



## Department of Transformation and Shared Services Office of Personnel Management

**Policy Title:** Catastrophic Leave

**Policy Number:** 47

**Authority:** Ark. Code Ann. § 21-4-203; § 21-4-209; § 21-4-214; Act 770 of 2023

**Effective Date:** June 7, 2023

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Arkansas law establishes a Catastrophic Leave Bank Program to be administered by the Department of Transformation and Shared Services (TSS)—Office of Personnel Management (OPM). Catastrophic leave is paid leave and may be awarded to eligible employees due to a catastrophic illness or injury or for maternity purposes. The Catastrophic Leave Bank Program creates no expectation or promise of continued employment with a state agency and is intended to assist eligible employees during medical emergencies and for maternity purposes.

**Catastrophic Leave Bank (Bank)**—A pool of donated annual and sick leave that may be awarded to eligible employees due to a catastrophic illness or injury or for maternity purposes. OPM maintains the Bank.

**Catastrophic Leave Bank Committee (Committee)**—A committee of 4 state employees from various state agencies with the majority membership having a medical license. The OPM Catastrophic Leave Coordinator serves as one member. One member who has a medical license serves as the chairperson. The Committee reviews all requests for catastrophic leave due to a catastrophic illness or injury and makes a recommendation for approval, denial, or request for additional information or clarification.

**Catastrophic Illness or Injury**—A medical condition of an employee, spouse, parent of the employee, or a child of the employee as certified by a physician or other appropriate healthcare provider 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 accrued leave and compensatory time.

**Catastrophic Leave for Maternity Purposes**—An eligible female employee may receive up to 12 consecutive weeks of paid leave after one of the following qualifying events:

- The birth of the employee's biological child,
- The placement of an adoptive child who is under one year of age in the employee's home, or
- The placement of a child in foster care who is under one year of age in the employee's home.

**Prolonged Period of Time**—An extended period of time, not less than 10 business days, whereby a medical emergency prevents the employee from performing the employee's duties. The period of time may be continuous or intermittent, except for maternity purposes, which must be continuous.

**Medical Condition**—Emergencies limited to catastrophic and debilitating medical situations, severely complicated disabilities, or severe accidents of the employee or a qualifying family member that could not have been anticipated and which cause the employee to be unable to perform their job, require a prolonged period of recuperation or require the employee's absence from duty as documented by a physician or other appropriate healthcare provider. In most cases, elective surgery does not qualify as a medical condition for catastrophic leave purposes.

**Onset of the Illness or Injury**—The start of the medical condition as certified by a physician or other appropriate healthcare provider. In some cases, the onset of the illness or injury may have occurred prior to the



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employee's most recent visit to the physician or healthcare provider. If a recurrence of the same illness necessitates a subsequent catastrophic leave request, the requirement for the employee to have 80 hours of combined sick and annual leave at the onset of the illness shall not be required if the employee previously met this requirement.

### Eligibility Requirements for Catastrophic Leave

1. The employee must be a regular, benefits-eligible employee who is compensated on a full-time or part-time basis from their state agency to be eligible for catastrophic leave. An employee who is in an extra-help position is ineligible to receive catastrophic leave.
2. The employee must have been employed by the State of Arkansas for at least 1 year in a regular, full-time position, or the employee was previously employed by a public school district or state-supported institution of higher education for at least 1 year. The employee's employment with the State and the public school district or institution may be combined to obtain the 1-year requirement if the lapse in employment from the public school district or institution to the State was less than 6 months.
3. Employees requesting catastrophic leave for an illness or injury must have exhausted all accumulated sick, annual, holiday, birthday, and compensatory leave, and, at the onset of the illness or injury, had at least 80 hours of combined sick and annual leave (including holiday and birthday). The requirement to have 80 hours of combined sick and annual leave is not required if the employee is requesting catastrophic leave for maternity purposes.
4. The 80-hour requirement for a medical emergency due to illness injury may be waived for an otherwise eligible employee if the Department Secretary, Agency Director, or designee declares an extraordinary circumstance. The Secretary or designee may only waive the 80-hour requirement if one of the following conditions has occurred:
  - a. The employee applying for catastrophic leave had, during the previous 1-year period, the same or another medically documented illness or injury that was not compensated under the Catastrophic Leave Bank Program but was documented under the Family and Medical Leave Act (FMLA) as a qualifying event, AND the same or other medically documented illness or injury caused the employee to exhaust their leave, or
  - b. The employee had, during the previous 1-year period, exhausted his or her sick and annual leave as a direct result of supplementing workers' compensation benefits, which were received because of an on-the-job illness or injury with the State of Arkansas.
5. The employee has not received a documented disciplinary action for leave abuse during the past 1-year period from the date of application. This requirement does not apply for maternity purposes.

