

DCPAS Civilian Employee Q&As for Dealing with Communicable Diseases and Influenza

Q1: What is the difference between using sick leave for exposure to a quarantinable communicable disease and exposure to seasonal influenza? If everyone is getting sick at work can I just take sick leave to avoid being exposed?

A1: An employee may use sick leave for exposure to quarantinable communicable diseases and seasonal influenza only in certain circumstances —

- Quarantinable Communicable Diseases. For purposes of this guidance, the term “quarantinable communicable disease” means a disease for which Federal isolation and quarantine are authorized. Isolation can be used to separate people with a contagious disease from people who are not sick in order to stop the spread of that illness. Quarantine can be used to separate and restrict the movement of people who were exposed to a contagious disease to see if they become sick and to prevent the possible spread of that disease to others. Agencies should refer to the list of quarantinable communicable diseases at <https://www.cdc.gov/quarantine/aboutlawsregulationsquarantineisolation.html>.
- Under certain circumstances, the CDC or a State or local health department may determine that exposure to a quarantinable disease would jeopardize the health of others, and that quarantine of the exposed individual is warranted to protect the public’s health. If the disease is not a quarantinable communicable disease, as defined by Executive Order, and a health authority or health care provider has concerns that exposure to the disease could jeopardize the health of others, the health authority or health care provider should contact the CDC for evaluation of the risk factors and further recommendation.
- Influenza. Influenza may be classified as either seasonal or pandemic. Influenza strains that are new and capable of causing a pandemic are classified as quarantinable diseases; however, seasonal influenza strains – those that cause outbreaks of influenza every winter – are not considered quarantinable. Therefore, exposure to seasonal influenza will not meet the criteria for use of sick leave for exposure to a quarantinable communicable disease. Currently, there is no declared influenza pandemic, and agencies should not grant sick leave for exposure to influenza until they receive guidance from the appropriate officials (e.g., CDC, OPM). Employees who are sick with seasonal influenza and contagious to others should be allowed to use sick leave according to agency policies.

Q2: What are examples of quarantinable communicable diseases?

A2: Sick leave for exposure to a quarantinable communicable disease would only arise in cases of a quarantinable communicable disease. Agencies should refer to the list of quarantinable communicable diseases, which are defined by Executive Order 13295 as amended. See also CDC's Legal Authorities for Isolation and Quarantine: <https://www.cdc.gov/quarantine/aboutlawsregulationsquarantineisolation.html>.

Q3. Can agencies grant sick leave for exposure to a quarantinable communicable disease?

A3: A symptomatic employee is entitled to use an unlimited amount of accrued sick leave when he or she is unable to perform due to a quarantinable communicable disease, such as 2019 Novel Coronavirus (COVID-19), is entitled to use his or her accrued sick leave. Sick Leave for Personal Needs fact sheet: <https://www.opm.gov/policy-data-oversight/payleave/leave-administration/fact-sheets/personal-sick-leave/>

Q4: Can an employee who is healthy and opts to stay at home to provide care for a family member infected with a quarantinable communicable disease such as COVID-19 use sick leave?

A4: An employee is entitled to use a total of up to 104 hours (13 days) of sick leave each leave year to provide care for a family member who is ill or receiving medical examination or treatment. If an employee's family member is symptomatic (ill) due to a quarantinable communicable disease, such as COVID-19, the employee may use his or her accrued sick leave for general family care. The amount of sick leave permitted for family care purposes is proportionally adjusted for part-time employees and employees with uncommon tours of duty in accordance with the average number of hours of work in the employee's regularly scheduled administrative workweek. Sick Leave for Family Care fact sheet: <https://www.opm.gov/policy-data-oversight/payleave/leave-administration/fact-sheets/sick-leave-for-family-care-or-bereavement-purposes/>

Q5: Can an employee requests sick leave to care for a family member with a serious health condition?

