

Friday, January 11, 2019
CPM 2019-03



The Director

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

MEMORANDUM FOR: HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

From: MARGARET M. WEICHERT, ACTING DIRECTOR

Subject: Fact Sheet: Pay and Benefits Information for Employees Affected by the Lapse in Appropriations

UPDATED (1/23/2019) FACT SHEET: Pay and Benefits Information for Employees Affected by the Lapse in Appropriations

This information covers pay and benefits matters that may be important to employees if the lapse in appropriations continues past payroll processing deadlines. Payroll deadlines vary from agency to agency, so the actual timing of when an employee's pay and benefits may be impacted will vary.

This information is only for employees who are:

- Furloughed (a type of nonpay status), or
- "Excepted" from furlough (i.e., continuing to work and earn pay, but their pay is delayed until appropriations are authorized).

Employees who are "exempt" from the lapse in appropriations (e.g., because they are not paid from annually appropriated funds) are not impacted.

What you should know

PAY

Furloughed employees: After the lapse ends, you are entitled to receive your "standard rate of pay" for the furlough period, which includes any—

- basic pay;
- overtime and other premium pay for regularly scheduled work;
- regular premium payments (e.g., law enforcement availability pay); and
- allowances and differentials payable on a regular basis.

Employees who were on previously approved leave without pay (LWOP) or who were absent without leave (AWOL) during the lapse in appropriations will not receive pay for those hours.

Excepted employees: After the lapse ends, you will receive your “standard rate of pay” for the actual hours that you worked (e.g., including any overtime or other premium pay, allowances, and differentials earned based on actual hours worked). Any time that an excepted employee is placed in a furlough status will be compensated under the rules for furloughed employees. (See above.)

Both furloughed and excepted employees will be paid after the lapse in appropriations ends.

ANNUAL AND SICK LEAVE

Any leave you had previously scheduled during the lapse period is cancelled, so you won't be charged leave (except as described in the paragraph below on excepted employees). In addition, per OPM guidance, if you had properly scheduled “use-or-lose” annual leave that you weren't able to use because of the lapse in appropriations, that leave must be restored to you. Your agency will provide instructions on any action you may need to take.

Both furloughed and excepted employees will receive credit for any annual and sick leave you would have otherwise (but for the lapse in appropriations) accrued during the period of the lapse once funding is provided.

An excepted employee may request approval to use paid leave instead of being placed in a furlough status during an authorized absence from work. However, compensation for such leave is still not payable until after the lapse in appropriations. Generally, we do not expect excepted employees to request to use paid leave during a lapse, since they are entitled to retroactive pay for furlough periods without charge to leave. Use of paid leave under this special authority is subject to normal rules for the applicable leave program, including leave request and approval procedures.

RETIREMENT

No retirement deductions will be made if you aren't receiving pay. Generally, a period of nonpay status will have no effect on an employee's retirement-creditable service or high-3 average pay unless the nonpay status is for more than 6 months during the calendar year. In addition, since employees are entitled to receive retroactive pay after the lapse ends (with exclusions noted above under “Pay”), the lapse period will no longer be considered as a period of nonpay status.

ALLOTMENTS FROM PAY

Since no allotments can be made if you're not receiving pay, you may want to review your allotments to determine whether you'll need to make alternative arrangements (e.g., if you are using allotments to pay loans, alimony, etc.).

UNEMPLOYMENT COMPENSATION

Furloughed employees are eligible to apply for unemployment benefits, but excepted employees working on a full-time basis are generally not eligible. Employees who wish to file should do so with the Unemployment Office for the state where the employee worked (i.e., last official duty station prior to furlough).

Please be advised, however, that when employees receive retroactive pay, they will be required to pay back any unemployment benefits they received, in accordance with State law. For more information, see <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Unemployment-Insurance-Resources> and the U.S. Department of Labor's Unemployment Compensation for Federal Employees website, <https://oui.doleta.gov/unemploy/unemcomp.asp>.

FEDERAL EMPLOYEES HEALTH BENEFITS (FEHB)

FEHB coverage continues even if you don't receive a paycheck. Your share of premiums will accumulate and be withheld later when the lapse ends and employees can be paid.

FLEXIBLE SPENDING ACCOUNT (FSAFEDS)

Your FSAFEDS payroll deductions stop when you don't receive pay. You remain enrolled in FSAFEDS, but you can't be reimbursed for eligible health care claims until you return to pay status and your payroll deductions can be made. Payroll deductions will be subsequently collected to match your annual election amount.

Eligible dependent care expenses incurred during the lapse in appropriations may be reimbursed up to whatever balance is in your dependent care account—as long as the expense incurred allows you (or your spouse, if married) to work, look for work, or attend school full-time.

FEDERAL LONG TERM CARE INSURANCE PROGRAM (FLTCIP)

Your coverage will continue. However, if you usually pay your premiums through payroll deduction, and the lapse period is less than three consecutive pay periods, your accumulated premiums will be withheld when the lapse ends and employees can be paid. Otherwise, Long Term Care Partners will begin to bill you directly for premium payments. You must pay those bills on a timely basis in order to continue your coverage.

FEDERAL EMPLOYEES' GROUP LIFE INSURANCE (FEGLI)

Coverage continues for up to 12 consecutive months of nonpay status, but premiums are collected only for pay periods for which you receive pay.

FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM (FEDVIP)

Your coverage will continue. However, if the lapse period is less than three consecutive pay periods, your premiums will accumulate and be withheld later when the lapse ends. If you do not receive pay for three consecutive pay periods, BENEFEDS will begin to bill you directly for premium payments. You must pay those bills on a timely basis in order to continue your coverage.

QUALIFYING LIFE EVENT – HEALTH, DENTAL AND VISION INSURANCE

Qualifying life events are certain life events that allow you to enroll or make changes to your existing insurance coverage outside of open season (e.g., marriage, birth of a child, etc.). Generally, new enrollments or changes in enrollment due to a Qualifying Life Event do not take effect until the employee has been back in pay status for any part of the prior pay period. The exception is for a new enrollment or change in enrollment due to the birth or addition of a child, which is effective on the first day of the pay period in which the child is born or becomes an eligible family member. There is no requirement to be in pay status in order for an enrollment or change in enrollment due to birth or addition of a child to become effective.

THRIFT SAVINGS PLAN (TSP)

For information on the effect of a furlough on your Thrift Savings Plan contributions, loans, and investments, please refer to <https://www.tsp.gov/index.html>.

CHILDCARE SUBSIDY PROGRAM

Employees enrolled in their agency child care subsidy program should contact their agency HR office for information about payments.

EMPLOYEE ASSISTANCE PROGRAMS

Employee Assistance Program (EAP) services can be helpful in providing confidential counseling with experienced, licensed counselors, and many EAPs can provide access to legal and financial consultation services. Contact your agency's EAP office to determine what services might be available to you.

OTHER CONSIDERATIONS

Some mortgage, loan, credit and utility providers have indicated that customers may qualify for alternative arrangements. Please contact your providers for more information.

Note: This guidance should not be considered time and attendance instructions. Guidance on documenting time and attendance will be provided by each agency and payroll provider.