

~~ADMINISTRATIVE - INTERNAL USE ONLY~~(b) (2)
(b) (3)**Date:** 03/06/2002**Category:** 20 - Human Resources **OPR:** HR**Title:** AR 20-36 MEDICAL LEAVE BANK AND VOLUNTARY LEAVE TRANSFER PROGRAMS**REVISION SUMMARY:** 06 March 2002 (0637)

This regulation supersedes AR 20-36, dated 14 January 2000.

AR 20-36 provides current policy governing the Medical Leave Bank and Voluntary Leave Transfer Program, and is being revised to update organizational and position titles. AN 20-36-8, Medical Leave Bank and Transfer Program Policy Change, has been incorporated in this regulation. This revision reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001 to abolish the Directorate of Administration, and establish the Mission Support Offices.

AN 20-36-8 is hereby rescinded.

Boldfaced text in this regulation indicates revisions.

This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, at HRM Policy @ DA.

36. MEDICAL LEAVE BANK AND VOLUNTARY LEAVE TRANSFER PROGRAM

SYNOPSIS. This regulation states the policy governing the Medical Leave Bank and voluntary Leave Transfer Program.

- a. AUTHORITIES.** Federal Employees Leave Sharing Act of 1988, Public Law 100-566, 5 U.S.C. 6331 - 6373, and Federal Employees Leave Sharing Amendments Act of 1993, Public Law 103-103, 5 U.S.C. Sections 6331 (4), 6337 (c), 6361 (6), 6362, and 6373.
- b. POLICY.** The Agency maintains the Medical Leave Bank (MLB) and voluntary Leave Transfer Program (LTP) to help employees cope with personal or family medical emergencies. Any employee who is on a regularly scheduled tour of duty (either full-time or

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part-time) and accrues leave is eligible to participate in the MLB or LTP. Employees on a term or temporary appointment (including student hires and summer employees) may also participate in these programs; however, they are only eligible to receive MLB or LTP leave during periods in which they work a regularly scheduled tour of duty and accrue leave, with MLB/LTP leave not to exceed the ending date of their appointment. Other Federal civilian and military personnel who are paid and accrue leave through the Agency payroll system may participate in the Agency's MLB/LTP programs if they are not eligible to participate in their parent organization's leave bank or voluntary leave transfer program.

c. DEFINITIONS

- (1) **MEDICAL EMERGENCY.** A medical condition of an employee or family member that is likely to require the employee's prolonged absence from duty and would result in a substantial loss of income because of the unavailability of paid leave. Recovery from childbirth is subject to the same policies as any other incapacitating medical condition under the MLB and LTP.
- (2) **FAMILY MEMBERS.** Spouse; biological and adopted children and their spouses; parents; parents-in-law; siblings and their spouses; or any individual related by blood or affinity, whose close association with the employee makes that relative the equivalent of one of the categories of family members previously listed in this paragraph.

d. GENERAL

- (1) **PERSONAL MEDICAL EMERGENCY.** An employee may apply for MLB leave (after contributing the required membership hours) or LTP leave if the employee:
 - (a) Has exhausted all annual leave (including escrowed and restored leave), sick leave and compensatory time. If appropriate, the employee should explore whether workman's compensation or medical disability retirement is indicated.
 - (b) Has been or is expected to be in a leave without pay (LWOP) or advanced leave status for at least 24 hours in a **consecutive** two-week period. Part-time employees or employees with uncommon tours of duty must expect to be in an LWOP or advanced leave status at least 30 percent of the average number of work hours in their scheduled biweekly tour of duty.
 - (c) Has provided required documentation (see paragraphs e(3)(a)(1) and f(3)(a)(1) below.

