

## **SERENITY BEHAVIORAL HEALTH SYSTEMS**

**SUBJECT:** LEAVE OF ABSENCE WITHOUT PAY  
**POLICY NUMBER:** HR-7.03  
**EFFECTIVE DATE:** June 1997  
**SUPERSEDES:** N/A  
**LAST REVISION DATE:** February 2010

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### **POLICY:**

It is the policy of Serenity Behavioral Health Systems (SBHS) that Program Managers can recommend to the Human Resource Manager a leave of absence without pay (LWOP) when determined appropriate. Leaves of absence without pay are generally approved only for medical reasons when employees are reasonably expected to be able to return to work. Leaves of absence without pay should be approved only for short periods of time unless there are extraordinary circumstances that support an extended period of time. When extended leave is requested, employees are to submit written documentation that supports the extraordinary circumstances.

### **GENERAL PROVISIONS:**

- I. Employees who are eligible for leave benefits may submit written requests for a leave of absence without pay for specified periods of time.
- II. A leave of absence without pay does not cause a break in continuous employment.
- III. A leave of absence without pay may be either authorized regular or contingent.

### **AUTHORIZED REGULAR LWOP:**

- I. If an authorized regular leave of absence without pay is approved, the position which the employee occupied or a position of equal grade and pay is held for the employee's return.
- II. At the expiration of an authorized (regular) leave of absence without pay, the employee will be returned to work without loss of any rights if the employee has complied with the terms and conditions outlined in the notice of approval.
- III. Due to the needs of SBHS programs for maintaining coverage, requests for authorized regular leaves of absence without pay should be closely reviewed. Employees who have already used twelve (12) workweeks of job protected family medical leave, are generally not granted an additional authorized (regular) leave of absence without pay.

**SUBJECT: Leave of Absence Without Pay**

**Policy HR-7.03**

**Page 2 of 9**

**CONTINGENT LWOP:**

- I. If a contingent leave of absence without pay is approved, the position which the employee occupied is not held.
- II. The SBHS program may fill the position from which an employee is on a contingent leave of absence without pay.
- III. The employee is entitled to return to work only if a “suitable vacancy” as defined in the notice of approval is available at the expiration of the leave.

**FAMILY MEDICAL LEAVE:**

- I. When absence from work is due to a family medical leave qualifying reason, employees should be placed on available family medical leave with or without pay prior to placement on a leave of absence without pay.
- II. If family medical leave has been exhausted or is otherwise not available, employees may request a leave of absence without pay.
- III. If family medical leave has already been granted and used, a request for authorized regular leaves of absence without pay should be closely reviewed and may be denied unless there are extraordinary circumstances that support the requests.

**MEDICAL EXAMINATION:**

Under limited circumstances and only with the approval of the SBHS Chief Executive Officer (CEO), the Human Resources Manager may direct an employee to undergo a medical (physical and/or psychiatric) examination at the expense of SBHS.

- I. This examination may be required prior to:
  - A. Approving use of accrued leave
  - B. Approving a leave of absence without pay
  - C. Allowing an employee to return from leave with pay
  - D. Allowing an employee to return from a leave of absence without pay
- II. An employee is required to authorize the release of the results of the medical examination to the Human Resources Department. The results must be considered confidential and are to be shared with individuals only on a “need-to-know” basis.
- III. Upon receipt of the results, a determination regarding request for use of leave, a leave of absence without pay or return to work will be made.

**SUBJECT: Leave of Absence Without Pay**

**Policy HR-7.03**

**Page 3 of 9**

- IV. If a determination is made to not allow the employee to return to work, appropriate action, which includes but is not limited to, the following should be taken:
- A. The employee may be allowed to use accrued leave
  - B. The employee may request and be granted an authorized regular or contingent leave of absence without pay
  - C. The employee may be referred to a treatment program
  - D. The employee may be separated
- V. If a determination is made to allow the employee to return to work, the employee may be returned unrestricted or with employment restrictions that can be reasonably accommodated.

**REQUEST:**

- I. Employees are to submit a written request for a leave of absence without pay through their Supervisor and Program Manager. The Program Manager will then submit the request to Human Resources Department. The requests must include the following information:

- A. The type of leave of absence without pay requested authorized regular or contingent;

NOTE: If not specified, the Human Resources Department will make a reasonable effort to discuss the request with the employee before designating the type of leave of absence without pay that is approved either authorized regular or contingent.

