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ADVAP 2-14

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Catastrophic Leave Bank Program

1. **GENERAL:** This policy establishes a Catastrophic Leave Bank Program to be administered by the Office of Personnel Management (OPM) of the Department of Finance and Administration (DFA) as authorized by Arkansas Code Annotated (A.C.A.) §§21-4-214 and 6-63-602. The OPM Catastrophic Leave Bank Program creates no expectation or promise of continued employment with a participating state agency or institution of higher education, and is intended simply to assist eligible employees during medical emergencies.

2. **DEFINITIONS:**

- a. **Catastrophic Leave Bank** means a pool of accrued annual and sick leave voluntarily donated by employees which may be approved for use by employees who meet catastrophic illness/injury eligibility requirements.
- b. **Catastrophic Illness** means a medical condition of an employee or spouse or parent of the employee or of a child of the employee which may be claimed as a dependent under the Arkansas Income Tax Act of 1929, as certified by a physician 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 earned sick, annual, holiday and compensatory leave.
- c. **Prolonged Period of Time** means a continuous period of time (minimum of thirty (30) working days) whereby a medical condition prevents the employee from performing the employee's duties.

- d. **Medical Condition** means emergencies limited to catastrophic and debilitating medical situations, severely complicated disabilities and/or severe accidents of the employee or a qualifying family member which cause the employee to be unable to perform their job, require a prolonged period of recuperation and/or require the employee's absence from duty as documented by a physician or other individual as provided in A.C.A. §21-4-201 *et seq.* Disabilities resulting from elective surgery do not qualify for catastrophic leave.
- e. **Dependent Child Certification:** Complete the "Dependent Child Certification Form" sign and attach to the catastrophic leave request. If the child was acquired after the most current income tax filing, provide other proof, i.e., birth certificate, adoption order, etc..
- f. **Substantial Loss of Income** means a continuous period of time where the employee will not be compensated by the employing state agency/institution due to a medical condition after the exhaustion of all earned sick, annual, holiday and compensatory leave.

3. ELIGIBILITY REQUIREMENTS FOR CATASTROPHIC LEAVE:

- a. The applicant must be a regular, non-faculty, benefits eligible, full-time, employee of an agency/institution participating in an approved Catastrophic Leave Bank Program. A person who works less than full time (forty hours per week) is excluded from this definition and as such is ineligible to participate as a donor or recipient in the Catastrophic Leave Bank Program. Requests for exceptions may be submitted to OPM for review.
- b. The employee, if covered by the "Uniform Attendance and Leave Policy Act" must have been employed by the State of Arkansas for more than two (2) years in a regular, full-time position. Non-classified employees of institutions of higher education must have been employed by the state institution of higher education for more than two (2) consecutive years.
- c. Employees must have exhausted all sick, annual, holiday and compensatory leave time, and, at the onset of the illness or injury, had to his/her credit at least eighty (80) hours of combined sick and annual leave. "Onset of illness" means the initial beginning or start, as certified by a physician, 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 have eighty (80) hours of combined sick and annual leave at the onset of the illness will not be required on the illness recurrence date. (The requirement of eighty (80) hours of combined leave at the onset of the illness/injury and exhaustion of all such

leave does not apply to non-classified employees of institution of higher education.) Effective February 21, 2003, as authorized by Act 194 or 2003, the “80-hour requirement” may be waived for an otherwise eligible employee if an “extraordinary circumstance” is declared by an agency director or president of an institution of higher education due to the applicant providing documentation that one of the following conditions has occurred:

1. The employee applying for catastrophic leave had, during the previous two (2) year period, another, medically documented, catastrophic illness, as defined by this policy, which was not compensated under the State of Arkansas Catastrophic Leave Bank Program and caused the exhaustion of all annual and/or sick leave, or
 2. The employee applying for catastrophic leave had, during the previous two (2) year period, exhausted his or her sick and annual leave as a direct result of supplementing workers’ compensation benefits, which were received due to an on-the-job injury or illness with the State of Arkansas.
- d. If the illness or injury is that of an employee and is covered by workers’ compensation, the compensation based on 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 or injury.
 - e. The employee has not been disciplined for leave abuse during the past two (2) years.
 - f. No employee shall be eligible for approved catastrophic leave in excess of six (6) months (1,040 hours) unless it can be ascertained that the employee has been denied disability retirement or Social Security benefits. The employee has the option of reapplying for additional leave at the conclusion of the catastrophic leave period; however, the catastrophic leave received by an employee may not exceed two thousand eighty (2,080) hours in a calendar year.
 - g. No employee shall be approved for catastrophic leave unless that employee is, or is reasonably expected to be, on leave-without-pay status as a result of the catastrophic illness.
 - h. In no case shall the employee be granted catastrophic leave beyond the date certified by a physician as the date when the employee is able to return to work because the health of either the employee or the qualifying family member has sufficiently improved.

- i. No employee shall be approved for catastrophic leave unless that employee has provided an acceptable medical certificate from a physician (or other individual as provided by A.C.A. §§21-4-201 *et seq.* and 6-63-602) 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 of the employee or a qualifying family member. Information about the employee's assigned duties shall be made available to the physician and to the Catastrophic Leave Committee
- j. Substantial Loss of Income means a continuous period of time where the employee will not be compensated by the employing state agency/institution due to a medical condition after the exhaustion of all earned sick, annual, holiday and compensatory leave.