The maximum number of MLB or LTP hours, or a combination of MLB/LTP hours, that may be authorized, for both full-time and part-time employees, for each personal medical emergency is 1,500 hours in a 24-month period. If a leave recipient returns to his or her regularly scheduled tour of duty for a minimum of six continuous months before experiencing a relapse of the same personal medical emergency, the recipient may request up to 1,500 additional hours of leave during a 24-month period. MLB and LTP leave are not substitutes for medical disability retirement. The Board will review each case that reaches 6 months of continuous MLB or LTP leave and may recommend that the employee be assessed for medical disability retirement.

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- (2) **FAMILY MEDICAL EMERGENCY.** An employee may apply for MLB leave (after contributing the required membership hours) or LTP leave if the employee:
- (a) Has certified that he/she is required to provide care (administering medicine or medical treatment under the guidance of a doctor or other medical provider) to the family member or to the family member's children or other relatives. The period for which an employee is approved for MLB or LTP leave to provide care to a family member may include time during which the family member is hospitalized.
 - (b) Has exhausted all annual leave (including escrowed and restored leave), compensatory time, and all sick leave available under the Family Friendly Leave Act (see AR 20-30).
 - (c) Has been or is expected to be in an LWOP or advanced leave status for at least 24 hours in a **consecutive** two-week period. Part-time employees or employees with uncommon tours of duty must expect to be in an LWOP or advanced leave status at least 30 percent of the average number of work hours in their scheduled biweekly tour of duty.
 - (d) Has provided the proper documentation (see paragraphs e(3)(a)(1) and f(3)(a)(1) below.)

An employee who receives the maximum of 750 hours of MLB leave allowed for a family medical emergency may then apply for up to 750 hours of LTP leave, if available.

- (3) **LEAVE ABUSE.** MLB and LTP leave will be denied if leave abuse has been documented in an employee's Official Personnel Folder, Performance Appraisal Report, letters of warning or reprimand, or equivalent. Supervisors will certify on the application as to whether there are documented leave issues and, if so, will provide copies of that documentation to the MLB Board. The MLB Office will also conduct a name check with the Office of Security/Special Activities Staff to see if they have a record of leave abuse on an employee who has applied for leave.
- (4) **NORMS ESTABLISHED FOR CERTAIN MEDICAL CONDITIONS.** MLB and LTP leave will be considered only for the period of time the employee or family member is medically incapacitated. There are established norms for most medical conditions, which are documented in the Office of Medical Services (OMS). For example, for childbirth recovery, up to six weeks of MLB or LTP leave may be granted following a routine delivery and up to eight weeks of leave following a cesarean section; this six or eight-week period is inclusive of, not in addition to, an employee's personal leave.
- (5) **CUSTODIAL CARE OF A FAMILY MEMBER.** MLB or LTP leave may be approved for an employee to provide custodial care for a family member while they make care arrangements. Leave is granted in 30-day increments if the family member requires care primarily for daily living activities (feeding, bathing, and so forth), and specialized medical training or professional background are not required to provide that care. If the employee cannot make arrangements for alternative care within the 30-day period, an extension may be granted if circumstances warrant. In any event, the

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maximum amount of leave for such care will not exceed a total of 90 calendar days.

