



## Department of Transformation and Shared Services Office of Personnel Management

**Policy Title:** Catastrophic Leave

**Policy Number:** 47

**Authority:** Ark. Code Ann. § 21-4-203; § 21-4-209; § 21-4-214

**Effective Date:** August 24, 2021

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Arkansas law establishes a Catastrophic Leave Bank Program to be administered by the Department of Transformation and Shared Services (TSS), Office of Personnel Management (OPM). The Catastrophic Leave Bank Program creates no expectation or promise of continued employment with a state agency and is intended to assist eligible employees during medical emergencies and for maternity purposes.

### Definitions

**Catastrophic Leave Bank:** A pool of accrued annual and sick leave voluntarily donated by employees which may be approved for use by employees who meet the eligibility requirements for medical emergency due to illness/injury and/or for maternity purposes.

**Catastrophic Illness/Injury:** A medical condition of an employee, spouse, parent of the employee, or a child of the employee as certified by a physician or other appropriate healthcare provider that requires an employee's absence from duty for a prolonged period of time and which, except for the catastrophic leave program, would result in a substantial loss of income to the employee because of the exhaustion of all accrued leave and compensatory time.

**Catastrophic Leave for Maternity Purposes:** An eligible female employee may receive up to four (4) consecutive weeks of paid leave within the first twelve (12) weeks after the birth of the employee's biological child or placement of an adoptive child in the employee's home.

**Prolonged Period of Time:** An extended period of time whereby a medical condition prevents the employee from performing the employee's duties. The period of time may be continuous or intermittent, except for maternity purposes, which must be continuous.

**Medical Condition:** Emergencies limited to catastrophic and debilitating medical situations, severely complicated disabilities and/or severe accidents of the employee or a qualifying family member that could not have been anticipated and which cause the employee to be unable to perform his/her job, require a prolonged period of recuperation and/or require the employee's absence from duty as documented by a physician or other appropriate healthcare provider. Elective surgery does not qualify as a medical condition for catastrophic leave purposes.

For maternity purposes, the birth of the employee's biological child or placement of an adoptive child in the employee's home is the medical condition. Approved catastrophic leave will be granted for the birth of the employee's biological child effective the date of the birth or after and approved catastrophic leave will be granted for the placement of an adoptive child in the employee's home effective the date the child is placed in the home or after, but both within the first twelve (12) weeks after the birth or placement.

**Substantial Loss of Income:** A continuous period of time where the employee will not be compensated by the employing state agency due to a medical condition after the exhaustion of all earned sick, annual, holiday and compensatory leave. This requirement does not apply for maternity purposes.



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**Onset of the Illness or Injury:** the initial beginning, or start, as certified by a physician or other appropriate healthcare provider, of the medical condition which created the need for the catastrophic leave request. If a recurrence of the same illness necessitates a subsequent catastrophic leave request, the eligibility requirement that the employee has eighty (80) hours of combined sick and annual leave at the onset of the illness shall not be required on the illness recurrence date.

### Eligibility Requirements for Catastrophic Leave

1. The applicant must be a regular, benefits-eligible, full-time, employee of a state agency to be eligible to participate. A person who works less than full-time (40 hours per week) or who is in an extra-help position is ineligible to participate as a recipient in the Catastrophic Leave Bank Program; an employee in a regular, part-time position may elect to donate annual and sick leave.
2. The employee must have been employed by the State of Arkansas for at least one (1) year in a regular, full-time position.
3. Employees with a medical emergency must have exhausted all accumulated sick, annual, holiday and compensatory leave, and, at the "onset of the illness or injury", had to his or her credit at least eighty (80) hours of combined sick and annual leave. For maternity purposes, the eighty (80) hours of combined sick and annual leave credit is not required at the time of application for catastrophic leave.
4. The "80-hour requirement" for a medical emergency due to illness/injury may be waived for an otherwise eligible employee if an "extraordinary circumstance" is declared by an agency director due to the applicant providing documentation that one of the following conditions has occurred:
  - a. The employee applying for catastrophic leave had, during the previous one (1) year period, another medically documented illness or injury which was not compensated under an approved Catastrophic Leave Bank Program, but was documented under the Family and Medical Leave Act (FMLA) as a qualifying event, and caused the exhaustion of all sick and annual leave, or
  - b. The employee applying for catastrophic leave had, during the previous one (1) year period, exhausted his or her sick and annual leave as a direct result of supplementing workers' compensation benefits, which were received as a result of an on-the-job illness or injury with the State of Arkansas.
5. If the medical condition is due to illness/injury or for maternity purposes and the employee is covered by workers' compensation, the compensation based on approved catastrophic leave, when combined with the weekly workers' compensation benefit received by the employee, shall not exceed the compensation being received by the employee at the onset of the illness/injury or maternity leave.
6. The employee has not received a documented disciplinary action for leave abuse during the past one (1) year period from the date of application. This requirement does not apply for maternity purposes.



