VACATION DONATION PROGRAM - CONTINUED SALARY

Description and Scope - M.S. 43A.1815 (Vacation Donation to Sick Leave Account) provides that a state employee may donate a total of up to 40 hours of accrued vacation leave each fiscal year to the sick leave account of one or more state employees. In accordance with this statute, the Commissioner of Minnesota Management & Budget (MMB) is authorized to establish administrative procedures regarding Program eligibility, duration of need based on individual cases, monitoring and evaluation of individual eligibility status, and other topics related to administration of this Program.

Employees may be eligible for this Program if they meet the criteria outlined in this Administrative Procedure and if they cannot work due to a life-threatening illness/injury or due to the need to provide care for a spouse or dependent child who has incurred a life-threatening illness/injury.

Donations are converted to a monetary value by multiplying each donor’s hourly rate of pay by the number of hours donated. Program recipients receive payment for sick leave based upon the monetary value balance available to them.

Objective - To establish procedures for the administration of M.S. 43A.1815.

Definitions - Key Terms

**Account** means a recipient’s account established to retain donations for the purpose of continuing the recipient’s salary.

**Applicant** means a state employee who is applying to receive the benefit of the Vacation Donation Program authorized by M.S. 43A.1815.

**Dependent child** means a child who, at the onset of the illness/injury, is living in the same household of the employee and who is dependent upon the employee for principal support and maintenance.

**MMB Program Administrator** means the Minnesota Management & Budget employee responsible for administering the Vacation Donation Program.

**Donor** means any state employee who is eligible to accrue and use vacation leave (or personal leave) and who chooses to donate accrued vacation leave or personal leave to the account of one or more Program recipients.

**Program** means the Vacation Donation Program authorized by M. S. 43A.1815 (Vacation Donation to Sick Leave Account).

**Recipient** means a state employee who has been approved for the Program.

Responsibilities -

A. Applicants:
• Complete “Vacation Donation Program Application”, including authorization for release of medical documentation, and submit to agency human resources office with a signed and dated statement from a physician that contains the following:

1. Nature of the illness/injury, prognosis, and anticipated return to work date.

2. Physician’s opinion as to whether the illness/injury is life threatening, including explanation. (Explanations regarding “potentially” life-threatening surgeries, accidents etc. are not eligible. The actual illness/injury must be life threatening.)

3. Physician’s statement that the life threatening illness/injury necessitates absence from work for a minimum of six weeks and indicates an anticipated return to work date.

4. If applying due to an injured/ill spouse or dependent child, in addition to the above criteria, the medical statement must include the reason the employee’s attendance is necessary to provide direct care and the type of direct care required.

Note: It is the responsibility of the Program applicant or authorized representative to submit sufficient information so that an informed Program eligibility determination can be made. The application will not be processed if complete documentation is not included. Neither the applicant’s agency nor MMB shall be responsible for any expenses incurred in the process of obtaining necessary information.

An applicant who receives an unfavorable determination may select a designee to consult with the MMB commissioner or commissioner’s designee on the reasons for the determination.

B. Approved Recipients:

• Ensure regular medical updates are provided to agency human resources office for forwarding to MMB Program Administrator. Monthly updates will be required unless the MMB Program Administrator authorizes a longer interval due to the recipient’s medical situation. Documentation must include information regarding the continued need to be off work and an estimated return to work date.

C. Agencies:

• Provide this administrative procedure to Program applicants.

• Determine if application and submitted documentation is complete. Request further information from applicant if information provided is insufficient for eligibility determination. Advise applicant in writing if submitted information does not meet eligibility requirements. If it appears that submitted information may meet eligibility requirements, complete agency portion of application, prepare a cover memo regarding eligibility and any other relevant information, and forward to MMB Program Administrator for final determination.

• Notify applicant of MMB’s eligibility determination.

• Coordinate preparation of an informational flyer if recipient is approved for the Program and authorizes a flyer, and submit flyer to MMB Program Administrator for distribution.

• Forward copy of recipient’s medical updates to MMB Program Administrator.
• Ensure payments to recipient do not exceed Program donations, and notify recipient if donations are insufficient for full payment.

