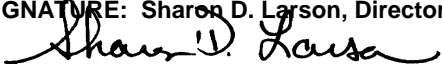




Department of Management Services
 Division of Human Resource Management

POLICY CLARIFICATION

STATUTORY/RULE REFERENCE NUMBER: <i>Section 110.122, Terminal payment for accumulated sick leave, Florida Statutes (F.S.) and Rule 60L-34.0042, Sick Leave, Florida Administrative Code, (F.A.C.)</i>	TRACKING NUMBER: <i>2007-#003</i>
SUBJECT: <i>Terminal Payment of Accumulated Sick Leave</i>	
APPROVAL SIGNATURE: Sharon D. Larson, Director 	EFFECTIVE DATE: <i>June 5, 2007</i>

Question 1:

An employee previously terminated from state government with at least 10 years of creditable service and received a terminal payment for unused sick leave. Do those prior years of service count toward eligibility for an additional terminal payment for unused sick leave if that individual is reemployed by the state at a later date?

Answer:

Yes. It is possible for an employee to separate from state government several times. At the time of each separation, s. 110.122(1), F.S., requires 10 years of creditable state service in order to receive a terminal payment for unused sick leave. However, there are no requirements that the creditable service must be continuous or that an individual must satisfy an additional 10 years of service in order to be eligible for another terminal payment of unused sick leave. Therefore, all prior years of creditable service shall be counted in determining eligibility for a terminal payment of unused sick leave.

This policy is consistent with the practice of counting any previous years of creditable service toward higher leave accruals.

Question 2:

An employee previously received a terminal payment for unused sick leave in the amount of 480 hours. That individual became reemployed with the state and has accumulated additional sick leave hours. Is there a lifetime maximum of 480 hours for terminal payment of sick leave?

Answer:

No. The statute does not indicate that there is a lifetime maximum for terminal payment of sick leave. Rather, the statute sets a maximum number of hours allowable per payment. The employee is therefore eligible to receive another terminal payment for unused sick leave, up to a maximum for 480 hours. The provisions of s. 110.122(3), F.S., provide that the terminal pay allowable for unused sick leave accumulated on or after October 1, 1973, shall not exceed a maximum of 480 hours of actual payment.

Statutory Citation

Section 110.122, F.S., Terminal Payment for Accumulated Sick Leave.

- (1) All state branches, departments, and agencies which have the authority to establish or approve personnel policies for employees and to employ personnel and establish the conditions of their employment shall establish policies to provide terminal "incentive" pay for accumulated and unused sick leave to each employee upon normal or regular retirement for reason other than disability or upon termination of employment, or to the employee's beneficiary if service is terminated by death, provided such retirement, termination, or death occurs after 10 years of creditable state employment.
- (2) The employing entity shall establish and publish rules governing the accumulation and use of sick leave and maintain accurate and reliable records showing the amount of sick leave which has accumulated and is unused by the employee at the time of retirement, death, or termination.
- (3) The payments authorized by this section shall be determined by using the rate of pay received by the employee at the time of retirement, termination, or death, applied to the sick leave time for which the employee is qualified to receive terminal "incentive" pay under the rules adopted by the department pursuant to the provisions of this section. Rules and policies adopted pursuant to this section shall permit terminal pay for sick leave equal to one-eighth of all unused sick leave credit accumulated prior to October 1, 1973, plus one-fourth of all unused sick leave accumulated on or after October 1, 1973. However, terminal pay allowable for unused sick leave accumulated on or after October 1, 1973, shall not exceed a maximum of 480 hours of actual payment. Employees shall be required to use all sick leave accumulated prior to October 1, 1973, before using sick leave accumulated on or after October 1, 1973.

Rule Citation:

Rule 60L-34.0042, F.A.C., Sick Leave.

- (7) The following provisions govern the retention and transfer of sick leave credits:
 - (a) Credits shall be transferred within the State Personnel System, and may be transferred to another state government employer, depending upon whether the receiving plan accepts the employee's leave credits. If the receiving employer does not accept the credits, the employee shall be paid for the credits if eligible under s. 110.122(1), F.S.; otherwise, the credits shall expire.