



STATE OF OKLAHOMA  
OFFICE OF PERSONNEL MANAGEMENT

"Working for Oklahoma"

**OPM 09-28**

**DATE:** October 7, 2009

**TO:** All Appointing Authorities

**FROM:** Oscar B. Jackson, Jr., IPMA-CP, Administrator and  
Cabinet Secretary of Human Resources and Administration 

**SUBJECT: INFLUENZA WITHIN THE WORKPLACE**

The purpose of this memorandum is to provide guidance to state agencies as they explore ways to handle influenza-related issues within their organizations. The Office of Personnel Management (OPM) has prepared a document reminding state agencies of the provisions within the Oklahoma Personnel Act and Merit Rules that will be useful when considering options to address the possible effects of an influenza outbreak within the workplace.

The Oklahoma State Department of Health (OSDH) has prepared several documents addressing influenza within the workplace and providing guidance to agencies in evaluating employee absences due to influenza related illness. In addition, OSDH has provided an educational influenza video titled "**Know What to Do About the Flu**" which may be accessed at <http://www.ok.gov/opm/multimedia/H1N1Video.mov>. The video is also posted on the OPM website home page at [www.opm.ok.gov](http://www.opm.ok.gov) under *Special Announcements* (right border). Agencies are encouraged to provide an opportunity for employees in their respective organizations to view this video.

Attached to this memorandum are the following documents:

- Attachment 1**      Compilation of Leave Administration and Flexible Work Schedule/Workplace Oklahoma Statutes and Merit Rules
- Attachment 2**      09/29/09 Letter from Oklahoma Commissioner of Health
- Attachment 3**      Oklahoma State Department of Health Flow Charts:
  - A. *Evaluating Employees Who Show Up at Work with Suspected Influenza*
  - B. *Evaluating Employees Who Call In to Work Reporting Household Member is Suspected or Confirmed to have Influenza*

*"We serve the people of Oklahoma by delivering reliable and innovative human resource services to our partner agencies to achieve their missions."*

## **I. Leave Administration Provisions**

### **a. Merit Rules 530:10-15-11, 530:10-15-12 (annual leave, sick leave and compensatory time rules)**

During an influenza outbreak, employees will have a need for time off with pay to deal with family and personal health issues. Agencies have the discretion to implement a flexible leave policy to enable employees to deal with such issues, which may include relaxed minimum leave balance policies.

Pursuant to Merit Rule 530:10-15-12, agencies have the discretion to waive the required physician statement provision when an employee has been absent on sick leave for more than three (3) days.

### **b. Family Medical Leave Act (FMLA) and Merit Rule 530:10-15-45**

Merit Rule 530:10-15-45 provides for family and medical leave pursuant to the provisions of the Family Medical Leave Act. This rule references the advance notice and the medical certification that may be required of employees in support of such leave requests. This rule identifies the options that are available to state employees to account for time lost because of FMLA related leave.

Agencies have the discretion, due to short staffing caused by numerous employee absences, to relax or suspend advance notice requirements and time frames for submission of medical certificates as appropriate, as sorting out the authorized or unauthorized use of leave may have to be deferred to a later time. Agencies are reminded that in the absence of information from the employee, designations may be conditional and completed when the employee returns.

### **c. Merit Rule 530:10-15-71**

In an extreme circumstance, Merit Rule 530:10-15-71, would provide agencies with the ability to grant paid administrative leave for employees when agency offices are closed because of “. . . an imminent peril threatening the public health, safety, or welfare of state employees or the public.”

Merit Rule 530:10-15-71 may not be utilized until the Governor declares an emergency and orders non-essential personnel to stay home for a period of time, since the circumstances align with the description of imminent peril in the rule. This rule may not be used to provide paid administrative leave to individual employees when an agency has not been authorized to close or non-essential personnel have not been ordered to stay home for a period of time, as provided in Merit Rule 530:10-15-71.

**d. Title 74 O.S. §840-2.23 (Shared Leave)**

Pursuant to Title 74 O.S. §840-2.23, the state leave sharing program permits state employees to donate annual or sick leave to an eligible fellow state employee who has exhausted or will exhaust all types of paid leave.

