

State of West Virginia

APPLICATION FOR PAYMENT OF UNUSED SICK LEAVE & REIMBURSEMENT AGREEMENT

*If you are an eligible State employee who has accumulated at least sixty-five days of unused sick leave, you may request payment for your unused sick leave at a rate equal to one quarter of your usual rate of daily pay during that calendar year. To see if you are eligible, please review **West Virginia Code, §5-5-6 and Procedural Rules, 148-CSR-21** prior to completing this application to assure your application request meets all requirements.*

Please forward your completed Application & Agreement to the Head of the Spending Unit for which you are employed

PLEASE TYPE OR PRINT ALL INFORMATION CLEARLY

To be completed by the employee requesting payment for unused sick days

Employee Name, Address & Phone Number

Current Position

Employer- Spending Unit Address & Phone Number

Agency Head

Date you began employment with the State _____

Years of Service _____

Total number of accumulated sick days _____

Number of sick days for which you seek payment _____

(You must maintain 50 sick leave days in your leave balance)

Number of sick days remaining following compensation _____

My signature below verifies that I have provided accurate and complete information and that I wish to be compensated for the number of unused sick days specified above. I am aware that I will be required to reimburse the State for the funds received plus 12% interest per annum if I terminate my employment within 60 months from the date of receipt of funds.

Employee Signature

Date

To be completed by the Spending Unit Head or Payroll Clerk

Employee's EPICS Number

Employee's Annual Salary

Employee's Current Daily Rate of Pay

Please identify all sources of funding from which the employee's salary is currently paid (FIMS Financial Code Required- Fund, Org, Activity, FTE)

Recommendation of Authorized Agency/Spending Unit Representative

- [] The employee's request meets all requirements and the sick days requested are available. The employee will continue to have at least fifty (50) sick days remaining after he/she has been compensated as requested.
- [] The employee's request should be disapproved
Reason for disapproval _____
- [] The employee's request should be modified
Modification recommended _____

Authorized Agency Representative

Title

Date

Certification by Head of Spending Unit

I have reviewed the "Application for Payment of Unused Sick Leave and Reimbursement Agreement" and hereby certify that the employee is eligible as required by law and that he/she has accumulated the number of sick days for which he/she seeks compensation. If the Application & Agreement is approved by the Cabinet Secretary for the Department of Administration, and the employee is compensated for the sick days requested, the employee will continue to have no less than the required fifty (50) sick days available in his/her leave balance. I understand that my Spending Unit will transfer funds to the State Employee Sick Leave Fund to cover the total cost of this compensation, if the employee is paid from a funding source other than general revenue. This transfer will be made from the WVFIMS funds from which the employee's salary is actually budgeted.

Employee Name

Number of sick days to be compensated for

Total amount to be paid to employee

Head of Spending Unit Signature

Title

Dated this _____ day of _____, _____.

To be completed by the Employee accepting compensation for unused sick days

I hereby agree to accept _____ as compensation for _____ of unused sick days. I understand that this amount is a rate equal to one quarter of my usual rate of daily pay as set forth in WV Code §5-5-6. I understand that I will not be permitted to reacquire any sick days for which I have received compensation. I also understand that I must reimburse the State Employee Sick Leave Fund the amount of the funds received plus 12% per annum if I separate from employment within 60 months (5 years) from receipt of funds. I also understand that death or retirement would not be considered a separation from employment. In the event of separation from employment, I agree that said amount will continue to be an obligation until such time that the full amount plus interest has been reimbursed. I agree that the State shall pursue collection of the obligation, either by itself, or by contracting with a collection agency. I fully understand that the method of collection may include, but not be limited to: withholding funds from my State paycheck; withholding of State income tax refunds; garnishment of employment wages; and attachment of a bank account.

Employee Signature

Date

Taken, subscribed and sworn to before me this _____ day of _____, _____.

Notary Signature

To be completed by Cabinet Secretary

Approval by Cabinet Secretary of the Department of Administration

I hereby approve the "Application for Payment of Unused Sick Leave & Reimbursement Agreement" which has been certified by the Head of the Spending Unit for which the employee works to meet all the requirements of law.

Said employee has agreed to reimburse the State for the funds received plus 12% annum if he/she leaves employment prior to sixty (60) months from the date of receipt of the funds.

Please process the Application & Agreement and provide the employee compensation for the unused sick days certified above by the Head of the Spending Unit pursuant to West Virginia Code §5-5-6.

Cabinet Secretary for the
Department of Administration

Date

Completed application and tax forms should be mailed to:

Donna Lipscomb
1900 Kanawha Boulevard, East
Building 1, Room E-119
Charleston, WV 25305

148CSR21

**TITLE 148
PROCEDURAL RULE
DEPARTMENT OF ADMINISTRATION
OFFICE OF THE SECRETARY**

**SERIES 21
PROCEDURE FOR PAYMENT OF UNUSED SICK LEAVE TO EMPLOYEES**

§148-21-1. General.

1.1. Scope. - These procedural rules shall set forth the procedures for payment to eligible employees for accrued and unused sick leave.