- (6) **DEATH OF A FAMILY MEMBER.** If a medical emergency results in the death of the family member for whom an employee is on approved MLB or LTP leave providing care, up to 40 hours of MLB or LTP leave may be granted to that employee for use immediately following the family member's death.
- (7) **LEAVE ACCRUAL.** While on MLB or LTP leave, a full-time employee may accrue a maximum of 40 hours annual leave and 40 hours sick leave. A part-time employee or an employee on a nonstandard tour of duty may accrue annual and sick leave up to 50 percent of the work hours in their scheduled biweekly tour of duty.
- e. **MEDICAL LEAVE BANK.** The MLB Board grants members nonreimbursable annual leave for personal or family medical emergencies. See paragraph a through d above for additional information relevant to this program.
- (1) **ELIGIBILITY**
- (a) **Membership**
- (1) All Agency employees earning annual and sick leave may become MLB members:
- (a) Within 30 days of entrance on duty.
- (b) During a declared open enrollment period.
- (c) Within 30 days of a return to duty from extended absence (for example, LWOP) outside an enrollment period.
- (d) Within 30 days of conversion from intermittent (when actually employed) status to a regularly scheduled tour of duty.
- (2) If a member is in a LWOP or intermittent (when actually employed) status at the beginning of the leave year, the MLB Board will cancel membership. Employees in a negative annual leave status at the beginning of the leave year must immediately contact the MLB Office to ensure that their membership continues.
- (3) MLB membership will be automatically renewed each year unless the employee requests cancellation (except as noted in paragraph (2) above).
- (b) **LEAVE CONTRIBUTION.** Employees enroll in the MLB by annually contributing a prescribed number of hours of annual leave.
- (1) The normally prescribed annual leave contributions for both full-time and part-time employees are:
- (a) Four hours for employees with less than three years of service.
- (b) Six hours for employees with at least three but less than 15 years of service.
- (c) Eight hours for employees with 15 or more years of service.
- (2) Based on its review of the solvency of the MLB, the Board annually may increase

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or decrease the minimum number of annual leave hours, outlined in paragraph (1) above, that employees must contribute to join or remain in the MLB. MLB members and non-MLB members may at any time donate additional annual leave, including annual leave subject to forfeiture, within prescribed limitations. Neither donated annual leave, nor a membership contribution, will be returned to an employee once it has been transferred to the bank.

- (2) **TIMEFRAME FOR SUBMISSION OF APPLICATIONS.** An initial request for MLB leave must be received by the MLB Board within 60 days after the employee's personal leave expires. A request for an extension must be received within 30 days after the end of the initial leave period, or the case will be closed. Recipients whose cases close must meet a new 24-hour LWOP/advanced leave criterion before they are eligible to receive additional leave. No formal action will be taken on an application until the complete application package, including the Application to the MLB Board, Applicant's Statement, and the Attending Physician's Statement, are received by the MLB Office. If the Attending Physician's Statement is not immediately available, the submission deadline may still be met if the application and applicant's statement are received in the MLB Office within the above-prescribed timeframe, with the Attending Physician's Statement to follow shortly thereafter.
- (3) **RESPONSIBILITIES**
- (a) Members must:
- (1) Complete and submit the following forms to request MLB leave:
- (a) Application to the MLB Board, including Certification by Supervisor.
- (b) Applicant's Statement to the MLB Board.
- (c) Attending physician's statement completed and signed only by the attending physician. Medical statements from any Federal Employees Health Benefits Program-approved provider will be accepted and evaluated. A medical statement from a Christian Science Practitioner will be accepted and evaluated by the Board in the same manner as a statement from a medical doctor. However, the Board is not bound to accept an attending physician's assessment when it differs from the opinion of the OMS consultant.
- (2) Advise the MLB Office of return to duty within 3 days.
- (b) Supervisors must:
- (1) Certify on the employee's application as to whether there are documented leave issues and, if so, provide MLB with a copy of the documentation at the time of application.
- (2) Approve the use of leave granted by the MLB Board. MLB leave may be denied by a supervisor for the same reasons an employee's request to use other leave is denied (for example, critical mission requirements).
- (3) Ensure proper recording of MLB leave on time and attendance reports.

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(4) **REVIEW AND APPEAL PROCESS.** An MLB application will be reviewed and the applicant notified by the MLB Office of the approval or disapproval within ten working days. In the case of disapprovals, the applicant will be advised of the reason(s) and may appeal the disapproval in writing to the **Chief Human Resources Officer** within 30 calendar days of notification. Appeals should contain the reason(s) for the appeal and include pertinent supporting documentation. In the event the **Chief Human Resources Officer** upholds the Board's decision, a final appeal of the Board's decision may be requested which will be independently reviewed by the Inspector General (IG) and decided by the Executive Director (EXDIR). All such appeals should be forwarded to the Board for review.