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7. An employee shall not be approved for catastrophic leave unless that employee is, or is reasonably expected to be, on leave-without-pay (LWOP) status as a result of the catastrophic illness/injury. This requirement does not apply for maternity purposes.
  8. An employee is eligible for approved catastrophic leave due to injury/illness for a maximum of six (6) months (1,040 hours) within a five (5) year period. Additional requests within the five (5) year period may be submitted for review and determination by the OPM Catastrophic Leave Bank Committee and State Personnel Administrator. This requirement does not apply for maternity purposes.
  9. The combination of catastrophic leave for the stated medical conditions, due to illness/injury or for maternity purposes, received by an employee may not exceed one thousand, two hundred (1,200) hours in a calendar year (1,040 hours for illness/injury and 160 hours for maternity purposes).
  10. The Catastrophic Leave Bank Committee shall not grant an employee catastrophic leave beyond the date certified by a physician or other appropriate healthcare provider for the employee to return to work.
  11. An employee shall not be approved for catastrophic leave for a medical emergency unless that employee has provided an acceptable medical certificate from a physician or other appropriate health care provider supporting the continued absence and setting forth that the employee is, and will continue to be unable to perform the employee's duties due to a catastrophic illness/injury of the employee or a qualifying family member. The employee is responsible for providing information regarding his/her assigned job duties to the physician in order to have a more accurate medical certification. This requirement does not apply for maternity purposes.
  12. An employee shall not be approved for catastrophic leave for a maternity purpose unless the employee has provided acceptable proof of the birth or placement. For the birth of an employee's biological child, acceptable proof includes a hospital announcement with the mother's name and/or the biological child's name, hospital discharge papers with the mother's name and the biological child's name, or a birth certificate of the biological child. For the placement of an adoptive child in an employee's home, acceptable proof includes the following:
    - a. Formal document from the placement entity with the mother's name and the child's name or
    - b. Legal guardianship papers with the mother's name and the child's name.

The acceptable proof will be maintained by the agency submitting the request but certified as part of the application process or as follow-up to the application using the Maternity Purposes Eligibility Date Verification form.

### Donations of Leave to the OPM Catastrophic Leave Bank

The agency director or designee shall screen leave donated by the employees of that agency to ensure that the following criteria are met:



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1. Accrued leave may only be donated to the OPM Catastrophic Leave Bank in one (1) hour increments. Donations of leave shall be granted hour-for-hour and not dollar-for-dollar.
2. No employee of an agency shall be allowed to donate leave to the OPM Catastrophic Leave Bank if such donation reduces that employee's accrued sick and annual leave balance to less than eighty (80) hours. This restriction does not apply to employees who are terminating employment.
3. Annual and/or sick leave which has been donated to the OPM Catastrophic Leave Bank will not be restored to the employee who donated the leave time.
4. Approved donations of leave will be transmitted to the OPM Catastrophic Leave Bank by submitting the Donation of Annual and Sick Leave form.

### OPM Catastrophic Leave Bank Committee

**Membership:** The OPM Catastrophic Leave Bank Committee encompasses employees of various agencies. The Committee members shall be comprised of a rotating registry of agency employees with the majority having a medical (licensed) or medically related background. Members shall elect a Committee chairperson.

**Responsibility:** The purpose of the Committee is to review all medical emergency catastrophic leave requests and make recommendations for approval, denial or pending for additional information or clarification. The Committee will reconsider applications submitted by the State Personnel Administrator as requested by an agency director or as deemed appropriate.

### Catastrophic Leave Bank Program Administration

1. Donations to or applications for catastrophic leave and related forms and documentation shall be submitted to the employee's human resources office or to the employee's agency director/designee for review and completion of the donation or application for eligibility and forwarded to OPM by confidential methods. The completeness and accuracy of information and supporting documentation is the responsibility of the agency.
2. The OPM Catastrophic Leave Bank Coordinator and/or designee will be responsible for the following:
  - I. **Donations of annual and sick leave or accrued annual and sick leave to the Catastrophic Leave Bank**
    - a. Review and record keeping of annual and sick leave submitted by donors; and
    - b. Review and record keeping for return of accrued annual and sick leave and approved unused leave.
  - II. **Applications for Catastrophic Leave for Medical Emergencies due to illness/injury**
    - a. Application review for completeness, eligibility and coordination of the information to be presented to the Committee chairperson and members for review and determination;
    - b. Creation of agenda and minutes for each meeting; and
    - c. Record keeping of determinations; distribution of Committee determinations.



