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Department : Public Safety  
North West Provincial Government  
REPUBLIC OF SOUTH AFRICA

*INCAPACITY LEAVE AND ILL HEALTH  
POLICY*

**“Harnessing the Potential of all  
Employees”**

**NORTHWEST PROVINCIAL GOVERNMENT:  
DEPARTMENT OF PUBLIC SAFETY  
HUMAN RESOURCES POLICY**

**POLICY NO:** HR2009/008  
**NAME OF POLICY:** INCAPACITY LEAVE AND ILL-HEALTH POLICY  
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## PREAMBLE

The Department of Public Safety ("the Department") is committed to creating a working environment that optimally supports effective and efficient service delivery which is simultaneously sensitive to the circumstances of its employees. Particular attention is paid to the needs and requirements of the members of the public who the Department serves as a core business in this regard.

## 1. ABBREVIATIONS AND DEFINITIONS

<b>DPSA:</b>	Department of Public Service and Administration.
<b>GEPF:</b>	Government Employees Pension Fund.
<b>LRA:</b>	Labour Relations Act.
<b>PILIR:</b>	Procedure on Incapacity Leave and Ill Health Retirement.
<b>PSA:</b>	Public Service Act.
<b>PSCBC:</b>	Public Service Co-ordinating Bargaining Council.
<b>Department:</b>	Department of Public Safety, North West.
<b>Employee:</b>	An employee includes all employees of the Department employed in terms of the Public Service Act of 1994, the Basic Conditions of Employment Act of 1998, as amended and includes contract workers, interns, volunteers and prospective employees.
<b>Employment Legislation:</b>	means the PSA, read with the Public Service Regulations, 2001, as amended and laws governing the appointment of persons in the services and state educational institutions;
<b>Health Risk Manager :</b>	means an independent natural or juristic person appointed by the Employer to advice on the granting of incapacity leave and ill-health retirement of employees;
<b>Incapacitated:</b>	means the inability to perform some or all of one's assigned functions as a result of incapacity;
<b>Incapacity:</b>	means an illness or injury;
<b>Leave Determination:</b>	the Determination on leave of Absence in the Public Service made by the Minister for Public Service and Administration in terms of section 3(3)(c) of the PSA, as amended from time to time.

## 2. PURPOSE AND OBJECTIVES

- 2.1 The purpose of this policy is to provide a framework for managing departmental responses to Incapacity Leave and Ill-Health in the manner that complies with the constitution and applicable laws, prevents abuse of sick leave and eliminates unfair discrimination and enables the harnessing of each person's full potential.

- (e) The Department's Employment Assistance Programme shall be adjusted with a view to improving responsiveness to Incapacity and Ill-Health related wellness challenges.

## **7. APPOINTMENT OF A HEALTH RISK MANAGER**

The DPSA shall appoint an independent multi-disciplinary medical expert, specializing in occupational medicine as a Health Risk Manager.

## **8. THE MANAGEMENT OF INCAPACITY LEAVE**

### **8.1 Temporary Incapacity Leave**

- (a) Incapacity Leave is not an unlimited amount of additional sick leave days at an employee's disposal. Incapacity leave is additional sick leave granted conditionally at the Department's discretion, as provided for in the Leave Determination and PILIR.
- (b) An employee who has exhausted his or her normal sick leave, referred to in paragraph 12 of the Leave Determination, during the prescribed leave cycle and who according to the treating medical practitioner requires to be absent from work due to a temporary incapacity leave, may apply for temporary incapacity leave with full pay on the applicable application form prescribed in terms of PILIR in respect of each occasion.
- (c) For the purposes of managing temporary incapacity leave and the application of PILIR, temporary incapacity leave is regarded to be:
- i. a short period of incapacity leave, if the employee is absent for not longer than 29 working days per occasion, after the normal sick leave credit have been exhausted, in a sick leave cycle; and
  - ii. a long period of incapacity leave, if the employee is absent for 30 working days or more per occasion, after the normal sick leave credit have been exhausted, in a sick leave cycle.
- (d) Applications for temporary incapacity leave must be submitted on the following prescribed application forms:
- i. Annexure A for short periods of incapacity leave; or
  - ii. Annexure B for long period of incapacity leave.
- (e) For an employee's application for temporary incapacity leave to be considered the:
- i. employee must submit sufficient proof that he/she is too ill/injured to perform his/her work satisfactorily;
  - ii. application form must, regardless the period of absence, be accompanied by a medical certificate issued and signed by a medical practitioner that certifies his/her condition as temporary incapacity and if the employee has consented, the nature and extent of the incapacity.
  - iii. Employee is in accordance with item 10(1) of Schedule 8 of the LRA, afforded the opportunity to submit together with his/her application form:
    - (aa) any medical evidence related to the medical condition of the employee, such as medical reports from a specialist, blood tests results, x-ray results or scan results, obtained at the employee's expense; and
    - (bb) any additional written motivation supporting his/her application;
- (f) An employee must submit his or her application for temporary incapacity leave in respect of clinical procedure in advance, unless the treating medical practitioner certifies that such procedure has to be conducted as an emergency.

