

EILB Guidelines
Effective January 26, 2018

1. Purpose

- 1.1. The Extended Illness Leave Bank (EILB) is a voluntary program that exists to help state employees who experience extended illnesses or injuries to continue their pay when they exhaust their paid leave. The program is subject to the eligibility criteria and other limitations as described in these regulations.

2. Scope of the Program

- 2.1. This program applies to all eligible employees in the Executive Branch (see 4.1) of the Commonwealth of Massachusetts, including all entities that come under the direct oversight of the Governor, the Constitutional Offices, the Board of Higher Education, the state universities and community colleges, and the Sheriff's Departments. Such entities shall be referred to as "Agency" or "Agencies" for the purpose of these regulations.
- 2.2. Employees of other independent agencies within the Executive Branch may participate in this program if their Agency Head notifies the Human Resources Division of their participation.
- 2.3. All those participating in the EILB program will be subject to these regulations.

3. Authority

- 3.1. This program is administered by the Secretary of Administration and Finance pursuant to [M.G.L. Chapter 7, Section 4P](#).
- 3.2. The Chief Human Resources Officer (Personnel Administrator), Human Resources Division (HRD) is authorized by the Secretary of Administration and Finance to issue and amend these regulations and to decide all matters pertaining to the EILB, as long as such regulations and decisions are consistent with statutory requirements.
- 3.3. The Chief Human Resources Officer may delegate his/her program administration and approval authority under this section to an Agency head or his/her designee, based upon written procedures issued for such delegation.

4. Membership Eligibility

- 4.1. In order to become members, employees must meet all of the following criteria:
 - 4.1.1. Employees must have worked full or part-time in a state agency for at least 52 weeks as of the effective date of the enrollment period and be

employed in an agency covered under section 2 as of the date of enrollment.

- 4.1.2. Intermittent employees, seasonal employees, 120-day employees, and contract employees are not eligible to enroll.
- 4.1.3. Employees must have an acceptable attendance record as certified by their agency designee as of the date of their application to enroll.
- 4.1.4. Employees will not be eligible for membership if they have improperly used sick leave in the 12 months preceding their application.
- 4.1.5. No leave time utilized for the purposes of an FMLA or a reasonable accommodation will be considered in the review of the application for membership to the EILB.
- 4.1.6. On membership applications, the Agency Head must certify that each applicant for membership has an acceptable attendance record. This certification will mean that the agency has reviewed the total sick leave usage of each applicant, has determined that all absences due to sickness were sufficiently documented where appropriate, and that this documentation will be open to inspection at HRD's request.
- 4.1.7. Upon request by the agency or HRD, employees should be prepared to provide documentation to satisfy acceptable attendance records. Some examples of cases that would require close review are: a high total sick leave usage; a pattern of absences before or after holidays or on Mondays and Fridays, regardless of whether or not total usage is high; or a history of written or oral warnings for sick leave misuse or abuse.
- 4.1.8. Employees must donate a minimum of one day of paid leave (sick, vacation and personal leave only) in order to join or renew their membership. The time donated can be a combination of different types of paid leave. One "day" is calculated by dividing the regularly scheduled total weekly hours by five. The Chief Human Resources Officer may increase or decrease this membership requirement with notice to the affected parties. The minimum donation must be made at least once each calendar year to maintain membership in the EILB for that calendar year.
- 4.1.9. The employee's membership application must have received the approval of his/her Supervisor and Agency Head or designee. For employees of agencies which have a SLA Service Level Agreement through the MassHR Employee Service Center (ESC), the Agency Head designee is the ESC for purposes of eligibility and enrollment in the EILB.

- 4.2. Upon termination, employees are no longer eligible for membership in the EILB.

5. Enrollment

- 5.1. There shall be at least two open enrollment periods during each calendar year, effective January 1 and July 1; HRD is responsible for communicating information about these enrollment periods to Agency Heads and agency EILB Coordinators.
- 5.2. Agency Heads (or designee) are responsible for communicating information about these enrollment periods in writing to all employees, including those on a leave of absence and obtaining written confirmation from new employees that they are aware of the availability of this program.
- 5.3. In extraordinary circumstances, during Open Enrollment only, the Agency Head may approve EILB membership for an employee who has no earned leave time to donate in order to enroll; in these cases, the employee must donate the amount of leave required by section 4.1.8 as soon as it is earned. Employees must meet all enrollment eligibility requirements of section 4.
- 5.4. Enrollment applications will not be accepted outside of an enrollment period except as approved by the Agency Head, the Cabinet Secretary, if applicable, and the Chief Human Resources Officer, and only when the employee:
 - 5.4.1. Meets all applicable EILB enrollment requirements as of the last date of the immediately preceding open enrollment period and
 - 5.4.2. Provides unequivocal documentation of a qualifying circumstance or event that prohibited the employee from enrolling during the preceding enrollment period.
- 5.5 Exceptions will be granted only under the most critical circumstances.

