

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

SUBCHAPTER 140-90.2 SICK LEAVE BANK REGULATIONS

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Subchapter Authority: 3 CMC § 2824(k).

Subchapter History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

Part 001 - General Provisions

§ 140-90.2-001 Authority

This chapter is promulgated by the Commonwealth Healthcare Corporation under the authority of Title 3: Human Resource Division 2: Health § 2823 Establishment of Commonwealth Healthcare Corporation. Source: PL 16-51 § 3 (2803) (Jan. 15, 2010); repealed and reenacted by PL 19-78 § 2 (Jan. 14, 2017), modified; amended by PL 22-33, § 3 (Jan. 31, 2023).

Modified, 1 CMC § 3806(g).

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

§ 140-90.2-002 Purpose

This chapter is intended to provide additional job and financial protection for employees experiencing a prolonged absence from the workplace due to catastrophic, degenerative/or chronic disease, illness or major injury.

Modified, 1 CMC § 3806(g)

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

§ 140-90.2-003 Applicability

Except as otherwise provided, this subchapter applies to all employees of the Commonwealth Healthcare Corporation with the exception of part-time employees.

Modified, 1 CMC § 3806(g).

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

Part 100 - Contributions to the Sick Leave Bank

§ 140-90.2-101 Eligibility

Any employee employed by the Commonwealth Healthcare Corporation may contribute annual leave hours to the sick leave bank. Unlimited donations may also be made to designated accounts, but donations to each designated account must comply with the limits established under this regulation. All donated annual leave hours can only be used for eligible sick leave.

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

§ 140-90.2-105 Procedure

All annual leave contributions shall be made on forms prescribed by the Human Resources Office. The contributor may elect to contribute annual leave hours to either or both:

- (a) The general account, available to any eligible employee of CHCC.
- (b) A designated account, available only to the eligible employee designated by the contributor. If the designated employee does not use the hours contributed in his or her designated account within four pay periods of the contribution, the remaining hours will be deposited into the general account.

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

Part 200 - Withdrawals from the Sick Leave Bank

§ 140-90.2-201 Limitation on Number of Hours

Withdrawal of sick leave bank hours for extended sick leave is a privilege, not a right. An employee shall not exceed a combined maximum amount of one-thousand and forty (1,040) hours from the designated account or the general account.

(a) General Account: One-thousand and forty (1,040) hours maximum during the employee's employment with the Commonwealth Healthcare Corporation full period of employment, provided that the general account has a balance to cover the requested amount. If there is no balance to pay out, the employee can request through the designated account.

(b) Designated Account: One-thousand and forty (1,040) hours maximum, during the employee's full period of employment with the Commonwealth Healthcare Corporation. The designated account is defined by another employee contributing directly to the employee. If there is no designated person to contribute, then they can request through the general account.

Calculation of withdrawals from the General Account and the Designated Account:

Employee A will contribute annual leave hours to the general account and/or the designated account. The hourly rate of the donation must be higher than the employee requesting for contributions.

Example: Employee A earns \$96.15 per hour and contributes 80 hours equals \$7,692.00. Employee B earns \$8.25 per hour and requests for 80 hours, \$660.00 will be withdrawn from the \$7,692.00 from Employee A. The balance will be calculated through the Munis system and audits will be performed on a bi-weekly basis.

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

§ 140-90.2-202 Maintenance of the General Account

The general account of the sick leave bank shall be maintained and monitored by the Human Resources Office. The Human Resources Office shall periodically advise CHCC employees of these regulations, the purpose of the sick leave bank and the possibility of donating hours to the sick leave bank. It shall also provide an option on all exit interviews for employees resigning from CHCC to contribute their unused annual leave to the sick leave bank.

Modified, 1 CMC § 3806(g).

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

§ 140-90.2-203 Eligibility

Any employee employed by the Commonwealth Healthcare Corporation may apply for withdrawal of hours first from the designated account for his or her use, if any, and then from the general account of the sick leave bank provided that:

- (a) The employee's need to be absent from work due to the catastrophic injury or illness of the employee or the employee's legal spouse, domestic partner, child or quarantine of the employee, employee's family, or the employee's residence.
- (b) The employee is not qualified for workers' compensation because the injury or illness is not work related.
- (c) The employee must exhaust all accrued sick leave and annual leave, prior to the usage of the sick leave bank hours requested.
- (d) The additional hours requested by the employee will not cause the employee to exceed the withdrawal limit established in §140-90.2-201.
- (e) The employee is expected to return back to the Commonwealth Healthcare Corporation
 - (1) In the same position, or
 - (2) If the injury prevents the employee from performing the essential job functions of the same position even with reasonable accommodation to some other position with the Commonwealth Healthcare Corporation.
- (f) The request for sick leave does not extend beyond the term of the employee's employment.
- (g) The account of the sick leave bank has sufficient hours to accommodate the employee's request.
- (h) The employee's Chief Medical Officer, Chief Nursing Officer, Chief Operations Officer and the Chief Financial Officer recommends approval of the employee's withdrawal request from the sick leave bank at the recommendation of the employee's Directors, Managers and Supervisors and HR designee. They can refuse to recommend approval of withdrawal only if:
 - (1) The employee's additional absence will significantly interfere with CHCC's ability to perform the responsibilities; or
 - (2) The employee is seeking additional sick leave for recuperation from a work-related injury or illness that is otherwise compensable under the Workers' Compensation Act.

