



**DEFENSE HEALTH AGENCY**  
7700 ARLINGTON BOULEVARD, SUITE 5101  
FALLS CHURCH, VIRGINIA 22042-5101

DHA-Policy Memorandum 20-009  
December 30, 2020

MEMORANDUM FOR DEPUTY DIRECTOR, DEFENSE HEALTH AGENCY  
ASSISTANT DIRECTOR FOR COMBAT SUPPORT  
ASSISTANT DIRECTOR FOR HEALTHCARE ADMINISTRATION  
ASSISTANT DIRECTOR FOR MANAGEMENT  
PROGRAM EXECUTIVE OFFICER, DEFENSE HEALTHCARE  
MANAGEMENT SYSTEMS  
GENERAL COUNSEL, OFFICE OF THE GENERAL COUNSEL  
CHIEF OF STAFF, DEFENSE HEALTH AGENCY  
DIRECTOR, COASTAL MISSISSIPPI MARKET, DEFENSE  
HEALTH AGENCY  
DIRECTOR, JACKSONVILLE MARKET, DEFENSE HEALTH  
AGENCY  
DIRECTOR, NATIONAL CAPITAL REGION MARKET, DEFENSE  
HEALTH AGENCY  
DIRECTOR, CENTRAL NORTH CAROLINA MARKET, DEFENSE  
HEALTH AGENCY

SUBJECT: Restoration of Annual Leave

This Defense Health Agency (DHA) Policy Memorandum announces procedures and guidelines for the administration of leave restoration based on the authority of References (a) through (c) (Attachment 1). In addition, the policy establishes the DHA procedures and guidelines in accordance with the guidance of References (d) through (f), for the administration of leave restoration when an employee has requested the restoration of forfeited annual leave (as known as “Use or Lose” leave).

This policy memorandum applies to all DHA Federal civilian employees assigned temporary or permanent duties at DHA organizations, to include DHA Markets and field activities (remote locations), including military medical treatment facilities (MTFs) under the authority, direction, and control of the DHA, and subordinate organizations administered and managed by DHA. It does not apply to employees of MTFs who are appointed under the authority of a Secretary of a military department.

It is DHA’s policy, pursuant to References (d) through (f), that:

a. Management is responsible for the planning and effective scheduling of annual leave throughout the year. Supervisors should take positive action to ensure annual leave is scheduled for use during the year to avoid situations where employees approach the end of the leave year with significant annual leave that must be used or forfeited. While employees have an obligation to request annual leave in a timely manner, failure on their part to do so does not relieve management of its responsibility to ensure employees manage their leave. When an employee chooses not to request to use annual leave to avoid forfeiture, the employee is not entitled to have the forfeited leave restored.

b. DHA may restore annual leave forfeited because it exceeded maximum leave ceilings (i.e., 30, 45, or 90 days) if the leave was scheduled in advance and was forfeited because of administrative error, sickness of the employee, or exigency of the public business.

c. DHA personnel will submit requests to restore forfeited leave according to the procedures provided in Attachment 2.

d. Authority to designate DHA personnel as essential to the DHA response to the COVID-19 national emergency under the provisions of Reference (f) is delegated to the addressees of this memorandum and to the Deputy Assistant Directors, referred to here as Designating Officials. This designation must be communicated in writing to the designated employees.

e. Authority to determine future exigencies of the public business that warrant restoration of forfeited leave under the provisions of References (d) and (e) is delegated to the Assistant Director for Management. The Designating Officials may then designate DHA employees, if any, whose performance of duties in support of DHA's response to the declared exigency is essential. This designation must be communicated in writing to the designated employees.

Forms found in the memorandum are available at:

a. OPM Form 71, Request for Leave or Approved Absence, [https://www.opm.gov/forms/pdf\\_fill/opm71.pdf](https://www.opm.gov/forms/pdf_fill/opm71.pdf).

b. DHA Form 43, Request for Restoration of Annual Leave, [https://info.health.mil/cos/admin/DHA\\_Forms\\_Management/Lists/DHA%20Forms%20Management/AllItems.aspx](https://info.health.mil/cos/admin/DHA_Forms_Management/Lists/DHA%20Forms%20Management/AllItems.aspx).

My point of contact is Mr. Torrance Thomas, [torrance.e.thomas.civ@mail.mil](mailto:torrance.e.thomas.civ@mail.mil), (703) 681-6779).

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RONALD J. PLACE  
LTG, MC, USA  
Director

Attachments:

1. References
2. Procedures

REFERENCES

- a. Department of Defense (DoD) Directive 5136.01, CH 1, “Assistant Secretary of Defense for Health Affairs (ASD(HA)),” August 10, 2017
- b. DoD Directive 5136.13, “Defense Health Agency (DHA),” September 30, 2013
- c. DHA-Procedural Instruction 5025.01, “Publication System,” August 24, 2018
- e. 5 United States Code (USC) § 6304, Sections (d) and (e)
- f. DoD 7000.14-R, “Financial Management Regulation,” Volume 8, Chapter 5, Section 050306
- g. Office of Personnel Management (OPM) Interim Regulations on Scheduling of Annual Leave by Employees Performing Services Determined to be Essential for the Response to Certain National Emergencies, and Notice of the Determination that the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak Constitutes an Exigency of the Public Business for the Purpose of Restoring Forfeited Annual Leave

PROCEDURES

1. Leave Forfeited as a Result of Administrative Error. DHA employees who have forfeited annual leave as a result of administrative error will coordinate with their supervisors to request restoration of that leave, using the Request-and-Review Process below. Employees must demonstrate that the administrative error was not of their making.