A5: An employee is entitled to use up to 12 weeks (480 hours) of sick leave each leave year to care for a family member with a serious health condition. If an employee has already used 13 days of sick leave for general family care (discussed above), the 13 days must be subtracted from the 12 weeks. If an employee has already used 12 weeks of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general 3 family care purposes. An employee is entitled to no more than a combined total of 12 weeks of sick leave each leave year for all family care purposes. If an employee's family member is symptomatic (ill) due to a quarantinable communicable disease, such as COVID-19, that would generally constitute a serious health condition, which would allow use of up to 12 weeks of an employee's accrued sick leave to care for that family member. The amount of sick leave permitted for family care purposes is proportionally adjusted for part-time employees and employees with uncommon tours of duty in accordance with the average number of hours of work in the employee's regularly scheduled administrative workweek. Sick Leave to Care for a Family Member with a Serious Health Condition fact sheet: <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/sickleave-to-care-for-a-family-member-with-a-serious-health-condition/>

Q6: Can an employee invoke his or her entitlement to use the Family and Medical Leave Act (FMLA) to care for a family member with a quarantinable communicable disease, such as COVID-19?

A6: An employee may invoke his or her entitlement to unpaid leave under the Family and Medical Leave Act (FMLA) of 1993 in appropriate circumstances. Under FMLA, an employee is entitled to a total of up to 12 workweeks of leave without pay for a serious health condition that

prevents an employee from performing his or her duties or to care for a spouse, son or daughter, or parent with a serious health condition. An employee may substitute his or her accrued annual and/or sick leave for unpaid leave in accordance with current laws and regulations governing the use of annual and sick leave. An employee or family member who contracts a quarantinable communicable disease, such as COVID-19, and becomes ill would generally be considered to have a qualifying serious health condition. Family and Medical Leave fact sheet:

<https://www.opm.gov/policy-data-oversight/payleave/leave-administration/fact-sheets/family-and-medical-leave/>

Q7: When an employee has exhausted all of his or her annual or sick leave may that be granted leave without pay?

A7: If an employee has exhausted his or her available annual or sick leave and other forms of paid time off, he or she may request leave without pay (LWOP). LWOP is a temporary non-pay status and absence from duty that, in most cases, is granted at the employee's request. In most instances, granting LWOP is a matter of supervisory discretion and may be limited by agency internal policy. While FMLA leave is limited to specific purposes, LWOP may be granted for any reason approved by the agency. In situations where LWOP is taken for a purpose that would qualify under FMLA, granting LWOP without requiring the employee to invoke FMLA will preserve the employee's entitlement to 12 weeks of FMLA leave. An extended period of LWOP may have an effect on an employee's benefits including health benefits, retirement benefits, and life insurance. Leave Without Pay fact sheet: (<http://www.opm.gov/policy-data-oversight/pay-leave/leaveadministration/fact-sheets/leave-without-pay>) Effect of Extended Leave Without Pay (or Other Nonpay Status) on Federal Benefits and Programs fact sheet:

<https://www.opm.gov/policy-data-oversight/pay-leave/leaveadministration/fact-sheets/effect-of-extended-leave-without-pay-lwop-or-other-nonpay-status-on-federal-benefits-and-programs/>

Q8: Can an employee with a medical emergency related to COVID-19 participate in the leave Voluntary Leave Transfer Program (VLTP)?

A8. If an employee has a personal or family medical emergency related to a quarantinable communicable disease, such as COVID-19, and is absent (or expected to be absent) from duty without available paid leave for at least 24 work hours, he or she may qualify to receive donated annual leave under the Voluntary Leave Transfer Program (VLTP) or Voluntary Leave Bank Program (VLBP).

- Voluntary Leave Transfer Program – The VLTP allows an employee to donate annual leave to assist another employee who has a personal or family medical emergency and who has exhausted his or her own available paid leave. All agencies must establish a VLTP. Voluntary Leave Transfer Program fact sheet: (<https://www.opm.gov/policy-dataoversight/pay-leave/leave-administration/fact-sheets/voluntary-leave-transfer-program/>)
- Voluntary Leave Bank Program – The VLBP allows an employee who is a member of the agency's voluntary leave bank to receive donated annual leave from the leave bank if the employee experiences a personal or family medical emergency and has exhausted his or her own available paid leave. An agency is not required to establish a VLBP. Voluntary Leave Bank Program fact sheet: (<https://www.opm.gov/policy-dataoversight/pay-leave/leave-administration/fact-sheets/voluntary-leave-bank-program/>)

Q9: Does the employee need a telework agreement before he or she can telework?