- B. The reason for the leave of absence without pay
- C. The start date
- D. The return date
- E. Any other information relevant to the request (e.g., statement from attending health care provider)

- II. Requests based on illness, disability or other medical condition of the employee, family member or others must include a completed Certification of Serious Health Condition SBHS Form 369 or other document containing similar information from the attending health care provider which supports the request for absence.

NOTE: Clarification may be required from the employee and/or attending health care provider prior to a determination being made on the request for the leave of absence without pay.

**SUBJECT: Leave of Absence Without Pay**  
**Policy HR-7.03**  
**Page 4 of 9**

The Certification of Serious Health Condition SBHS Form 369 is available in the Human Resource Department.

**REVIEW:**

- I. A request for leave of absence without pay will be reviewed and determinations made based on the following:
  - A. Reasons for the leaves of absence without pay
  - B. Amount of time requested
  - C. Employees' documented performance, behavior and attendance records
  - D. Needs of SBHS
  - E. Employees' years of service and
  - F. Previous accommodation efforts by SBHS
  
- II. Leaves of absence without pay are generally approved only for medical reasons when employees are reasonably expected to be able to return to work. Leaves of absence without pay should be for short periods of time unless extraordinary circumstances support a longer period of time. They will not be approved for reasons including, but not limited to, the following:
  - A. Attending school (unless attendance is short-term and directly benefits SBHS)
  - B. Relocation
  - C. Incarceration
  - D. Accepting another job
  
- III. The Human Resources Department is to provide written decisions to employees, concerning requests for leaves of absence without pay in a timely manner.
  
- IV. If a leave of absence without pay is approved, the notification is to specify the terms and conditions of the approval, including the following:
  - A. The type of leave of absence without pay that has been approved authorized regular or contingent
  - B. The beginning and ending dates
  - C. The terms for return (e.g., return-to-work statement from the attending health care provider)
  
- V. The written approval of an authorized (regular) leave of absence without pay must identify the location and job(s) which will be available for employees' return to work.
  
- VI. The written approval on a contingent leave of absence without pay must include the following:

**SUBJECT: Leave of Absence Without Pay**

**Policy HR-7.03**

**Page 5 of 9**

- A. The program(s) within which a suitable vacancy must exist, and
- B. The specific job(s) in the program(s) which would represent a suitable vacancy.

**NOTE:** In order to be considered a “suitable vacancy”, a position must be properly established, budgeted and have no other restrictions that must be resolved prior to filling the vacancy.

- VII. If an employee requests an authorized regular leave of absence without pay, and it is determined that it will not be approved, an authorized official must notify the employee that the request is denied.
  - A. Human Resources may offer to employees, if appropriate, the opportunity to request a contingent leave of absence without pay.
  - B. Human Resources does not have the authority to place employees on a contingent leave of absence without pay when a specific request has not been received from the employees, except as provided in the Request section.

**WORKERS' COMPENSATION:**

Employees who are absent from work due to work-related injuries, illnesses and/or exposures to occupational disease covered under workers' compensation may request to be placed on unpaid family medical leave, if appropriate, or leave without pay, rather than use accrued leave to cover the absence. The Selection of Payment Option SBHS Form 457 must be completed and submitted to the Benefits Coordinator. Employees cannot receive both workers' compensation payments and salary due to using accrued leave for lost work time. The Selection of Payment Option SBHS Form 457 must be completed.

**BENEFITS:**

- I. While on a leave of absence without pay, employees may maintain health insurance coverage through the State Health Benefit Plan and continue their benefits through the Flexible Benefits Program.
  - A. Employees should be advised of the cost for maintaining Health Insurance and any benefits through the Flexible Benefits Program.
  - B. The following forms must be completed and submitted to the Human Resource Department, as appropriate, to continue Health Insurance coverage:
    - 1. Leave Without Pay Benefit Continuation SBHS Form 967 and
    - 2. Disability Certification Form if appropriate

**SUBJECT: Leave of Absence Without Pay**

**Policy HR-7.03**

**Page 6 of 9**

NOTE: A Certification of Serious Health Condition SBHS Form 369 or other documents containing similar information from the attending health care provider which supports the request for absence may be accepted.

- II. Employees with at least one year of participation in the Group Term Life Insurance Program under the Employees' Retirement System (ERS) may retain coverage while on a leave of absence without pay. A request to continue coverage must be made in writing to ERS prior to beginning the leave of absence without pay. Coverage terminates if this written request is not filed.

NOTE: Employees who accept employment outside of State government or who are on active duty with The Armed Forces are not eligible to continue coverage.