(5) **MEDICAL LEAVE BANK BOARD**

(a) **Membership.** The MLB Board administers the bank. The Board consists of three voting members--a chairperson (appointed by the **Chief Human Resources Officer**) and two directorate or **Mission Support Office** representatives (these positions rotate among directorates/**Mission Support Offices** every two years). The Offices of General Counsel and Medical Services provide nonvoting consultants. The Chief, MLB, serves as the secretariat.

(b) **Responsibilities.** The Board:

- (1) Meets at least annually to review MLB policy and procedures.
- (2) Establishes policy and procedures for administering the MLB.
- (3) Establishes enrollment periods. There is at least one enrollment period each leave year.
- (4) Reviews and approves requests for MLB leave.
- (5) Monitors the bank's leave balance.
- (6) Monitors each leave recipient case.

f. **VOLUNTARY LEAVE TRANSFER PROGRAM.** The Agency's voluntary LTP allows employees to donate annual leave to other employees for personal or family medical emergencies. The MLB Board administers the LTP and approves or disapproves LTP requests. See paragraphs a through d above for additional information relevant to this program.

(1) **ELIGIBILITY**

- (a) Any employee who earns annual and sick leave and meets the eligibility requirements in paragraphs d(1) or (2) above may apply for LTP.
- (b) An employee may not transfer annual leave to an immediate supervisor or donate more than one-half the amount of annual leave the employee accrues during the leave year in which the donation is made.
- (c) Agency employees cannot transfer leave to employees of other Federal agencies.

(2) **TIMEFRAME FOR SUBMISSION OF APPLICATIONS.** An initial request for

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LTP leave must be received within 60 days after the employee's personal leave expires. A request for an extension must be received within 30 days after the end of the initial leave period, or the case will be closed. Recipients whose cases close must meet a new 24-hour LWOP/advanced leave criterion before they are eligible to receive additional leave. No formal action will be taken on an application until the complete application package, including the Application to the MLB Board, Applicant's Statement, and the Attending Physician's Statement, are received by the MLB Office. If the Attending Physician's Statement is not immediately available, the submission deadline may still be met if the application and applicant's statement are received in the MLB Office within the above-prescribed timeframe, with the Attending Physician's Statement to follow shortly thereafter.

(3) RESPONSIBILITIES

(a) Employees must:

(1) Complete and submit the following forms to the MLB Office to request transferred leave:

(a) Application to the MLB Board, including Certification by Supervisor.

(b) Applicant's Statement to the MLB Board.

(c) Attending Physician's Statement(s) completed and signed only by the attending physician. Medical statements from any Federal Employees Health Benefits Program-approved provider will be accepted and evaluated. A medical statement from a Christian Science Practitioner will be accepted and evaluated by the Board in the same manner as a statement from a medical doctor. However, the Board is not bound to accept an attending physician's assessment when it differs from the opinion of the OMS consultant.

(2) Advise the MLB Office of return to duty within 3 days.

(b) Supervisors must:

(1) Certify on the employee's application as to whether there are documented leave issues and, if so, provide MLB with a copy of the documentation at the time of application.

(2) Approve the use of transferred leave. Transferred leave may be denied by a supervisor for the same reasons an employee's request to use other leave is denied (for example, critical mission requirements).

(3) Ensure proper recording of transferred leave on time and attendance reports.

(4) REVIEW AND APPEAL PROCESS. An LTP application will be reviewed and the applicant notified by the MLB Office of the approval (subject to the availability of leave donations) or disapproval within ten working days. In the case of disapprovals, the applicant will be advised of the reason(s) and may appeal the disapproval in writing to the **Chief Human Resources Officer** within 30 calendar days of notification. Appeals should contain the reason(s) for the appeal and include pertinent supporting

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documentation. In the event the **Chief Human Resources Officer** upholds the Board's decision, a final appeal of the Board's decision may be requested which will be independently reviewed by the IG and decided by the EXDIR. All such appeals should be forwarded to the Board for review.

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