6. Eligibility to Withdraw Time from the Bank

- 6.1. In order to begin withdrawing time from the bank, an employee must have an approved FMLA leave or FMLA catastrophic leave or if those leaves have been exhausted, other agency-authorized unpaid leave of absence including approved reasonable accommodations that covers the time period the employee is requesting for EILB withdrawal.
- 6.2. The member must meet all of the following criteria. A member must:
 - 6.2.1. submit medical certification demonstrating that he/she has an extended illness or injury.

- 6.2.2. have been on paid or unpaid leave due to this extended illness or injury for at least 20 consecutive workdays beginning no earlier than the 21st day following the effective date of enrollment (either January 1st or July 1st) for new EILB members who were not members during the previous calendar year.
- 6.2.3. have exhausted all earned leave, including vacation leave, sick leave, personal leave, compensatory time, donated legislative sick leave time, and bonus vacation days.
- 6.2.4. receive an approval of the a withdrawal request from the member's Agency Head, Cabinet Secretary, if applicable, and the Agency EILB Coordinator or his/her designee. In cases of agencies falling under the Executive Office of Administration and Finance (ANF), the Chief Human Resources Officer or his/her HRD designee shall assume the approval role of the Cabinet Secretary. For independent or constitutional agencies, the agency head is the top level of approval.
- 6.2.5. The Chief Human Resources Officer or his/her designee may delegate the approval authority for Agency withdrawal requests in accordance with section 3.3, above.
- 6.2.6. The Agency Head may waive the section 6.2.2 requirement when a member's disabling condition(s) recurs within 6 months of his/her return to work following a period of EILB withdrawal. In such cases, the medical certificate must provide clear documentation of the recurrence and direct relationship to the original illness or injury.

7. Limit of Benefits

- 7.1. Members may not withdraw more than the statutory limit of 120 work days in any two-year period.
- 7.2. This limit applies, even if the employee withdraws time for separate illnesses or injuries during that two-year period.
- 7.3. The definition of "days" for part-time employees is prorated, as it is for other types of leave plans.
- 7.4. An Agency Head may approve withdrawal for an employee who returns to work intermittently or on a part-time basis during the period of approved EILB withdrawal as part of a time-limited rehabilitation plan specified in the medical certificate.

8. Medical Certification

- 8.1. Pursuant to 6.2.1 above, medical certification must be in writing using a form prescribed by the Chief Human Resources Officer. The FMLA medical documentation cannot be substituted for the EILB medical certification. No withdrawal will be permitted without the submission of satisfactory medical documentation.
- 8.2. Medical certification must be signed by a physician or medical provider registered to practice in the Commonwealth of Massachusetts or in the employee's state of residence.
- 8.3. Medical information pertaining to the member's withdrawal application is confidential and will be maintained in a confidential file outside of the employee's personnel file.

9. Coordination with Other Benefit Plans

- 9.1. Employees who are eligible for workers' compensation or other disability benefit payments are not eligible for the EILB.
 - 9.1.1. When employees have other short-term disability (STD) or long-term disability (LTD) plans and are also members of the EILB, they must demonstrate that they have applied for benefits under those plans before applying for withdrawal from the EILB.
 - 9.1.2. Legislative sick leave banks shall be the payer of last resort. Employees may not withdraw from legislative sick leave banks until they have received denials from all other possible payers.
- 9.2. Examples of disability plans are: public or private LTD plans and STD plans, Workers' Compensation, Sick Leave Reimbursement for injury due to auto accidents under MGL Chapter 93A, sick leave banks provided for by collective bargaining agreements.
- 9.3. Employees must be completely incapacitated from all forms of employment to be eligible to withdraw from the EILB except if working at their state job under 7.4. Members will certify in the application for withdrawal that they are not receiving wages or other form of remuneration from any other employer while withdrawing from the EILB.

10. Revocation of membership or time borrowed

10.1. If at any time a member is found to have violated any of the requirements for membership or misused or misrepresented information to obtain a withdrawal, the member's Agency Head (or designee) may revoke that employee's membership and require the employee to compensate the Commonwealth for time used.

11. Other matters which require review and determination by the Chief Human Resources Officer or designee

11.1. Policy/procedural questions, which are not expressly addressed by these regulations or ensuing policy/guidelines issued by the Human Resources Division must be referred to the Chief Human Resources Officer/designee for review and determination.