

State of Wisconsin

**DOA – DIVISION OF PERSONNEL MANAGEMENT**

**- CLASSIFICATION AND COMPENSATION BULLETIN -**

**Date:** April 28, 2020

**Locator No:** DPM-0518-CC/POL

**Subject: THIRD UPDATE:** Paid Administrative Leave During the Public Health Emergency Due to the COVID-19 Pandemic

This is the third re-issue of policy bulletin DPM-0518-CC/POL on Paid Administrative Leave During the Public Health Emergency Due to the COVID-19 Pandemic. This bulletin was originally issued on March 18, 2020, initially updated on March 24, 2020, and next updated April 5, 2020. Section II was initially updated to permit use of paid administrative leave by non-essential employees who are unable to telework and are directed to not report to work. This leave was available beginning Wednesday, March 25, 2020. In the second update, Section II was updated to stipulate that state-provided paid administrative leave for any of the purposes in this bulletin will be available only in circumstances where an employee is ineligible for federal emergency paid sick leave or emergency FMLA leave that is available effective April 1, 2020, under the Families First Coronavirus Response Act. Other minor updates clarified the eligibility of non-essential employees for paid administrative leave when barred from reporting to work under the Safer at Home order issued by the Department of Health Services.

This third update is necessary due to 2019 Wisconsin Act 185, which was enacted April 15, 2020, and included the creation of [s. 323.2913, Wis. Stats.](#), allowing an employee serving the first six months of an original probationary period to take annual leave during the public health emergency. For administrative purposes, beginning April 26, 2020, these probationary employees will be required to use all available leave on the same basis as non-probationary employees before using paid administrative leave.

The purpose of this bulletin is to provide guidance on implementing a paid administrative leave program available to certain executive branch employees prevented or prohibited from reporting to work and unable to telework due to the current public health emergency caused by the COVID-19 pandemic. These paid administrative leave provisions will remain in effect until the governor announces the expiration of the public health emergency or provides further direction, with ongoing renewal and/or amendments as necessary and appropriate. Pursuant to s. 323.12(4)(d), Wis. Stats., and Executive Order #72 (March 12, 2020), the Governor has suspended s. ER 10.02(4), Wis. Adm. Code for the duration of the declared emergency. This suspension will allow for pay to limited term employees for hours on leave from work as specified in this bulletin.

**SECTION I. PURPOSE OF THIS PAID ADMINISTRATIVE LEAVE PROGRAM**

On March 12, 2020, the Governor issued Executive Order #72, which proclaimed that a public health emergency exists for the State of Wisconsin due to the COVID-19 pandemic, and the Department of Health Services issued the Safer at Home order effective March 25, 2020, restricting personal and group activities in Wisconsin. To minimize the spread of illness, it is important that workers do not report to workplaces when ill. In addition, many employees may need to take care of family members or stay

home with children due to school closures. In recognition that certain categories of employees are not eligible for sick leave, employees with limited tenure are not able to access certain leave balances, and that there may be additional circumstances in which employees have insufficient paid leave to alleviate the economic impact of staying away from work, the state is authorizing for certain employees the use of up to 80 hours of paid administrative leave to cover pandemic-related time away from work.

## **SECTION II. PAID ADMINISTRATIVE LEAVE UP TO 80 HOURS TOTAL**

Effective March 15, 2020, eligible permanent, project, appointed, and limited term employees may record up to a total of 80 hours of paid administrative leave during the period of this public health emergency. This leave may be used by eligible employees for any purpose for self or family care in relation to the pandemic, including but not limited to self-quarantine, self-isolation, sent home with flu-like symptoms, care of an immediate family member, and child care due to school/day care closures.

Effective March 25, 2020, paid administrative leave will also be available for employees without personal or family health issues that are nonetheless not permitted to work by their agency, as further described under D., below.

Effective April 1, 2020, paid administrative leave for any purpose described in this bulletin will be available only in circumstances where the employee is not eligible for federal emergency paid sick leave or paid leave under the emergency federal FMLA expansion, which took effect on that date. This means that an employee eligible for the same reason under both the state paid administrative leave provisions and the federal paid leave provisions will be entitled only to the federal paid leave and not the state paid administrative leave. After an employee exhausts the federal emergency leave available to them, then the employee will again be eligible for the state paid administrative leave. See bulletin DPM-0521-CC/POL for guidance on the federal emergency leave provisions.

**A. Eligible Employees.** Employees that are eligible to use paid administrative leave include the following:

1. All limited term employees other than those who were hired specifically to assist the State of Wisconsin with response to COVID-19.
2. Employees who have exhausted all available leave, including sick leave, annual leave, sabbatical/termination leave, compensatory time, accrued legal holiday credits, and personal holiday credits. **Update effective April 26.** With the creation of [s. 323.2913, Wis. Stats.](#), annual leave may be used by an employee serving the first six months of an original probationary period. Therefore, for administrative purposes, effective Sunday April 26, 2020, such probationary employees must use available leave prior to eligibility for paid administrative leave, on the same basis as non-probationary employees. Human Resources Managers should submit annual leave use requests for such probationary employees to Matt Olsen in Central Payroll.

“Available leave” does not include legal holiday credits for holidays which have not yet occurred or sick leave that has not yet been earned.

Leave time earned by employees will be used prior to the use of paid administrative leave but should not be deducted in less than whole hour increments.