### Policy



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1. Employees shall submit applications and supporting documentation for catastrophic leave to the employee's human resources office for review of eligibility and completion of the agency portion of the application. The employee's agency is responsible for ensuring the application is complete and the information is accurate prior to uploading the application and documentation through the secure online portal. OPM may require the agency to submit a revised application if the initial application is incomplete or inaccurate.
2. An application shall not be submitted, and an employee shall not be approved, for catastrophic leave unless that employee is, or is reasonably expected to be, on leave without pay (LWOP) because of the catastrophic illness or injury. The LWOP requirement does not apply for maternity purposes.
3. An employee shall not be approved for catastrophic leave due to an illness or injury unless that employee has provided the Physician's Certification form and any supporting medical documentation from a physician or other appropriate health care provider supporting the employee's absence from work and clearly stating that the employee is, and will continue to be, unable to perform the employee's duties due to the employee's or qualifying family member's catastrophic illness or injury. The physician or healthcare provider must include the date the employee is able to return to work. This data is used in determining the amount of catastrophic leave that could, but not guaranteed to, be awarded. The employee is responsible for providing information regarding his or her assigned job duties to the physician or health care provider to have a more accurate medical certification.
4. Agencies shall not grant an employee catastrophic leave before receiving OPM approval. OPM will not approve an employee for catastrophic leave due to an injury or illness beyond the date certified by the physician or healthcare provider on the Physician's Certification form as the employee's return to work date. Agencies are prohibited from allowing employees to use catastrophic leave beyond the date approved by OPM.
5. An eligible employee shall not be approved for catastrophic leave for maternity purposes until the employee has provided acceptable proof of the birth or placement of the child.
  - a. For the birth of the employee's biological child, acceptable proof includes a hospital announcement with the mother's name and/or the biological child's name, hospital discharge papers with the mother's name and the biological child's name, or a birth certificate of the biological child.
  - b. For the placement of an adoptive child in the employee's home, acceptable proof includes an official document from the placement entity with the employee's name and the child's name or legal guardianship papers with the mother's name and the child's name.
  - c. For the placement of a child in foster care in the employee's home, acceptable proof includes a printout of the placement screen for the child printed by the foster parent from the Resource Parent Portal or the CFS-362: Medi-Alert Form with the placement date.
  - d. The acceptable proof must be maintained by the agency submitting the request and is certified as part of the application process or as a follow-up to the application using the Maternity Purposes Eligibility Date Verification form.



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6. Catastrophic leave for maternity purposes can only be used within the first 12 weeks after the birth of the employee's child or placement of the adoptive or foster child in the employee's home. An employee shall not be eligible for an additional 12 weeks of catastrophic leave for maternity purposes for the adoption of a child if the employee took 12 weeks of leave after the initial foster placement of the same child in the employee's home.
7. An employee is eligible to receive catastrophic leave due to injury or illness for a maximum of 1,040 hours within a 5-year period. The 1,040-hour limitation does not apply for maternity purposes.
8. An employee who has received 1,040 hours within a 5-year period may submit an additional request to his or her agency for consideration by the Committee and State Personnel Director. If the request is reviewed by the Committee and the State Personnel Director, the State Personnel Director is authorized to award up to an additional 240 hours. The award of additional hours is only for extreme circumstances and if the employee has applied for social security disability benefits.
9. The combination of catastrophic leave due to illness or injury and for maternity purposes may not exceed 1,520 hours in a calendar year (1,040 hours for illness or injury and 480 hours for maternity purposes).
10. An employee who was denied catastrophic leave may request reconsideration by the Committee and must submit additional medical documentation. The Committee may also reconsider applications as requested by the State Personnel Director.
11. Recommendations of the Committee or the State Personnel Director are not subject to grievance, arbitration, or litigation.
12. Catastrophic leave is awarded in .25-hour increments and not on a monetary basis.
13. Approved catastrophic leave shall run concurrently with the FMLA if the employee is eligible for FMLA.
14. If an employee is receiving workers' compensation benefits and has also applied for catastrophic leave, the award of catastrophic leave, when combined with the employee's weekly workers' compensation benefit, shall not exceed the compensation received by the employee at the onset of the illness or injury.
15. Catastrophic leave shall not be awarded retroactively. This does not include adjusting dates in the payroll system as necessary to match the dates that were approved by the Committee or OPM.
16. OPM can deny a request for catastrophic leave if awarding catastrophic leave would result in a negative balance in the Bank.



