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TO: State Departmental Certifying Officers
State Human Resources Directors
State Biweekly Human Resources Representatives

FROM: David J. Pointer, CEBS
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SUBJECT: Leaves of Absence and SHBP Coverage

There is inconsistency across State agencies regarding the health benefit status of employees on a leave of absence (LOA) without pay due to personal illness as well as State Family Leave and the Federal Family and Medical Leave Act. This memorandum will clarify the matter as it relates to the SHBP.

Since 1974, State law has provided up to three months of active employee status coverage while on a LOA without pay due to personal illness. Active employee status coverage refers to coverage provided to an individual as if the individual were still actively at work; the employee is only required to pay the employee's share of the cost of health coverage. The statutes were later amended to allow State employees to pay the entire cost of the health and prescription drug benefits for an additional nine months.

The State Family Leave Act (C. 261, P.L. 1989) entitles employees to continue 12 weeks of SHBP coverage in any 24-month period at the expense of the employer. The Federal Family and Medical Leave Act is similar to the State's with the exception that the Federal act also requires that a leave be permitted for the serious illness of the employee of up to 12 weeks in any 12-month period. In cases where the employee on an approved family leave has a deduction for coverage, the employer must make arrangements to receive the direct payments from the employee for the required employee contributions.

It has come to the SHBP's attention that some employees, upon exhausting the three months of active employee status coverage, are being permitted to return to work for a day or two and then resuming their leave status. Some agencies are treating this as a new LOA due to illness and are allowing another three months of active employee status coverage. This is NOT appropriate.

The extension of the leave based upon the same condition is just that—an extension. It is not another independent LOA. An employee returning from a LOA must work for at least the equivalent of a biweekly pay period before a subsequent leave would be considered a second LOA, entitling the employee to another three months of active employee status coverage at the expense of the employer. A LOA commencing before the employee has satisfied the 2-week requirement would be considered a continuation of the first leave. If that employee had used all of the three months of active employee status coverage, that employee must prepay the full cost in order to continue coverage.

This policy should be applied consistently across State agencies.