• Notify MMB if Program Donations from general pool are needed for recipient’s next pay period. Notify MMB Program Administrator in writing of any change in recipient’s Program eligibility status, including:
  a) recipient’s ability to return to work, full or part-time;
  b) retirement, resignation, or death of recipient or of spouse/child for whom recipient is providing care;
  c) failure of recipient to comply with the provisions of this administrative procedure.

• Contact the MMB Employee Insurance Division (EID) if there is concern that a recipient may not have sufficient donations to pay his/her insurance deductions or may not be eligible to receive the state’s contribution; and discuss measures for ensuring recipient’s continued coverage.

D. MMB Program Administrator/Designee:

• Receive Program applications and supporting documentation. Request additional information/clarification if necessary.

• The Program Administrator reserves the right to determine eligibility on a case-by-case basis.

• After receipt of all necessary information, determine eligibility for the Program, and provide written notification of approval or denial to the applicant’s agency. Refer to medical professional for assistance if necessary. If denied, provide reason for decision.

• Notify the MMB Payroll Services to establish an account for a newly approved recipient and to assign earn codes.

• Distribute to all state agencies informational flyers authorized for distribution by recipient.

• Monitor Program operation to ensure legal and procedural compliance, and intervene when appropriate.

• Inactivate recipients who are no longer eligible for the Program.

• Authorize distribution of unused Program donations in accordance with Provisions below.

E. Donor:

• Complete “Vacation Donation Program Contribution Form”, and submit form to appropriate agency personnel for processing.

  Note: Hours donated are not considered taxable income for the donor; nor are they considered a tax-deductible expense.

F. Donor’s Agency:
• Verify that the donor is eligible to accrue and use vacation leave and has sufficient accrued vacation hours to donate (or in the case of employees who receive personal leave days, verify the personal leave balance).

• Process donation in SEMA4 system.

• Retain “Vacation Donation Program Contribution Form” on file with other payroll documents for that pay period, in accordance with Minnesota General Records Retention Schedule for State Agencies – Classified and Unclassified Personnel Records (Payroll Files).

Provisions -

A. Donors:

1. To be eligible to donate vacation hours, an employee must be eligible to accrue and use vacation leave or have a personal leave balance, and must have an earned balance that equals or exceeds the number of hours donated.

2. The maximum amount of vacation leave an employee may donate to this Program each fiscal year is a total of 40 hours (or 5 personal leave days). The 40 hours may be donated to one recipient or may be divided among two or more recipients.

3. Once an authorization to donate vacation hours/personal leave days has been processed, it is irrevocable.

4. Donations must be in whole hour increments, with one hour as the minimum donation.

5. The identity of donors and the number of hours donated are private data.

B. Recipients:

1. An employee may apply for the Program if he/she:
   
a) has been an employee of the state of Minnesota for at least six consecutive months; and
   
b) is eligible to accrue and use vacation (or personal days) and sick leave; and
   
c) is eligible for a full or partial Employer Insurance Contribution; and
   
d) has exhausted all forms of paid leave (i.e., vacation, sick, compensatory time), or be reasonably close to exhausting all paid leave, and it is clear that such leave will be exhausted; and
   
e) obtains medical documentation which verifies that a life threatening illness/injury necessitates absence from work for a minimum of six weeks and indicates an anticipated return to work date; and
   
f) is not receiving or pending receipt of workers’ compensation benefits for the same time period.

2. A recipient whose appointment status is full-time may utilize Program donations for up to 1044 hours (for faculty this corresponds to up to one-half annual base salary) per eligible
illness/injury. Donations available to recipients who work on a less than full-time basis will be prorated, based on the percentage of time the recipient normally works. (* See Note on page 5 for additional related information.)

The allotted amount of Program donations available to a recipient, as designated above, must be used within a one-year period from the time the recipient begins using Program donations. A recipient may remain eligible for the Program during this time if the recipient:

a) continues to provide regular medical updates as requested by the MMB Program Administrator, verifying the recipient’s continued need to be off work due to the approved illness/injury and providing an estimated return to work date; and

b) complies with the responsibilities and provisions outlined in this Administrative Procedure; and

c) has not yet used the allotted number of Program donations, as designated above; and

d) remains in active employment status or on leave status with the state (i.e., a recipient may not use the Program to extend their appointment with the state).