In anticipation of an influenza outbreak, agencies may wish to review their existing leave sharing policies. Agencies are reminded that the Office of Personnel Management maintains a Leave Sharing Registry, which is located on the OPM website. This Registry allows state employees who have been approved for shared leave by their agencies to post contact information to facilitate donation by other employees.

**e. Other**

Pursuant to Title 74 O.S. §840-2.20, an appointing authority may discipline or terminate an employee who is found to have abused the use of leave benefits, in accordance with provisions with Oklahoma Statutes and Rules.

**II. Flexible Work Schedules and Workplace**

**a. Title 74 O.S. §840-2.26**

§840-2.26 encourages agencies to adopt flextime attendance policies and alternative work schedules. During an influenza outbreak, employees may need maximum flexibility of work hours to provide care for ill family members and to help achieve social distancing.

**b. Telework/Telecommuting**

Pursuant to Merit Rule 530:10-11-71(c), a state agency shall have the sole and final authority to designate the place or places where its employees shall perform their duties.

Agencies have the discretion to make maximum use of telecommuting, when there is work available for an employee to complete in a telework setting. Permission may be granted to employees for web-based access to email accounts and work drives. Equipment may be provided as appropriate for those employees who do not have personal laptops or computers.



Oklahoma State Department of Health  
Creating a State of Health

## MEMORANDUM

**TO:** Oscar B. Jackson, Jr.  
**Administrator and Cabinet Secretary**  
**Human Resources and Administration**

**FROM:** Terry Cline, PhD  
**Commissioner of Health**

**DATE:** September 29, 2009

**SUBJECT:** Guidance for Managing Affected Employees during the 2009 H1N1 Influenza Pandemic

As the 2009 H1N1 influenza pandemic progresses, Oklahoma's state agencies must prepare to protect the state governmental workforce to ensure continuity of operations. Transmission of the novel H1N1 influenza virus is already widespread across Oklahoma with school-aged children being disproportionately affected by the virus. Until an H1N1 influenza vaccine becomes widely available, the potential exists for high levels of flu-related school and workplace absenteeism. When persons become sick with influenza, they are being strongly encouraged to stay home and avoid public places until at least 24 hours after their fever has resolved without the use of fever-lowering medications.

Per your request, please find two decision flowcharts that can be utilized by state agencies where: 1) an employee reports to work with an influenza-like illness posing a risk of transmission to co-workers; or 2) an employee calls in requesting leave due to flu-like symptoms or illness of a child or other household member. OSDH has developed these flowcharts to accompany the companion document outlining existing state personnel statutes and rules that would be pertinent in these situations that your staff is developing for distribution to state agencies.

Influenza activity updates and planning resources for home, school and workplace settings can be accessed at the OSDH H1N1 website at <http://www.health.ok.gov>.

Please do not hesitate to contact me if you have any questions or concerns.

Thank you.

# Flow Chart for Evaluating Employees Who Show Up at Work with Suspected Influenza

Employee complains of being ill or you suspect the employee is showing signs of the flu  
(\*see back of page for definitions)

Check if the symptoms include:  
**FEVER\* and** one of the following: cough, headache, chills, fatigue, sore throat, runny nose, and/or muscle aches

YES

Employee *should be considered* as possible case of influenza **AND** contagious to co-workers

Advise employee to wear a surgical mask while in the workplace and instruct the employee to **go home!** Instruct them to follow OSDH "Caring for a Sick Person in Your Home...How to care for yourself at home."

<http://www.ok.gov/health>

Note: Employee can be authorized to work at home or at an alternative site where they are not in contact with others: *74 O.S., Sec. 840-4.19*

NO

*Unlikely to be influenza:*

Employee is to take sick leave at his/her own discretion

Advise employee to use common sense at work and at home. Instruct them to use good hygiene, wash their hands, and cover their cough.

Employee **WITH** Leave Balance

Employee **WITHOUT** Leave Balance

Advise employee not to return to work until **24 hours** after fever stops without medication.

**Doctor's note should NOT be required:** *OPM Title 530:10-15-12*  
Appointing Authority may waive 3 day doctor rule

Leave Charged to Available Leave  
Merit Rule *530:10-15:11,12*

Leave Charged to Leave Without Pay  
*OPM Title 530:10-15-47*

*CDC Says "TAKE 3" STEPS TO PREVENT THE FLU:*

1. Take time to get your seasonal and H1N1 vaccinations (when available)!
2. Take everyday preventative actions.
3. Only take flu antiviral drugs if your doctor recommends them.