1.2. Authority. - W.Va. Code §5-5-6

1.3. Filing Date -

1.4. Effective Date -

§148-21-2. Definitions

2.1. "Application Date" - means the date the employee's certified Application for Payment of Unused Sick Leave & Reimbursement Agreement is received by the Secretary.

2.2. "Certified Application" - means an Application for Payment of Unused Sick Leave and Reimbursement Agreement that has been certified by the Head of the Spending Unit, or his/her designee, for which the employee works certifying: that the employee is an eligible employee; the number of unused sick leave days available for which the employee may be paid; the employee's current annual budgeted salary, which includes the employee's base pay and does not include overtime pay or increment pay; the number of sick days the employee would have remaining after payment for available unused sick days; and the WV FIMS codes from which the employee is paid.

2.3. "Eligible Employee" - means every eligible employee, as defined in W.Va. Code §5-5-1, who is entitled upon retirement to credit his or her accrued annual and sick leave for extended insurance coverage as provided in section thirteen, article sixteen of chapter five of the Code, and who has accumulated at least sixty-five days of unused sick leave.

2.4. "Finance Director"- means the Director of the Division of Finance for the Department of Administration.

2.5. "Secretary" - means the Cabinet Secretary for the Department of Administration.

2.6. "Spending Unit" - means any state office, department, agency, board, commission, institution, bureau or other designated body authorized to hire employees.

§148-21-3. Employee Application Procedure

3.1. Any eligible employee wishing to be paid for his/her unused sick leave shall complete the Application for Payment of Unused Sick Leave & Reimbursement Agreement form established by the Department of Administration and submit it to the head of his/her Spending Unit.

3.2. Said application shall include the following information:

- 1) The date on which the employee began employment with the State of West Virginia, the employee's years of service, as defined under W.Va. Code §5-5-1, and the Spending Unit with which the employee is currently employed.
- 2) The number of unused sick days for which the employee is requesting payment.
- 3) The total number of unused sick days the employee has accumulated at the date of application.
- 4) The number of sick days the employee would have remaining after payment for available unused sick days. The employee must maintain a balance of at least fifty (50) days after payment.
- 5) The current budgeted annual salary of the employee seeking payment for unused sick leave. Current budgeted annual salary includes the base pay and does not include overtime pay or increment pay.
- 6) The current daily rate of pay of the employee seeking payment for unused sick leave, as well as an explanation of how the rate of daily pay was computed.
- 7) All sources of funds from which the employee seeking payment for unused sick leave is paid, including the WV FIMS codes.

3.3. Any employee wishing to be paid for his/her unused sick leave shall complete the appropriate state and federal tax forms prior to being paid for the employee's requested unused sick leave days. Said forms are entitled IRS Form W-4 and State of West Virginia form WV/IT-104.

3.4. In order for an employee to obtain payment for that employee's unused sick leave following the first full pay period in July, the application must be received by the Secretary on or before July 1st of that same year. In order for an employee to be compensated for their unused sick leave following the first full pay period in December, the application must be received by the Secretary on or before November 15th of that same year.

§148-21-4. Spending Unit Certification

4.1. The authorized representative of the Spending Unit for which the employee works shall review the employee's Application for Payment of Unused Sick Leave & Reimbursement Agreement. The authorized representative shall verify the eligibility of the employee and the number of unused sick days available for the employee requesting payment to the head of the Spending Unit.

4.2. The authorized representative of the Spending Unit for which the employee works shall review the Application for Payment of Unused Sick Leave and Reimbursement Agreement with the employee requesting payment to assist in that employee's understanding of the full ramifications of the Agreement prior to the employee accepting the terms set forth therein.

4.3. The head of the Spending Unit, or his/her designee, shall then certify to the Secretary, within ten working (10) days from receipt of the application from the employee, that the employee requesting payment for his/her unused sick leave meets or does not meet all eligibility requirements. The head of the Spending Unit, or his/her designee, must also certify to the Secretary the number of unused sick leave days the employee has available for which he/she may be paid; the employee's annual budgeted salary, which includes the base pay and does not include overtime pay or increment pay; the number of sick days the employee would have remaining after payment for available unused sick days; the employee's daily rate of pay; and the sources of funds from which the employee is paid, including the WV FIMS codes.

4.4. The employee or head of the Spending Unit, or his/her designee, shall send the employee's Applications for Payment of Unused Sick Leave & Reimbursement Agreement to the Secretary for approval and payment of unused sick leave once it has been certified by the head of the Spending Unit for which the employee works.

§148-21-5 Cabinet Secretary Authorization

5.1. Upon receipt of the certified Application for Payment of Unused Sick Leave & Reimbursement Agreement, the Secretary shall approve or disapprove the Application for Payment of Sick Leave and Reimbursement Agreement based upon the certified facts in the application within ten (10) working days.

5.2. In the event that the Application for Payment of Unused Sick Leave & Reimbursement Agreement is disapproved by the Secretary, the Secretary shall advise the employee, in writing, that his/her Application was denied setting forth the reasons for said decision with a copy to the head of the Spending Unit or his/her designee.