* Note: When providing care for an ill/injured spouse/dependent child, length of Program eligibility will also depend upon the appointing authority’s determination as to a reasonable period of time that the recipient’s attendance is necessary, while acting in accordance with provisions of the applicable collective bargaining agreement and FMLA regulations.

3. Application to the Program may be made after all paid leave has been exhausted or as soon as it becomes reasonably clear that all forms of paid leave will be exhausted.

4. Program donations shall only be used for the illness/injury for which the recipient is approved.

5. A recipient may use Program donations retroactively when all forms of paid leave are exhausted, if the employee has sufficient donations to cover the period of retroactivity.

6. Recipients shall not receive payment for more hours than they would normally be expected to work in their position.

7. A recipient’s pay will continue to be taxed in accordance with state and federal tax tables, and all authorized deductions will continue to be deducted from the recipient’s paycheck (except employee-paid insurance premiums), provided sufficient donations are available.

8. Recipients shall not accrue sick or vacation leave on any pay that is generated from Program donations. If a recipient is able to work on a part-time basis, accruals will be prorated, based upon the number of hours worked and any paid leave taken (e.g., vacation, sick leave, compensatory time). All sick leave accrued must be used prior to using Program donations. Recipients who are able to work on a part-time basis will not be required to use accrued vacation leave prior to utilizing Program donations, provided the recipient continues to work each pay period.

9. When a pay period includes a holiday, the recipient shall not receive holiday pay unless the recipient is working or uses paid leave on the normal work day immediately preceding the holiday and the normal work day immediately following the holiday. Pay for the holiday shall be deducted from donations.
10. If Program donations are available to cover all or part of the recipient's normal salary, the recipient may not be paid a lesser amount, thereby having the effect of extending insurance coverage for a longer period of time.

11. Recipients must be paid the equivalent of at least one full working day a pay period in order to be eligible to receive the state's contribution toward the cost of insurance coverage (except during any time designated as FMLA qualifying leave).

12. A recipient will be inactivated from the Program when he/she no longer meets eligibility criteria, as outlined in this Administrative Procedure.

13. Effective the date of this Administrative Procedure, when a recipient is inactivated from the Program, any Program donations remaining in the recipient's account shall be transferred to a general pool. However, if a recipient is able to return to work prior to using his/her allowed Program donations, and donations are still available in the recipient’s account, the remaining donations will be retained in the recipient's account for one year from the recipient’s effective date on the Program. In the event the recipient is absent again from work due to the approved illness/injury, the recipient may continue to use Program donations during that one year period, up to the allowed number of hours.

14. If a recipient’s Program donations are depleted prior to using his/her allowed donations, general pool donations will be transferred to the recipient's account, equivalent to the recipient’s normal pay for a pay period, provided that this amount is available in the general pool and that the transfer does not result in the recipient’s receipt of more donations than allowed in #2 above. If more than one recipient is in need of donations, and insufficient donations exist in the pool, existing pool donations will be divided equally among qualified recipients.

15. Any recipient found to have provided fraudulent information shall be immediately removed from the Program, subject to disciplinary action, required to repay money received from the Program, and criminal prosecution may be pursued.

C. Program Administration:

1. All Program decisions are the sole responsibility of MMB and shall not be subject to appeal to another authority or subject to the collective bargaining grievance process. However, an applicant who receives an unfavorable determination may select a designee to consult with the MMB commissioner or commissioner's designee on the reasons for the determination.

2. Program decisions and actions shall not be based upon an employee’s race, religion, creed, color, age, national origin, sex, sexual orientation, marital status, disability, or status with regard to public assistance or membership or activity in a local commission.

3. Employees shall not intimidate, threaten, or coerce any other employee with respect to donating or receiving leave under this Program.

4. Vacation Donation Program data are maintained in accordance with the Minnesota Government Data Practices Act, M.S. 13.43, Subdivision 2.

Other Relevant Laws, Rules, Contracts and Administrative Procedures:

A. Administrative Procedure 18A: Vacation Donation Program - Medical Expense Account