- (g) If overcome by a sudden incapacity, the employee must personally notify his/her supervisor or manager **immediately**. A verbal message to the supervisor/manager by a relative, fellow employee or friend is only acceptable if the nature and/or extent of the incapacity prevents the employee to inform the supervisor/manager personally.
- (h) An employee must submit an application form for temporary incapacity leave personally or through a relative, fellow employee or friend within 5 working days after the first day of absence.
- (i) If the employee fails to submit an application within the period indicated in paragraph (h), above, the following arrangements apply:
  - i. The employee's manager/supervisor must immediately notify the employee that if such application is not received within 2 working days, the sick leave period will be deemed to be leave without pay. If the employee fails to submit the application on time or submit compelling reasons or compelling reasons exist why the application cannot be submitted, the supervisor/manager must immediately inform the relevant personnel section/office that relevant absence must be covered by annual leave (with the employee's consent) and/or unpaid leave if insufficient annual leave credits are available and if the employee failed to notify the Department of his/her choice.
  - ii. Failure by the employee to submit an application form within the stated periods, or failure by the supervisor/manager to properly manage it, must be viewed in a serious light and disciplinary steps should be taken.

## 8.2 Short Period of Temporary Incapacity Leave

This refers to 1-29 working days requested per occasion

- (a) The Department must within *5 working days* from receipt of the employee's application for temporary incapacity leave, verify that the employee has attached:
  - i. A medical certificate
  - ii. Current medical reports not older than 6 months and not older than 2 months in the case of psychiatric cases
  - iii. Current blood tests, x-ray results
  - iv. Additional written motivation provided by the employee and
  - v. The employee's sick leave records for at least the current sick leave cycle
- (b) Conditionally grant a maximum of 30 consecutive working days temporary incapacity leave with full pay subject to the outcome of his or her investigation into the nature and extent of the employee's incapacity. Use Part C of the application form for this purpose
- (c) Immediately complete the department's report to the Health Risk Manager provided for in Part D of the application form and refer the application form to the Health Risk Manager together with:
  - i. the employee's sick leave records for at least the current sick leave cycle and if available for the previous sick leave cycle;
  - ii. the employee's annual and other leave records for the corresponding periods.

*Handwritten initials: M3*

- (d) The Health Risk Manager must acknowledge receipts of the above-mentioned report within 2 working days and confirm in writing that the department shall receive feedback on the application within 12 working days, It is incumbent on the department to confirm that the Health Risk Manager receives the report and required attachments.
- (e) The Health Risk Manager must then undertake an assessment. The purpose of the assessment is to:
  - i. determine the validity of the application for temporary incapacity leave;
  - ii. determine the need for ongoing temporary incapacity leave;
  - iii. determine the appropriate duration of the leave;
  - iv. provide preliminary advice on the management of the condition; and
  - v. advise a full health assessment, if applicable.

The Health Risk Manager and the department must adhere to the guidelines for incapacity assessment at Annexure G to enhance objective, equitable and consistent advice and decision-making.

- (f) The Health Risk Manager may request further information before concluding its advice to the department.
- (g) The Health Risk Manager must, while maintaining and protecting the confidentiality relating to medical information, forward its advice to the department.
- (h) The Department must within 30 working days after receipt of both the application form and medical certificate, approve or refuse temporary incapacity leave granted conditionally. In making a decision, the department must apply its mind to the medical certificate, (with or without describing the nature and extent of the incapacity), medical information/records (if the employee consented to disclosure), the Health Risk Manager's advice, the additional information supplied by the employee (if any) and all other relevant information available to the department and based thereon approve or refuse the temporary incapacity leave granted conditionally, on conditions that the department may determine, e.g. to return to work,  
Please use Part F of the application form for purposes of the decision-making process
- (i) If the department:
  - i. approves the temporary incapacity leave granted conditionally, such leave must be converted into temporary incapacity leave, or
  - ii. refuses the temporary incapacity leave granted conditionally, he/she must notify the employee in writing:
    - (aa) of refusal;
    - (bb) of the reasons for refusal;
    - (cc) that if he/she is not satisfied with the department's decision, that he/she may lodge a grievance.
    - (dd) that he/she must notify the department in writing within 5 working days of the date of the notice to him/her, whether or not the period of conditional incapacity leave must be covered by annual leave (to the extent of the available annual leave credits) or unpaid leave and that, if he/she fails to notify the department of his/her choice, the period will be covered by unpaid leave.