A9: Yes, the Telework Enhancement Act requires every employee who participates in telework to have a written agreement, regardless of the type of telework. The Federal Government uses telework, among other things, to promote continuity of operations by allowing Federal employees to continue their work at an approved alternative worksite. The Telework Enhancement Act of 2010 defines “telework” or “teleworking” as a work flexibility arrangement under which an employee performs the duties and responsibilities of his or her position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work. Telework is a critical tool during emergency situations. OPM has strongly encouraged agencies to maintain a viable telework-ready workforce. This requires determining eligibility for employees to telework, encouraging employees to enter into written telework agreements, communicating expectations before an emergency situation occurs, and practicing and testing equipment and procedures regularly throughout the year, not just teleworking during emergencies that may occur infrequently. Telework arrangements may require collective bargaining obligations for employees represented by labor organizations. Agencies also need to implement and maintain a robust information technology system with the necessary infrastructure to accommodate widespread remote usage of agency systems as well as the accompanying technical support personnel to resolve remote connectivity issues. Agencies should maximize their telework capacity by entering into telework agreements with as many telework-eligible employees as possible and by conducting exercises to test employees’ ability to access agency networks from home. Managers should ensure that there are effective processes in place for communicating efficiently with employees who are teleworking. For additional information on telework, please see www.telework.gov.

Q10: Is telework voluntary?

A10: Yes. An agency may not compel an employee to telework, even if the duties of the position make that employee "telework eligible." However, although entering into a telework arrangement is voluntary, once the employee is under such an arrangement, he/she may be required to telework outside of his/ her normal telework schedule in the case of a temporary emergency situation if that understanding has been clearly communicated by the agency to the teleworking employee in the written telework agreement.

Q11: Can an agency force an employee to telework?

A11: No. The language of the Telework Enhancement Act supports that telework is a voluntary flexibility. In other words, an agency may not compel an employee to telework even if the duties of the position make that employee "telework eligible." However, although entering into a telework arrangement is voluntary, once the employee is under such an arrangement, he/she may be required to telework outside of his/her normal work schedule in the case of a temporary emergency situation if that understanding has been clearly communicated by the agency to the teleworking employee in the written telework agreement.

Q12: If the employee has a telework agreement in place and the manager requires them to telework during controlled monitoring period, does the employee have the option to refuse to telework?

A12: Yes. The employee will have the option to use leave flexibilities to such as annual leave, advanced leave, etc.

Q17: Is an employee eligible for Federal Employees' Compensation Act (FECA) payments if he or she contracts COVID-19, either directly or from a coworker?

A17: If an employee believes his or her illness resulted from a work-related incident, the employee can file workers' compensation claim under the Federal Employees' Compensation Act (FECA). Employees with a medical condition covered by the Federal Employees' Compensation Act (FECA) will receive FECA benefits. FECA benefits are administered by the U.S. Department of Labor, and each case will be judged on its own merit.

Q18: If quarantined, will my Federal benefits such as Health and Life Insurance, TSP, Flexible Spending, etc. continue?

A18: Benefits for Federal employees and eligible family members remain unchanged during periods of quarantine or any emergency situation.

Q19: During the quarantine period, who is my point of contact for benefits related questions, such as Open Season elections, TSP loans, interruption of pay, etc.?

A19: Employees may contact their respective agency benefits offices.

Q20: If I chose civilian controlled monitoring, will my family members receive treatment if they began to exhibit COVID-19-like symptoms?

A20: Family members with COVID-19-like symptoms will be subject to Federal Health Benefits Insurance and other private Insurance requirements, and should contact their local health care facility for treatment.

Q21: Can U.S. health insurance companies or health plans cancel or non-renewing health policies for people who contract COVID-19?

A21: Generally, the answer is no. The Health Insurance Portability and Accountability Act, reaffirmed by the Affordable Care Act, requires that individuals must remain eligible and have their coverage renewed without regard to their particular health or travel circumstances. This applies to church plans and U.S. sold expatriate group plans.

Q22: What are the protections for a medical worker who takes a leave of absence from a job, accepts temporary or foreign medical insurance, and returns to their job. Can they be denied their job-based health coverage due to contracting COVID-19?

A22: No. Generally, individuals who take leaves of absence from their jobs and return to those jobs are equally eligible for their employer-sponsored insurance as other workers.