



NATIONAL GUARD BUREAU

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NGB-J1-TN

30 September 2009

MEMORANDUM FOR ALL HUMAN RESOURCES OFFICES OF ALL STATES,
PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM AND THE DISTRICT OF
COLUMBIA

Subject: Guidance Regarding the Flu Season/H1N1 Influenza (TN-09-34)

1. The Fall influenza season arrived with the H1N1 and other new strains of seasonal flu affecting families and communities across the nations. For this reason, it is critically important that we continue to strengthen our efforts to protect the Federal workforce and ensure the continuity of operations. During this flu season, States may experience high employee absenteeism because they are sick, are caring for sick family members, or providing care for children when schools and day care centers are closed. In some cases, the employees may request leave from work because they want to avoid catching the flu virus from co-workers. In these situations, the following options are available for employees affected by a pandemic influenza/H1N1:

- a. Under current law and regulations, employees may use sick leave, annual leave, advanced annual or sick leave, leave without pay, family and medical leave, donated leave under the Voluntary Leave Transfer Program, and other paid time off such as compensatory time.
- b. Excused absence/Administrative leave is generally not appropriate for these situations. If the need arises, the Office of Personnel Management (OPM) will work with the Federal agencies to develop a consistent Government-wide policy on the use of excused absences.
- c. Unless supervisors have evidence that employees are physically unable to perform the job or poses a risk to themselves or others, the supervisors may not prohibit the employees from reporting to duty. Although leave is generally voluntary, a supervisor may enforce leave if the employee's presence in the work place poses the risk of spreading an infection to others. Supervisors must consult with their Human Resources Office (HRO) prior to enforcing leave or prohibiting an employee to work.
- d. If an employee is healthy and requests to stay home because he/she was in direct contact with individuals infected with the flu, he/she may use sick or annual leave, or other paid time off.

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- e. If an employee is healthy and requests to stay home because his/her child or a family member was in direct contact with individuals infected with the flu, or if the child's school has closed, the employee may use annual leave, leave without pay, or other paid time off. Granting sick leave is not appropriate if the dependent member is not sick.
 - f. If the employee has no leave available, the supervisor is authorized to approve a request for advance leave or leave without pay, dependent upon the policy of each State. An employee may also request donated leave under the Volunteer Leave Transfer Program.
 - g. If an employee is concerned about contracting the flu from a co-worker, the employee should first raise the concern with his/her immediate supervisor to discuss the appropriate action. The member may request to temporarily move to a different work area or request annual leave. If an employee refuses to report for duty based on his/her personal belief that it is unsafe to do so; and does not have approved leave from the supervisor, the employee is considered absent without leave.
 - h. During an influenza pandemic, an employee is not required to have a doctor's note if requesting to use sick leave for three or more days. When in doubt, the supervisors must apply their best judgments and follow their States' policies. At a minimum, the supervisors must coordinate with their HROs.
2. When leave options are not practical, a viable alternative in many cases is for the employee to work from home, either under a voluntary telework agreement, or under an agency's order directing employees to work from home. Two examples of telework conditions for healthy employees are discussed in paragraph one, sub-sections d and e. In those cases, telework is approved only during the time that the employee is not responsible for the dependent care and provided the employee has telework capabilities and work to perform. The State should be flexible in determining if the employee can accomplish his or her duties from home while caring for the dependent. Managers and supervisors should determine what work the employees may perform.

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3. In preparation of the influenza season, it is highly recommended that each State review OPM's guide on Planning for Pandemic Influenza located on OPM's website at: http://www.opm.gov/pandemic/OPM-Pandemic_Allssuances.pdf. The guide is designed to help Federal agencies achieve two equally important goals (1) protecting the Federal workforce and (2) ensuring the continuity of operations.

4. If there are any questions concerning this memorandum, please contact Mr. John Christie at 703.607.1458 (DSN: 327) or Ms. Adriene Dallas at 703.607.1365.

A handwritten signature in black ink, appearing to read 'W. F. Kolbinger', with a long horizontal flourish extending to the right.

WILLIAM F. KOLBINGER

Colonel, USAF

Chief, Office of Technician Personnel

National Guard Bureau