5.3. The Secretary shall process all certified Applications for Payment of Unused Sick Leave & Reimbursement Agreements which have been approved according to the Application Date. The Secretary shall advise the employee as to whether the employee's application has been approved with a copy to the Spending Unit.

5.4. Following approval, the Secretary shall submit the original Application for Payment of Unused Sick Leave and Reimbursement Agreement to the Finance Director. The Finance Director shall process the Application for Payment of Unused Sick Leave and Reimbursement Agreement and submit it to the West Virginia State Auditor along with any other necessary completed documentation.

5.5. The Secretary, or his/her designee, shall contact the Spending Unit of the employee wishing to obtain payment for his/her unused sick leave to verify that the employee remains eligible and maintains the required sick leave balance prior to payment. If the employee's daily rate of pay has changed prior to payment, the employee may modify the Application for Payment of Unused Sick Leave and Reimbursement Agreement.

§ 148-21-6 Payment Procedure

6.1. Upon payment to an employee, whose salary is not paid from general revenue, the payroll clerk for the Spending Unit shall transfer funds into the State Employee Sick Leave Fund from the funds from which the employee is paid, in whole or in part, on a pro rata basis within ten (10) working days of receipt of invoice from the Finance Director. If funds are not immediately available for transfer, the Finance Director shall establish payment arrangements with the Spending Unit on a case-by-case basis.

6.2. Payments shall be made to employees who have met all certification requirements only once per fiscal year on either the pay day immediately following the first full pay period in July or the first full pay period in December, as long as funds are available in the State Employee Sick Leave Fund. The employee shall be paid at a rate equal to one quarter of their usual rate of daily pay as set forth in W.Va. Code §5-5-6. The daily rate of pay of an employee paid a monthly salary is calculated by multiplying the monthly salary by twelve and dividing that number by the number of workdays for that calendar year. Work day does not include weekends.

6.3. The Department of Administration shall issue a W-2 Form for the funds paid to the employee for their unused sick leave.

6.4. The West Virginia State Auditor shall include the funds received from the employee as wages on the employee's tax form but shall establish a separate code to

reflect that the income does not effect the calculation of the employee's pension. Any payment for unused sick leave may not be a part of the employee's final average salary computation.

6.5. The Spending Unit shall monitor the sick leave balance of the employee requesting payment for his/her unused sick leave to confirm the employee remains eligible from the time of request until the time of payment. If the employee becomes ineligible, the Spending Unit shall advise the Department of Administration prior to payment of the funds. The Spending Unit shall also advise the Department of Administration if the employee separates from employment.

6.6. In the event that the State Employee Sick Leave Fund has insufficient funds to pay the employees who have applied for payment in a fiscal year, then the employees who do not receive payment are eligible for payment in the next fiscal year without being required to reapply. Funds shall be paid in chronological order according to the "Application Date" unless the employee chooses to withdraw the application prior to the next fiscal year. The Finance Director shall maintain the approved applications until such funds are available for payment.

6.7. In the event that the State Employee Sick Leave Fund has insufficient funds to pay the employees who have applied for payment in a fiscal year, the Finance Director shall verify with the head of the Spending Unit, or his/her designee, that the employee is still eligible and meets all requirements of law prior to processing the Application for Payment of Unused Sick Leave & Reimbursement Agreement in the following fiscal year.

6.8. An employee who has been paid for his/her unused sick leave shall not be permitted to reacquire any sick leave days for which he/she received payment.

6.9. The Secretary, or his/her designee, shall direct the Head of the Spending Unit, or his/her designee, to deduct from the employee's sick leave balance the number of sick leave days for which the employee was paid. The Head of the Spending Unit, or his/her designee, shall verify in writing to the Secretary, or his/her designee, the number of days that were deducted from the employee's sick leave balance.

§148-21-7. Repayment of funds

7.1. Prior to an employee receiving payment for unused sick leave, he/she must first contract with the Department of Administration and agree to reimburse the State Employee Sick Leave Fund for the amount exchanged plus twelve percent interest per annum if the employee elects to separate from employment within sixty (60) months of the date of the exchange. Separation from employment with the State of West Virginia, for purposes of W.Va. Code §5-5-6, does not include death or retirement.

7.2. The Secretary shall pursue collection of the obligation either by himself/herself or by contracting with a collection agency.

7.3. The State Auditor shall notify the Secretary when an employee who received payment for unused sick leave separates from employment so that the Secretary may pursue collection of the obligation. The Auditor shall provide reports to the Finance Director identifying all employees who received payment for their unused sick leave to ensure an employee does not receive payment more than once per year.

§148-21-8. Record maintaining and reporting

8.1. Each Spending Unit shall maintain an accurate record of sick leave for every individual employed in that Spending Unit. Said record should be kept up to date and available to the Secretary upon request.

8.2. Each Spending Unit shall provide the Secretary, or his/her designee, a report of all sick days taken and all sick days accumulated for every employee in it's unit by the last day of June of each fiscal year. Said annual report shall also identify the total sick leave days available to each employee.

8.3. The Secretary, or his/her designee, shall maintain sick leave records for all Spending Units.