Please refer to an example of a draft reply at Annexure D. The draft reply must be adapted according to the circumstances of each individual case.

- (j) The department must cover the period of absence, in accordance with the employee's written notification or the annual leave credits are insufficient, the relevant period of absence must be covered by unpaid leave.

### **8.3 Long Periods of Temporary Incapacity Leave**

This refers to 30 working days or more requested per occasion

- (a) An employee may be subjected to a full assessment by the Health Risk Manager, which may include a second or further medical opinion and/or functional assessment by an occupational therapist. This will allow proper and detailed evaluation of the employee's health condition and the opportunity to assess whether the condition is serious enough to warrant temporary incapacity leave for a long period or otherwise and where applicable alternative employment or to adapt the work circumstances/duties of the employee in order to accommodate the employee, in his/her work environment;
- (b) The Department must within 5 working days from receipt of the employee's application for temporary incapacity leave, verify that the employee has:
  - i. A medical certificate
  - ii. Current medical reports not older than 6 months and not older than 2 months in the case of psychiatric cases
  - iii. Current blood tests, x-ray results
  - iv. Additional written motivation provided by the employee and
  - v. The employee's sick leave records for at least the current sick leave cycle
- (c) conditionally grant a maximum of 30 consecutive working days temporary incapacity leave with full pay subject to the outcome of his/her investigation into the nature and extent of the employee's incapacity. Please use Part D of the application form for this purpose. The employee must accordingly be notified in writing. Please use example of the pro forma letter at Annexure C and
- (d) immediately complete the department's report to the Health Risk Manager provided for in Part D of the application form refer the application form to the Health Risk Manager together with:
  - i. the employee's sick leave records for at least the current sick leave cycle and if available for the previous sick leave cycle
  - ii. the employee's annual and other leave records for the corresponding periods
- (e) The Health Risk Manager must acknowledge receipt of the above-mentioned report within 2 working days and confirm in writing that the department shall receive feedback in the application within 12 working days. It is incumbent on the department to confirm that the Health Risk Manager receives the documentation as required.

### **8.4 Permanent Incapacity Leave**

- (a) An employee shall not directly access or apply for permanent incapacity leave. The Department may grant an employee up to maximum of 30 working days' permanent incapacity leave once he or she has following the above-mentioned records determined that an employee's condition is permanent, The Department must during this period and in accordance with the advice of the Health Risk Manager, ascertain the feasibility of:-
  - i. alternative employment; or
  - ii. adapting duties or work circumstances to accommodate the employee

- (b) An employee, whose degree of incapacity has been certified as permanent but who can still render a service, may be redeployed horizontally with retention of his or her benefits. If the redeployment necessitates reallocation to a job a lower grading, it must be explained well in advance and the continued utilization of the employee must, in this regard, be with his or her consent. If the employee's redeployment entails retraining, the employer must take requisite resources (time and financial) and potential returns into consideration before approving redeployment. The redeployment of an employee's services must ensure the optimal utilization of his or her competencies and may not compromise service delivery.
- (c) If both the Department and employee are convinced that the employee will never be able to render an effective service at his or her level or rank, the employer and employee may proceed with the process of termination of service on grounds of ill-health.
- (d) The Department may extend the period, referred to in paragraph (a), up to a maximum 30 working days in order to finalise processes already commenced. If the processes are not completed within the 60 working days, the case must be referred to the Director General: Public Service and Administration together with a report explaining the reasons for the delay

#### **8.4 Shortened Application for Ill-Health**

If the Department, following a full assessment of an employee for purposes of long temporary incapacity leave, decides that the employee should be retired on grounds of ill-health, the shortened application form for ill-health retirement at Annexure F must be completed and submitted without delay to the GEPF. Copies of the information, which was submitted to the Health Risk Manager, as well as a copy of the Health Risk Manager's advice must be attached to the application form.