4. DONATIONS OF LEAVE TO THE OPM CATASTROPHIC LEAVE BANK:

- a. The director/head of each participating agency/institution shall screen leave donated by the employees of that agency/institution to ensure that the following criteria are met:
 - 1) Accrued leave may only be donated to the Catastrophic Leave Bank in one (1) hour increments.
 - 2) No employee of a participating agency/institution shall be allowed to donate leave to the Catastrophic Leave Bank if such donation will reduce 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 their employment.
 - 3) Annual and/or sick leave which has been donated to the Catastrophic Leave Bank may not be restored to the employee who donated the leave time.
 - 4) Approved donations of leave shall be transmitted to the Catastrophic Leave Bank by submitting an approved donor form.

5. CATASTROPHIC LEAVE BANK ADMINISTRATION: The OPM Catastrophic Leave Bank will be administered in accordance with the following guidelines:

- a. Applications for catastrophic leave shall be reviewed on a first filed, first reviewed basis. Approval does not guarantee that a catastrophic leave applicant will receive leave should there be a zero balance in the OPM Catastrophic Leave Bank.

- b. Members of the Committee will review applications from employees of participating agencies for catastrophic leave and make recommendations to the requesting employee's agency director/institution head.
- c. Determinations by the OPM Catastrophic Leave Committee shall be reviewed by the agency director/institution head.
- d. Participating agency directors/institution heads cannot grant catastrophic leave exceeding that approved by the OPM Catastrophic Leave Committee; however, appeals may be made or the employee may reapply for additional hours.
- e. If the agency director/institution head does not agree with the OPM Catastrophic Leave Committee's final recommendations, he/she may appeal to the State Personnel Administrator.
- f. If the agency director/institution head does not agree with the State Personnel Administrator's decision, an appeal may be made to the Director of the Department of Finance and Administration.
- g. The Department of Finance and Administration Director's decision is final and binding on all parties.
- h. Only eligible employees of participating agencies/institutions may participate in the OPM Catastrophic Leave Bank Program.
- i. Catastrophic leave may be granted or donated in one-hour increments only.
- j. Catastrophic leave shall not be awarded retroactively.
- k. Catastrophic leave that would result in a negative balance in the OPM Catastrophic Leave Bank shall not be approved.
- l. Employees on catastrophic leave will continue to accrue leave in accordance with existing state leave policies and will receive the normal state benefits, such as agency/institution contributions to insurance and retirement. Employees on catastrophic leave will also continue to receive their normal rate of pay. Catastrophic Leave will not change an employee's increase eligibility date; however, the award of the next merit salary increase will be delayed beyond the anniversary date for the same number of work days that the employee was on leave without pay and/or catastrophic leave.
- m. In the event that an employee on catastrophic leave is terminated, retires, dies or returns to work prior to expiration of previously approved

catastrophic leave time, all unused catastrophic leave shall be returned to the OPM Catastrophic Leave Bank.

- n. Leave earned while an employee is on catastrophic leave shall, as a condition of voluntary participation in the program, be assigned to the OPM Catastrophic Leave Bank, and any restrictions concerning the maintenance of minimum leave balances shall not apply to such assignment. If an employee is on catastrophic leave for even one day in an accrual period, all leave earned during that period shall be returned to the OPM Catastrophic Leave Bank. Exceptions may be made for employees awarded intermittent leave.
- o. An employee may be dismissed if such employee fails to report to work promptly at the expiration of the period of approved/granted catastrophic leave. Nothing, however, shall prevent the agency/institution 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/institution head such action is warranted. Supervisors should not take disciplinary action for such leave until the application has been formally approved or denied.
- p. Alleged or suspected abuse of the OPM Catastrophic Leave Bank Program shall be investigated, 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 is determined by the participating agency director/institution head.

6. RECORD KEEPING: The OPM Catastrophic Leave record keeping procedure will track the following:

- a. The amount of leave donated by each employee, the rate of pay and dollar value of such donated leave at the time of donation;
- b. The amount of Catastrophic Leave awarded, including the name of the recipient, position number, rate of pay and personnel number; and
- c. Any other such data as required by the Director of the Department of Finance and Administration.

7. PROHIBITION OF COERCION:

An employee may not directly or indirectly intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, any other employee for the purpose of interfering with any such 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.

8. SUPERSESSION: This procedure supersedes ADVAP 2-14, January 22, 2000 in its entirety.
9. OPM Catastrophic Leave Committee

Membership: The OPM Catastrophic Leave Bank encompasses the employees of the Department of Finance and Administration and various smaller agencies/institutions for whom an independent catastrophic leave bank is not feasible due to their size. The Committee shall be comprised of at least five (5) members representing a cross section of the participating agencies/institutions and appointed by the directors/heads of those agencies/institutions. The Committee shall elect a chairperson from the committee membership.

Responsibility: The purpose of the Committee will be to review all catastrophic leave requests, ensure that all eligibility requirements are met, and make recommendations to the directors/heads of participating agencies/institutions. The Committee shall make determinations of continuing eligibility.

10. FORMS PRESCRIBED:

Catastrophic Leave - Application for Benefits

Catastrophic Leave - Dependent Child Certification

Catastrophic Leave - Donor

Catastrophic Leave - Liability Agreement

Catastrophic Leave - Physicians Certification

Catastrophic Leave - Return of Accrual Leave Transmittal

By:

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Distribution: A