**TIME LIMITATIONS:**

- I. Authorized regular and contingent leave of absence without pay should be approved for short periods of time, unless specific circumstances support approving a longer absence. Approval cannot exceed twelve (12) months. See Extension section.
- II. A continuous leave of absence without pay cannot exceed twenty-four (24) months. A continuous leave of absence without pay may include any combination of the following:
  - A. Authorized (regular)
  - B. Contingent (and any approved extensions)
  - C. Short-term/other and
  - D. Unpaid family and medical leave

**RETAINING ACCRUED LEAVE:**

Employees may request that accrued leave (all or part) be retained while on a leave of absence without pay. Program Managers along with the Human Resource Manager should consider the reasons for a leave of absence without pay and the length of time requested before approving a request to retain accrued leave. Requests to retain accrued leave should be approved unless extenuating circumstances dictate otherwise.

**RETURN TO WORK:**

- I. Employees must notify their Supervisor, Program Manager and the Human Resource Department of their intent to return to work. This notification must be received prior to the expiration of the leave of absence without pay. Specific notification instructions may be included in the approval notification letter (e.g., notice will be required in writing, specific deadline date for receiving notice, need for release to return to work, etc).

**SUBJECT: Leave of Absence Without Pay**

**Policy HR-7.03**

**Page 7 of 9**

- II. Prior to employees returning to work from a leave of absence without pay due to their own illness, disability or medical condition, employees must provide a release to return to work statement from the attending health care provider to the Human Resources Department.
  - A. The statement must certify that the employee can resume the essential functions of the job, without restrictions or with restrictions that can be reasonably accommodated.
  - B. Each health care providers statement indicating work accommodations will be reviewed on a case-by-case basis.
  - C. Failure of the employee to comply with these requirements may result in separation from employment.
- III. Employees may request to return to work prior to the expiration of an approved leave of absence without pay. Human Resources may approve requests for early return to work unless specific circumstances prevent approval.
- IV. Upon return from a leave of absence without pay, employees retain previously accrued and unused leave.
- V. In order for employees to return to work from a contingent leave of absence without pay, a “suitable vacancy” must be properly established, budgeted and have no other restrictions that must be resolved prior to filling the vacancy.

**EXTENSIONS:**

An extension of a leave of absence without pay beyond the 12-month limitation may be approved by the CEO if determined appropriate. If an extension is approved, it will be on a contingent leave absence without pay basis only. Such an extension should be for a limited period of time and cannot be approved for more than twelve (12) months.

NOTE: The CEO should only grant an extension for the employee’s medical reasons and when the employee’s condition and other factors indicate that the employee will be able to return to work.

- I. Employees are to request extensions in writing. Only requests for a contingent leave of absence without pay will be considered.
- II. Requests for extensions must be accompanied by a statement from the attending health care provider which supports the request for the continued leave.
- III. The CEO is to either approve or deny requests in writing and must include the conditions of return.

**SUBJECT: Leave of Absence Without Pay**

**Policy HR-7.03**

**Page 8 of 9**

- IV. If an extension is approved, a statement should be included in the notice that approval of the request for extension does not extend health insurance coverage under the State Health Benefit Plan. The State Health Benefit Plan will provide information regarding continued coverage through COBRA.
- V. Employees must notify their Supervisor, Program Manager and the Human Resources Benefit Coordinator verbally or in writing, of their intent to return to work as provided in Return to Work section.

**CREDITABLE SERVICE TOWARD RETIREMENT:**

Members of ERS who are on a leave of absence without pay due to a physical or mental illness, sickness or disorder caused by a job-related disease/accident may submit a request to purchase up to twelve (12) months of service in a five (5) year period by paying employee contributions plus interest within the first six (6) months of return to duty.

**REFERENCE:**

- I. Rules of the State Personnel Board – Rule 16 Absence from Work

**ATTACHMENTS:**

- I. [Selection of Payment Option SBHS Form 457](#)
- II. Leave Information Sheet for Leave Without Pay
- III. [Leave Without Pay Benefit Continuation SBHS Form 967](#)

**APPROVAL SECTION:**

\_\_\_\_\_  
Chief Executive Officer

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Date

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Committee Chairperson

\_\_\_\_\_  
Date

**RESCISSION SECTION:**

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Chief Executive Officer

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Date

**SUBJECT: Leave of Absence Without Pay  
Policy HR-7.03  
Page 9 of 9**

**REVIEW DATE:**

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Committee Chairperson

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Date

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Committee Chairperson

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