#### **8.5 Ill-Health Retirement**

- (a) The Supervisor/Manager must submit an application for ill-health retirement as soon as it is evident that an employee may not be able to return to work following incapacity. An employee may decide to apply for ill-health retirement
- (b) An application for ill-health retirement may be lodged even before an employee's normal sick leave credits have been exhausted.

### **9. ROLE OF EMPLOYEE ASSISTANCE PROGRAMME (EAP)**

- 9.1 The Employment Assistance Programme (EAP) Officer will assist in monitoring of voluntary counselling, general support of Incapacity and Ill-health related matters at the workplace and promotion of wellness.
- 9.2 The role of EAP is to facilitate counselling and promote wellness programmes and support committees in a workplace environment.
- 9.3 External professionals, internal trainers and other colleagues will assist in managing and monitoring all Incapacity and Ill-health training programmes and other interventions at the work place.



## **10. ROLES AND RESPONSIBILITIES**

The roles and responsibilities of the Health Risk Manager, Department (as an employer) and the employee in the management of Incapacity Leave and Ill-health will be as outlined below:

### **10.1 Health Risk Manager**

- (a) The Health Risk Manager is responsible for continuously notifying the DPSA of trends in undue delays on the part of the Department, with in the above processes prescribed in PILIR. The DPSA will investigate the cause of the delay and make recommendations to the Department in respect of preventive steps to avoid a similar trend in future
- (b) He/she must, in accordance with PILIR, provide advice with regards to the granting of incapacity and the management of illnesses, where applicable, as well as the adjustment of the work environment to meet the incapacity of the employee.
- (c) The Health Risk Manager will assess and provide advice to the Department in respect of an employee's application for incapacity leave within specified time frame. The systems and administrative capacity for handling the volume of forms, as well as the medical knowledge and experience to do incapacity leave and ill-health assessments will be the responsibility of the Health Risk Manager.

### **10.2 Department**

The Department shall be responsible to process applications and complete reports within the specified time frames. The Department shall, within the scope of his/her authority and with due consideration of the Health Risk Manager's advice, take a final decision on an employee's application for incapacity leave and/or ill-health retirement.

### **10.3 Employee**

The employee shall submit application forms for either incapacity leave or ill-health retirement. He/she shall submit medical certificates and reports to his/her supervisor/manager.

## **11. DISPUTE RESOLUTION**

- 11.1 An employee who is not satisfied by a decision by the Department may lodge a grievance as contemplated in terms of the rules made by the Public Service Commission.
- 11.2 In terms of section 35 of the PSA, the Department requires new medical evidence to defend his/her decision. The costs of such evidence would be for the account of the Department. If the employee requires new medical evidence to prove the substance of his/her grievance, the cost will be for the employee's account.
- 11.3 If an employee refuses to accept the adapted duties or to move to alternative employment, which is more suitable for his or her incapacity, the Department may, subject to due process being followed, terminate the services of the employee concerned.
- 11.4 The Department, based upon the advice of the Health Risk Manager must take the final decision with regard to the granting of incapacity leave, alternate employment or the adjustment of the employees work environment. If the Department deviates from the advice of the Health Risk Manager, he or she must:

- (a) record the reasons for deviation in his/her decision; and
- (b) in writing inform both the Health Risk Manager and the DPSC of the reason for the deviation

**12. MONITORING, EVALUATION AND REVIEW**

- 12.1 The Department shall establish a committee that will deal with Incapacity and Ill-health issues. This committee shall consist of the Designated Officer Employee Integrated Health and Wellness Sub-directorate Health Officer, who would be directly accountable to the Human Resource Manager, representatives from all key departments and organized labour.
- 12.2 The Incapacity Leave and Ill-health Committee shall evaluate and advise on the implementation of this policy

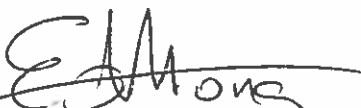
**13. RELATED POLICIES**

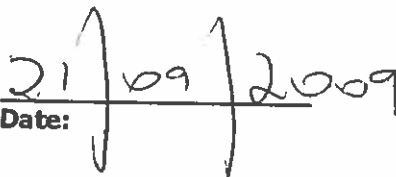
- 13.1 Effective implementation of this policy requires that it be read together with the Employment Equity Policy, Policy on the Management of HIV and AIDS, Disability Policy and PILIR.

**14. COMMENCEMENT OF POLICY**

This policy shall be implemented by the Department with effect from the date of approval and signature by the Head of Department.

**APPROVED**

  
**OB MONGALE**  
**HEAD OF DEPARTMENT**

  
Date: 21/09/2009