3. Employees in exceptional circumstances as approved by the DPM Administrator.
4. Update. Effective Wednesday, March 25, non-essential employees directed not to work and unable to telework may use paid administrative leave in accordance with the provisions in D., below.

**B. Ineligible Employees.** Employees that are ineligible to use paid administrative leave include the following:

1. Employees who are determined by the employer to be capable of telework and are physically capable of working.
2. Elected officials.
3. Employees denied leave due to operational necessity.
4. State Patrol Troopers and Inspectors in the represented public safety bargaining unit, unless an agreement is reached with the union to be covered under this administrative leave program.
5. Employees who do not meet at least one of the eligibility requirements described in A., above.
6. Effective April 1, 2020, employees who are covered for the same reason under the federal emergency leave provisions of the Families First Coronavirus Response Act.

**C. Additional Administrative Provisions.**

1. Paid administrative leave will be recorded in PeopleSoft using a temporary time reporting code.
2. Paid administrative leave will be paid at an employee's base hourly pay rate, without supplemental add-ons except for add-ons that an employee would be paid on regular sick leave.
3. Paid administrative leave used in a pay period should be consistent with the employee's regularly scheduled number of hours per pay period, up to 40 hours per week for FLSA non-exempt employees, or up to 80 hours per pay period for exempt employees. Non-exempt employees covered under special FLSA provisions for other than a 40-hour workweek may use administrative leave up to the number of hours regularly scheduled by the agency.
4. Paid administrative leave is not counted as hours worked for FLSA purposes.

5. The 80 hours maximum is per-employee regardless of the number of positions held by the employee, whether in the same agency or different agencies.
6. Full-time employees may use up to 80 hours of the paid administrative leave. Part-time employees may use a proration of the 80 hours based on the number of hours worked by the employee, on average, over a 2-week period.
7. Paid administrative leave will count towards the 1,039 hour per-year limit for limited term employees.
8. Paid administrative leave is not a leave entitlement available for cash-out under any circumstance.

**D. Update: Paid Leave for Non-Essential Employees When Not Permitted to Work.**

Effective Wednesday, March 25, 2020, non-essential employees who are unable to telework and who are also directed to not report to work due to the governor's "Safer at Home" order shall be eligible to use paid administrative leave. (This provision does not apply if an employee is not working due to personal or family health issues or for child care needs due to the public health emergency.) Employees directed not to work under this provision **shall** be eligible to use paid administrative leave **without** first using any other available vacation, sick, or compensatory time leave. Ineligible employees include those listed in B., above, and the additional administrative provisions under C., above, all apply.

The combined total amount of paid administrative leave for all purposes identified in this bulletin will not exceed 80 hours (except for employees identified in C./3., above, covered under special FLSA provisions) or prorated portion for part-time employees.

Non-essential employees directed to not work will remain on call and available for work if directed by their supervisor or emergency response managers. There will be no separate on call or standby pay for the period an employee is directed not to work.

**SECTION III. CERTIFICATION OF NEED FOR LEAVE**

Employees may be required to provide written documentation from their health care provider or a public health official regarding their illness or requirement to quarantine or self-isolate. Employees may also be required to provide a letter from a public health official indicating that they have completed any required monitoring, isolation or quarantine period as well as provide medical documentation releasing them to full duty prior to returning to work.

**SECTION IV. IMPACT ON OTHER BENEFITS**

Use of this special paid administrative leave is above and beyond other paid leave benefits and will not deplete an employee's regular sick leave or vacation leave accounts. Paid administrative leave is also separate from federal emergency paid sick leave and federal emergency FMLA paid leave.

For purposes of benefit accrual, use of this special paid administrative leave will be treated in a manner similar to regular paid sick leave. This means that for permanent and project employees, continuous service, WRS contributions (by both the employee and employer) and creditable service, annual leave, and sick leave will all continue to accrue while on paid administrative leave. For limited term employees, there will be no benefit accrual except as qualifying hours for initial WRS eligibility or creditable service for LTEs who are already WRS-eligible.

**SECTION V. IMPACT ON FAMILY AND MEDICAL LEAVE ENTITLEMENTS**

Paid administrative leave will run concurrently with federal or Wisconsin family and medical leave whenever applicable.

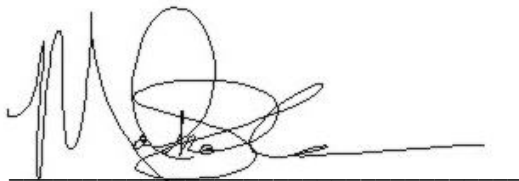
**SECTION VI. EXPIRATION OF THE PAID ADMINISTRATIVE LEAVE PROGRAM**

The availability of paid administrative leave will expire on the date the governor determines as the end of the public health emergency in the State of Wisconsin. Unused available leave will expire and shall not be carried forward in any employee leave balance and may not be cashed out.

**SECTION VII. REFERRAL OF QUESTIONS**

Employer questions regarding the information included in this bulletin should be directed to John Wiesman by phone at (608) 266-1418 or by e-mail at [john.wiesman@wisconsin.gov](mailto:john.wiesman@wisconsin.gov); or, Scott C. Thompson by phone at (608) 266-1729 or by email at [scottc.thompson@wisconsin.gov](mailto:scottc.thompson@wisconsin.gov).

Employees should contact their agency human resources office.



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