absence and Leave.](#)

Hired means:

Applicability

This section applies to a new employee who is a veteran with a documented 30% or more service-connected disability rating.

This section does not apply to:

Exclusions

- Employees with an Intermittent work schedule;
- Certain leave-exempt Presidential appointees; and
- Employees of the U.S. Postal Service or the Postal Regulatory Commission.

The first day of employment begins the 12-month clock. Each employee is eligible for only one “first” day of employment during his or her Federal career. Eligibility for this sick leave is determined also by the date on which s/he received his/her disability rating.

Eligibility

If the employee . . .	Then the first day of employment is the . . .
Already has his or her disability rating,	Hiring date.
Receives his/her disability rating after being hired,	Effective date of the disability rating.

MRP employees employed as of November 4, 2016, who are veterans with qualifying service-connected disabilities do not qualify for disabled veteran leave. Such veterans would only qualify if they have a qualifying hiring event in the future.

Note: The “first” day may be established retroactively if the Veterans Benefits Administration makes a disability determination which prevented the disabled veteran from using part or all of the leave during the 12-month eligibility period. In such a case, the employee may retroactively substitute disabled veteran leave for other leave used for medical treatment for the service-connected disability.

Full-time employees hired on or after November 5, 2016 will have 104 hours of sick leave available to use for medical treatment for a documented 30% or more service-connected disability.

Such leave is proportionally adjusted for employees with part-time, seasonal or uncommon tours of duty similar to other leave benefits.

Sick leave to an employee's credit on the first day of employment must be used to offset (reduce) the 104-hour disabled veteran leave benefit (or proportional equivalent). This amount may be offset (reduced) in certain circumstances.

**Amount of DVL
Available**

Example 1: If a regular full-time employee is:

- Re-employed,
- Qualifies for the disabled veteran leave benefit, and
- Is re-credited with 30 hours of sick leave,

Then the employee's disabled veteran leave would be credited with 74 hours (104 hours – 30 hours of re-credited sick leave = 74 available hours).

Example 2: If a Federal civilian employee goes on leave to perform military service as a reservist or member of the National Guard and incurs a qualifying service-connected disability, then when s/he is rehired the disabled veteran leave benefit would be offset by the amount of sick leave to the employee's credit at the time of rehire. (See 5 CFR 630.1305[d]).

The employee must provide documentation / certification from the Veterans Benefits Administration indicating a determination that s/he is a veteran with a qualifying service-connected disability.

**Qualifying
Disability
Documentation**

Such documentation / certification must be provided upon employment or as soon as available in order for the HRO to make a determination of eligibility and entitlement to the benefit.

In cases where the documentation / certification is not yet available, this does not prevent the Agency from granting time off in order to attend to such medical treatment and to then retroactively use it.

**Effects of
Discontinuation or
Reduction in
Disability Rating**

When the employee's condition(s) improves causing the disability rating to be reduced or discontinued and to no longer have a qualifying service-connected disability, the employee is responsible for notifying the agency of the change in rating as soon as possible.

In this case the employee will no longer be entitled to disabled veteran leave as of the effective date of the change in rating.

Unused disabled veteran leave is forfeited.

The change in status does not invalidate the use of disabled veteran leave prior to the effective date of the rating change.

The up to 104 hours of DVL must be used for the medical treatment of the employee's qualifying service connected disability.

The medical treatment may include a period of rest only if it is specifically ordered by the health care provider as part of a prescribed course of treatment for the qualifying service-connected disability.

**Appropriate Uses
of DVL**

If an employee wanted to request a day of disabled veteran leave to rest because s/he believes that s/he is incapacitated due to the service-connected disability and s/he does not have documentation from a health care provider prescribing rest (as noted above), then s/he cannot use DVL. In such a circumstance, the employee would use other leave such as but not limited to accrued / advanced sick leave and/or annual leave.

Absences of less than 3 days do not require a medical certificate. Supervisors may accept employee self-certification for such absences.

Absences in excess of 3 consecutive workdays require employees to provide a signed written medical certification issued by a health care provider to support the use of the disabled veteran leave.

Medical documentation requires a signed written medical certification by the health care provider to include:

**Medical
Documentation to
Support Sick
Leave Requests
Added**

- A statement by the health care provider that the medical treatment is for one or more service-connected disabilities of the employee rated at 30% or more;
- The date(s) of treatment or if the treatment extends over several days, the beginning and ending dates of the treatment;
- If the leave was not requested in advance, a statement that the treatment required was of an urgent nature or there were other circumstances that made advanced scheduling not possible; and,
- Any additional information that is essential to verify the employee's eligibility.

An employee not providing the necessary medical certification within the prescribed time period is not entitled to use disabled veteran leave. Supervisors may:

- Allow the employee to request that the absence be charged to leave without pay (LWOP), sick leave, annual leave, advanced leave, or other forms of paid time off; or,
- In consultation with their Servicing Employee Relations Specialist, and consistent with applicable laws and regulations may charge the employee as absent without leave (AWOL).

When practical, such leave will be requested in advance unless the need for the leave is critical and not foreseeable.

Time Period for Providing Medical Documentation to Use DVL In such instances, written medical certification, when requested, must be provided no later than 15 calendar days after the date of request.

If this is not practical despite the employee's diligent, good faith efforts, then the employee must provide the requested certification no later than 30 calendar dates after the date of request.

Using Other Leave In situations where an employee has not provided the required certification to support entitlement to this benefit, e.g., Veterans Benefits Administration determination is pending, then s/he may use other accrued or advanced leave for such treatment when needed. In such cases the entitlement must be preserved. Once the certification is received, the employee may retroactively substitute disabled veteran leave for any leave used (excluding a period of suspension or absence without leave [AWOL]) during the 12-month eligibility period in which leave was used for medical treatment of the qualifying service-connected disability.

DVL to an employee's credit is forfeited:

- At the end of the 12-month eligibility period if not used; or
- When a change in disability rating occurs indicating the employee no longer has a qualifying service-connected disability.

Forfeiture of DVL

While the employee may no longer have DVL, s/he will have the leave available which has been accruing since employment began, providing it was not used.

Note: This Act does not prevent an employee from requesting to use accrued leave at any point during the initial 12-month employment period.

During the 12-month eligibility period if an employee transfers to another Agency, HRO will certify to the gaining agency the:

Transfer of Disabled Veteran Leave

- Number of unused disabled veteran leave hours available for credit; and,
- Expiration date of the employee's 12-month eligibility period. Any unused leave will be forfeited at the end of this period.

A veteran who has at least a 1 day break in service during the 12-month eligibility period and returns to qualifying Federal employment within the same eligibility period is entitled to a re-credit of the unused balance.

**Re-credit of
Disabled Veteran
Leave**

In some instances, a veteran returning to Federal civilian service will not have documentation from his/her former agency showing the number of disabled veteran sick leave hours remaining. In these cases the re-credit of disabled veteran leave may be supported by written documentation available to MRP:

- In our official personnel records if this was a former MRP employee,
- The official records of the former employing agency,
- Copies of contemporaneous earnings and leave statement(s) provided by the employee, or
- Copies of other contemporaneous written documentation acceptable to MRP.

**Lump-Sum
Payments**

Employees may not receive a lump-sum payment for any unused disabled veteran leave under any circumstances.

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