Modified, 1 CMC § 3806(g).

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

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§ 140-90.2-204 Procedure

An employee shall request withdrawal of hours from the sick leave bank for himself, herself or caring for an eligible family member from the Human Resources Department, whether from the designated account or the general account, as needed, in increments of up to eighty hours, on a form prescribed by the HR designee:

- (a) The request must be received at the Human Resources Office at least five (5) working days before the proposed effective date, with all required approvals and supporting documents.
- (b) The request must be supported by a statement from Physician or Advance Practice Practitioner, which includes:
 - (1) An estimate time the employee must be absent from work. When an employee is requesting for withdrawal from the sick leave bank for an eligible family member, medical statement must specify the employee as the primary caregiver.
 - (2) A confirmation statement of the employee's injury or illness, or quarantine of the employee or the immediate family member or the quarantine or the employee's residence; and
 - (3) A confirmation of illness or injury will not constitute a permanent disability that even with a reasonable accommodation that can be made without undue hardship to the Corporation, will prevent the employee from performing the essential job functions of his or her position.

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

§ 140-90.2-205 Disposition of Request

The Chief Executive Officer shall grant or deny the request for sick leave bank promptly in writing. No properly supported request from an eligible employee shall be denied unless:

- (a) There are insufficient hours in the general account to grant the request; or
- (b) The employee's department head, with adequate justification, has not approved the request; or
- (c) The employee is expected to be compensated for any lost work time through the Workers' Compensation; or
- (d) Based on the employee's physician's statement, the Chief Executive Officer determines that the employee will not be able to return to work in the same position, or alternate provision as an accommodation under §140-90.2-302, due to residual disability; or
- (e) The employee has already withdrawn one-thousand and forty (1,040) hours of sick bank leave.

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

Part 300 - Accommodation and Disability

§ 140-90.2-301 Physician Statement

(a) If the Physician or the Advance Practice Practitioner determines the catastrophic, degenerative/or chronic disease, illness or injury for which the employee seeks sick leave will constitute a permanent disability preventing the employee from being able to perform the essential job functions of his or her previous position, the Physician or the Advance Practice Practitioner, the Human Resources Office will submit a Fitness for Duty document and describe the physical or mental limitations the employee is expected to experience.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

§ 140-90.2-302 Alternative Position

In a case where an employee is not expected to be able to perform the essential job functions of his or her previous position, even with reasonable accommodation, the Chief Executive Officer must determine, based on the Physician or Advance Practitioner, whether the disability precludes the employee from being reasonably accommodated in another equivalent CHCC position that can be performed by a person with that particular disability.

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

§ 140-90.2-303 Disability

If the Chief Executive Officer determines that the expected disability precludes the employee from performing the essential job functions or any equivalent CHCC position, the Chief Executive Officer shall deny additional sick leave bank hours to the employee. The Chief Executive Officer shall then medically separate the employee as stated in § 140-90.1-615(e). An employee who is unable to return to work or has been determined by a licensed physician or medical professional as unable to perform the essential duties of the job, in accordance with federal and CNMI laws and CHCC policies (sick leave, annual leave, and FMLA leave) shall be separated from employment and recommended to apply for disability benefits.

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

Part 400 - Miscellaneous

§ 140-90.2-401 Appeal

An employee denied hours from the sick leave bank has the following recourses:

(a) The employee within five (5) business days of the denial, shall request to the Chief Executive Officer to reconsider his or her decision to deny the request. The employee may supplement the original withdrawal request with additional information. The Chief Executive Officer must issue a written final decision within five (5) business days of the request for reconsideration. If the Chief Executive Officer affirms the original denial, the decision shall include the specific reason(s) for the denial and a summary of the evidence relied upon.

(b) If the employee chooses to appeal the Chief Executive Officer's final decision, the appeal must be filed with the CHCC Board of Trustees within five (5) business days after the employee receives the final decision. The CHCC Board of Trustees shall issue its final decision to the employee.

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).

§ 140-90.2-402 Records

The Human Resources Office shall maintain records of all hours contributed to and withdrawn from the sick leave bank.

History: Adopted 47 Com. Reg. 51735 (Mar. 15, 2025); Proposed 47 Com. Reg. 51576 (Jan. 15, 2025).