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17. An employee on catastrophic leave due to illness or injury for 80 or more hours in a month shall not receive the annual and sick leave accrued for that month. The accrued annual and sick leave must be manually donated to the Bank by the agency's time administrator. A holiday or employee's birthday that falls on a day the employee is on catastrophic leave due to illness or injury must be manually removed as a quota correction by the agency's time administrator. The holiday will be reflected as paid catastrophic leave. Holiday and birthday leave that is removed will not be donated to the Bank.
  18. An employee on catastrophic leave for maternity purposes for at least one full day a month shall not receive the annual and sick leave accrued for that month. The first month that catastrophic leave for maternity purposes begins will have the accrued annual and sick leave removed through time evaluation. The annual and sick leave accrued in subsequent months that an employee is on catastrophic leave for maternity purposes must be manually donated to the Bank by the agency's time administrator. A holiday that falls on a day an employee is on catastrophic leave for maternity purposes must be removed through a quota correction and the holiday will be reflected as paid catastrophic leave. Birthday leave that is accrued while an employee is on catastrophic leave for maternity purposes is removed through time evaluation. Holiday and birthday leave that is removed will not be donated to the Bank.
  19. Employees on catastrophic leave will receive their regular rate of pay proportionate to their planned working time and work schedule. They will continue to receive their state benefits, including agency contributions to insurance and retirement. Catastrophic leave will not affect an employee's merit eligibility date or career service date.
  20. If an employee on catastrophic leave returns to work, terminates, retires, or dies before the approved catastrophic leave expires, all unused catastrophic leave shall be returned to the Bank. The return-to-work scenario does not apply if the employee is approved to use catastrophic leave intermittently.
  21. An employee is subject to disciplinary action by his or her agency if the employee fails to report to work after exhausting all approved catastrophic leave. An employee must notify his or her agency in advance if he or she is unable to return to work as scheduled and the reasons for the absence. The agency may approve the employee for LWOP.
  22. Alleged or suspected abuse, misrepresentation, or fraud of the Program shall be submitted to OPM for investigation. If OPM finds abuse, misrepresentation, or fraud, the employee shall repay all the leave hours that were awarded from the Bank. The employee is also subject to disciplinary action pursuant to their agency's policies.

### Donations of Leave to the Catastrophic Leave Bank

Employees may donate their accrued leave to the Bank. An employee's human resources office shall review an employee's request to donate leave to ensure the following criteria are met:



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1. An employee must complete Part I of the [Donation Form](#) and submit the form to his or her human resources office.
2. Leave is donated in .25-hour increments and not on a monetary basis.
3. An employee is prohibited from donating leave if the donation would reduce that employee's combined annual and sick leave balance to less than 80 hours. This restriction does not apply to employees who are terminating from state government or retiring.
4. Donated annual and sick leave will not be restored to the donating employee.

### Program Administration

The OPM Catastrophic Leave Coordinator is responsible for the following:

1. Reviewing leave donation forms and monitoring when an employee's accrued annual and sick leave or unused catastrophic leave is deposited into the bank.
2. Reviewing applications for completeness, verifying employee eligibility, and coordinating the cases that will be presented to the Committee for review and determination.
3. Creating an agenda for Committee meetings.
4. Sending out the determination letters; and
5. Maintaining a record of the determinations.

The leave codes and categories for catastrophic leave due to an illness or injury are CATL – Catastrophic Leave and FMLT – Family Medical Leave Catastrophic. The leave codes and categories for catastrophic leave due to maternity purposes are CATM – Catastrophic Leave Maternity and FMMC – Family Medical Leave Maternity Catastrophic Leave.

### Record Keeping

OPM maintains the following:

1. The amount of leave donated by each employee, the rate of pay, and the dollar value of the donated leave at the time of donation.
2. The amount of catastrophic leave awarded and returned, including the name of the recipient, position number, rate of pay, and personnel number; and
3. Any other information as required by the TSS Secretary or State Personnel Director.

### Prohibitions Against Interfering

An employee is prohibited from interfering with, restraining, denying, directly or indirectly intimidating, coercing, or attempting any of these actions against another employee regarding the catastrophic leave program. An employee who believes they have been subject to one of these actions may file a report with that employee's agency or OPM. All written reports shall be thoroughly investigated. Appropriate action will be taken by the employee's agency for any substantiated interference.