2. Leave Forfeited due to Illness: DHA employees who have forfeited annual leave as a result of illness will coordinate with their supervisors to request restoration of that leave, using the Request-and-Review Process below. Employees must document the existence of the illness, not its nature.

3. Leave Forfeited due to Exigencies of the Public Business. DHA employees who have forfeited leave as a result of exigencies of the public business will coordinate with their supervisors to request restoration of that leave, using the Request-and-Review Process below. To be eligible to request restoration of leave forfeited as a result of exigencies of the public business, employees must have been designated as essential to the DHA response to the exigency.

a. Exigencies of the Public Business Related to the National COVID-19 Response. The U.S. Office of Personnel Management has determined that the response to the COVID-19 pandemic constitutes a government-wide exigency of the public business and issued interim regulations that provide that employees designated as essential to that response will be deemed to have scheduled their leave in advance of the annual deadline and will be eligible to have their leave restored. DHA employees who have been designated as essential to the DHA response to the COVID-19 pandemic will coordinate with their supervisors to request restoration of that leave, using the Request-and-Review Process below, except that those employees will not be required to demonstrate that their leave was scheduled in advance according to the normal annual deadline.

b. Exigencies of the Public Business Other than the National COVID-19 Response. DHA employees who may be designated as essential to the DHA response to future exigencies of the public business and who have forfeited leave as a result of their duties will coordinate with their supervisors to request restoration of that leave using the Request-and-Review Process below.

4. Determining Exigencies of the Public Business. A Designation Official who believes that an exigency of the public business exists and effects DHA's mission performance will notify the Assistant Director for Management (AD-M). The AD-M will review recommendations, determine if an exigency of the public business exists and provide the effected Designation Officials notice in writing. The AD-M will continually monitor the situation and determine, at the earliest date possible, that the exigency has ended and notify the Designation Officials in writing of the termination date.

5. Designating Employees as Essential: Upon receipt of a determination by the AD-M that their operations are effected by an exigency of the public business, the Designated Officials will coordinate with their subordinate supervisors for recommendations of which DHA employees, if any, perform duties essential to DHA's response to that exigency. If the Designated Official determines that the employees' duties are essential, the Designated Official will notify those employees in writing of that determination. Designated Officials will continually monitor the situation and determine whether the services of the designated employees to respond to the exigency are still required, preventing the employees from scheduling and using their annual leave. If the employees' duties are no longer essential or if the AD-M has determined a termination date for the exigency, the Designated Official will notify those employees of the termination date.

6. Request-and-Review Process:

a. DHA employees who have forfeited annual leave and wish to request that it be restored will submit DHA Form 43, Request for Restoration of Annual Leave along with supporting documentation from the Automated Time Attendance and Production System (ATAAPS)-generated or offline OPM Form 71, Request for Leave or Approved Absence, leave request and information on the reason for restoration.

b. Supervisors who receive a request for restoration of forfeited leave will review the request for completeness and, if it is complete, forward it to the supporting Labor Management and Employee Relations (LMER) specialist. For DHA headquarters personnel, that is the Civilian Human Resources Agency's (CHRA) DHA HQ Servicing Center LMER team, which can be reached via e-mail: [USARMY.RIA.CHRA-NC.MBX.DHA-HQ-FMLA-VLTP-REQUEST@mail.mil](mailto:USARMY.RIA.CHRA-NC.MBX.DHA-HQ-FMLA-VLTP-REQUEST@mail.mil).

c. The servicing LMER specialist will perform an administrative review, create necessary logs, and provide a recommendation to the supervisor on whether to approve the request. If the request is not complete or does not support the request, the LMER specialist will attempt to coordinate with the employee and supervisor to revise the request before making a recommendation.

d. Upon receipt of a recommendation from the LMER specialist, the supervisor will make a determination. The supervisor will complete the DHA Form 43, notify the employee, and provide the DHA Form 43 to LMER specialist.

e. Employees whose requests are not approved may seek assistance from the LMER specialist.

7. Approved Restorations. The LMER specialist will provide approved DHA Form 43s to the payroll team for processing.

8. Time Limit for Using Restored Leave.

a. An employee must schedule and use restored annual leave not later than the end of the leave year ending 2 years after—

- (1) the date of restoration of the annual leave forfeited because of administrative error;
- (2) the date fixed by the head of the agency or designee as the date of termination of the exigency of the public business; **or**
- (3) the date the employee is determined to be recovered from illness or injury and able to return to duty.

b. Restored annual leave that is not used within the established time limits is forfeited with no further right to restoration. Administrative error may not serve as the basis to extend the time limit within which to use restored annual leave. This is so even if the agency fails to establish a separate leave account, fix the date for the expiration of the time limit, or properly advise the employee regarding the rules for using restored annual leave, absent agency regulations requiring otherwise.