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### III. Applications for Catastrophic Leave for Maternity Purposes

- a. Application review for completeness, eligibility and coordination of the information;
  - b. Record keeping of the determinations; and
  - c. Distribution of the determinations.
3. If an agency director does not agree with any of the determinations, an appeal may be made to the State Personnel Administrator for reconsideration by the Committee.
  4. Agency directors shall not grant catastrophic leave to an employee prior to the OPM approval or catastrophic leave exceeding the OPM approval.
  5. Catastrophic leave is granted or donated in one-hour increments only, not on a monetary basis.
  6. Catastrophic leave shall not be awarded retroactively; for maternity purposes, catastrophic leave may be awarded up to twelve (12) weeks after the birth of a biological child or placement of an adoptive child, but shall not begin prior to February 16, 2017, and shall not exceed four (4) continuous weeks.
  7. Catastrophic leave which would result in a negative balance in the OPM Catastrophic Leave Bank shall not be approved.
  8. Employees in a catastrophic leave status, for a medical emergency due to illness/injury, during a period of ten (10) or more days in a month, will have the accrued annual and sick leave for the month returned to the OPM Catastrophic Leave Bank; if the employee in a catastrophic leave status, for a medical emergency due to illness/injury, accrues holiday and birthday leave during that time, the accrued holiday and birthday leave will be removed through a quota correction and the days will be reflected as paid catastrophic leave. Holiday and birthday leave will not be returned to the OPM Catastrophic Leave Bank.

The leave codes and categories for catastrophic leave due to a medical emergency are CATL – Catastrophic Leave and FMLT – Family Medical Leave Catastrophic.

9. Employees in a catastrophic leave status, for maternity purposes, during a four (4) week period, will have the accrued annual and sick leave removed for the month the catastrophic leave status begins through time evaluation; if the employee in a catastrophic leave status, for maternity purposes, accrues birthday leave during that time, the accrued birthday leave will be removed at the time of the birthday through time evaluation; if the employee in a catastrophic leave status, for maternity purposes, accrues holiday leave during that time, the holiday leave will have to be manually removed through a quota correction for non-exempt employees. Birthday and holiday leave during the catastrophic maternity leave period will be reflected as paid catastrophic leave. No accrued leave, annual, sick, holiday and/or birthday leave, will be returned to the OPM Catastrophic Leave Bank.



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The leave codes and categories for catastrophic leave due to maternity purposes are CATM – Catastrophic Leave Maternity and FMMC – Family Medical Leave Maternity Catastrophic Leave.

10. Employees receiving catastrophic leave for a medical emergency due to illness/injury or for maternity purposes will receive their normal rate of pay and normal state benefits, such as agency contributions to insurance and retirement.
11. The use of catastrophic leave for a medical emergency or maternity purposes will not change an employee's merit eligibility date.
12. In the event an employee receiving catastrophic leave for a medical emergency due to illness/injury, returns to work, terminates, retires, or dies prior to expiration of previously approved catastrophic leave, all approved unused catastrophic leave shall be returned to the OPM Catastrophic Leave Bank.
13. An employee may be dismissed if such employee fails to report to work promptly at the expiration of the period of approved catastrophic leave. Nothing, however, shall prevent the agency from accepting satisfactory reasons provided by the employee, in advance of the date the employee is scheduled to return to work, and from granting leave without pay status to an employee prior to or after the expiration of such catastrophic leave if, in the view of the agency director, such action is warranted. Supervisors should not take disciplinary action for such leave until the application has been formally approved or denied.
14. Alleged or suspected abuse, misrepresentation or fraud of the OPM Catastrophic Leave Bank Program shall be investigated by OPM and the employee's agency, and on a finding of wrongdoing, an employee shall repay all of the leave hours awarded from the OPM Catastrophic Leave Bank and shall be subject to such other disciplinary action as recommended by the State Personnel Administrator and determined by the agency director.
15. Approved catastrophic leave for a medical emergency or for maternity purposes shall be applied concurrently with the Family and Medical Leave Act, if the employee is eligible.
16. Recommendations of the OPM Catastrophic Leave Bank Committee or the State Personnel Administrator are not subject to grievance, arbitration or litigation.

### Record Keeping

The OPM Catastrophic Leave Bank record keeping procedure shall track the following:

1. The amount of leave donated by each employee, the rate of pay, and dollar value of such donated leave at the time of donation;
2. The amount of catastrophic leave awarded and returned, including the name of the recipient, position number, rate of pay and personnel number; and
3. Any other such data as required by the TSS Secretary or the State Personnel Administrator.



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Prohibition of Coercion

An employee may not directly or indirectly intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, another employee for the purpose of interfering with that employee with respect to donating, receiving or using annual or sick leave. Any report of such described instances shall be reported in writing to the director/head of the participating agency/institution. All written reports of such described instances shall be investigated thoroughly, and appropriate disciplinary action may be taken for any substantiated violation.