[www.cdc.gov/flu](http://www.cdc.gov/flu)

**\*Fever** is defined as a body temperature measured at greater than or equal to 100 degrees F. or 37.8 degrees C. If the employee is ill at work, it is advised that he/she is referred to the agency’s Occupational Health Service to assess for actual elevated temperature. Employees may be asked to wear a surgical mask while they are in the workplace.

In the absence of an Occupational Health Service and/or a thermometer to test the employee’s temperature, a fever should be suspected if the employee has complaints of any of the following:

- sweating
- shivering
- headache
- muscle aches
- general weakness or fatigue, and/or
- chills

Influenza should be suspected if the employee’s symptoms include fever (or symptoms of a fever) **and** one of the following: cough, headache, fatigue, sore throat, runny/stuffy nose, and/or muscle aches.

**The Difference between Influenza (the real “flu”) and a Common Cold**

<b>SYMPTOM</b>	<b>INFLUENZA</b>	<b>COMMON COLD</b>
Fever	Usual, sudden onset, $\geq 100$ °F.	Rare
Headache	Usual and can be severe	Rare
Aches and Pains	Usual and can be severe	Rare
Cough	Usual	Usual
Fatigue and Weakness	Usual and can last 1-2 weeks	Sometimes, but mild
Debilitating fatigue	Usual, early onset, can be severe	Rare
Nausea, vomiting and diarrhea	Sometimes	Rare
Watering of the eyes	Rare	Usual
Runny, stuffy nose	Rare	Usual
Sneezing	Rare in early stages	Usual
Sore throat	Usual	Usual
Chest discomfort	Usual and can be severe	Sometimes, but mild to moderate



## Flow Chart for Evaluating Employees Who CALL-IN to Work Reporting a Household member is Suspected or Confirmed to have Influenza

Employee calls reporting a household member or child has been diagnosed with influenza or is exhibiting influenza-like symptoms

Check if the symptoms include:  
**FEVER\*** **and** one of the following: cough, headache, chills, fatigue, sore throat, runny stuffy nose, muscle aches and/or diarrhea

YES

NO

*Employee should be considered **potentially contagious** to co-workers **IF** the employee develops symptoms.*

***Unlikely to be influenza:***

Employee is to take enforced leave at his/her own discretion to care for ill family member.

Advise the employee to ***stay home at their own discretion.*** Instruct them to follow OSDH "Caring for a Sick Person in Your Home...How to care for yourself at home."  
<http://www.ok.gov/health>

Advise employee to monitor themselves for signs of illness onset. Instruct them to use good hygiene, wash their hands, rest, exercise and eat a healthy diet.

Employee **WITH** Leave Balance

Employee **WITHOUT** Leave Balance

Advise Employee to monitor themselves for signs and symptoms of the flu\*. **Doctor's note should NOT be required to return to work.** *OPM Title 530:10-15-12*  
*Appointing Authority may waive 3 day doctor rule*

Leave Charged to available Leave or Enforced Leave  
***Merit Rule 530:10-15-12, and Merit Rule 530:10-15-40***

Leave Charged to Leave Without Pay  
***OPM 530:10-15-47***

*CDC Says "TAKE 3" STEPS TO PREVENT THE FLU:*

- 1. Take time to get your seasonal and H1N1 vaccinations (when available)!**
- 2. Take everyday preventative actions.**
- 3. Only take flu antiviral drugs if your doctor recommends them.**

[www.cdc.gov/flu](http://www.cdc.gov/flu)

**\*Fever** is defined as a body temperature measured at greater than or equal to 100 degrees F. or 37.8 degrees C. If evaluating an employee who is ill at work for the presence of fever, it is advised to refer the employee to the agency's Occupational Health Service to assess for actual elevated temperature.

In the absence of an Occupational Health Service and/or a thermometer to test the employee's temperature, a fever should be suspected if the employee has complaints of any of the following:

- sweating
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Watering of the eyes	Rare	Usual
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