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Pacific Gas and Electric Company

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9-25-92

August 7, 1992



Mr. Jack McNally
Business Manager
International Brotherhood of
Electrical Workers, AFL-CIO
P. O. Box 4790
Walnut Creek, CA 94596

Fms

Dear Jack:

Recent changes in the California Workers' Compensation Act under the various "reform" measures require some adjustments in the procedures now followed when time off paid as sick leave (S/L) to an employee is later determined to be time off for an industrial injury or illness.

Currently, in the case of a delayed acceptance of an industrial claim, the employee is placed on temporary disability/Supplemental Benefits (TD/SB) prospectively from the date of acceptance. The employee is then told he or she will need to repurchase all sick leave used by applying the equivalent TD/SB that would have been paid if the S/L time had been paid as TD/SB, plus an amount to be paid out of the employee's pocket to make up for the fact TD/SB are paid at 85%, or less, of S/L. See Standard Practice No. 725.1-1 (copy attached), Supplement, Page 3, "REFUND OF SICK LEAVE CREDITS."

At the time the claim is accepted as industrial, Safety, Health, and Claims (SH&C) requests an "estimate of buy-back" from the Payroll Department in order to inform the employee of the sums involved. If an employee refuses to agree to buy back S/L, practice has been to leave the time off as paid S/L and not pay workers' compensation benefits. The changes from the Reform Act now require the Company to either pay TD or to credit back the employee's sick leave account with an amount of S/L hours equivalent to the TD entitlement (usually \$336.00 per week for 1992 injuries).

The sick leave credit is to take place within 14 days after the Company accepts the claim as industrial. Under the old procedure, the time to request and obtain the "estimate of buy-back" and inform the employee of the sums is at least a month, and often longer.

Failure to make the appropriate adjustments in the sick leave account can result in civil fines and administrative penalties being assessed by the Division of Workers' Compensation (DWC) Office of Benefits Administration and Enforcement (OBAE).

Company proposes the attached procedure for S/L TD/SB reversals in order to conform with State law.

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The proposed change will benefit both Company and employee. The previous application of requiring an employee to repurchase all or nothing of the S/L has created some financial hardships. Usually this involves an employee with high overtime earnings who initially suffers some financial hardship by receiving regular weekly income while on S/L for an extended period. Then, the TD/SB amount being less than regular wages causes that employee to owe substantial sums to restore the S/L. The proposed change would give the employee the option to use SB to buy back equivalent S/L or not, depending on that employee's particular financial situation. The same would apply for the out of pocket sum that would be owing. The automatic transfer of the TD equivalent amount of S/L back to the employee's S/L account enables Company to comply with the California Labor Code.

We propose that this clarification be applied effective immediately. Attached for your information is a current listing of employees who will be affected by this change. Please contact me at (973-1125) or Jeff Sisson at (973-1124) if you have questions or wish to schedule a meeting to discuss this further.

Sincerely,



DAVID J. BERGMAN

DJB:bbs

Attachments

**PROPOSED PROCEDURE TO REVERSE SICK LEAVE PAID FOR TIME OFF
SUBSEQUENTLY DETERMINED TO BE INDUSTRIALLY RELATED:**

SH&C proposes a three step procedure to reverse sick pay as follows:

1. When time off paid sick is later determined to be industrial, use a bookkeeping entry to restore the number of sick leave hours to the employee's sick leave account that are equivalent to the amount of temporary disability that would have been paid. Credit the non-productive sick leave account and debit the temporary disability account.

This step would be mandatory and done whether the employee wants to buy back sick leave or not.

2. If the employee agrees to use Supplemental Benefits that would have been paid for the days sick leave was paid to buy back more sick hours, either make a bookkeeping entry or issue a Supplemental Benefits check payable to the Company to buy back the equivalent number of sick leave hours. If the employee will not agree to use these Supplemental Benefits to buy back sick leave, then don't pay SB's for this period off.
3. Inform the employee that if he or she desires to restore the remaining hours paid as sick leave to his or her accumulated sick leave account, the amount of the additional sum the employee will need to pay personally. If the employee sends in a check, restore the sick leave. If not, then leave the account as it was after the Supplemental Benefits were credited back.

PAYMENT FOR TIME OFF NOT PAID AS SICK LEAVE:

Then, regardless of whether or not the employee wants to buy back sick leave with Supplemental Benefits that would have been paid during the time paid for sick leave, pay TD/SB's for the periods for which the employee did not receive sick pay as soon as the time is determined to be industrial. If the employee used vacation or holiday time, give the employee the option of buying that back by sending a personal check for whatever amount of time is desired to be repurchased.

PACIFIC GAS AND ELECTRIC COMPANY
STANDARD PRACTICE

VICE PRESIDENT -

STANDARD PRACTICE NO. 725.1-

EXECUTIVE OFFICE OR DIVISION PERSONNEL AND GENERAL SERVICES

PAGE NO 1 EFFECTIVE 7-1-79

ISSUING DEPARTMENT PERSONNEL RELATIONS

REPLACING All EFFECTIVE 7-1-74

SUBJECT:

SICK LEAVE

STATEMENT OF POLICY

1. It is the policy of the Company to allow eighty (80) hours annual sick leave, with certain accumulative and additional allowances, to employees who qualify in accordance with the provisions of this Standard Practice.

DEFINITION

2. Sick leave is defined as absence by reason of any illness or disability which does not come within the application of the Worker's Compensation and Insurance Chapter of the State Labor Code. It also includes time allowed to accommodate personal medical and dental appointments.

RESCISSIONS

3. Standard Practice 725.1-1, Sick Leave, effective 7-1-74, is superseded and should be destroyed. (Standard Practices 725.1-2, Sickness Report, effective 9-1-63 and 251-1, Supplemental Benefits for Industrial Injury, effective 2-1-59, were cancelled effective 7-1-74 and should have been destroyed.)

BASIC QUALIFICATIONS FOR SICK LEAVE

- *4. Employees who attain regular status will qualify for sick leave on the date they complete their first year of continuous service. In subsequent calendar years, they must first perform services in each such year, before current annual sick leave will be allowed. Monthly exempt employees, not represented by a bargaining unit are considered regular employees concurrent with their employment date for payroll purposes. As such, employees in this category will qualify for current annual sick leave (Paragraph 8) the day following their employment date.

RESPONSIBILITY

5. a. It is the responsibility of all supervisors to review the use of sick leave by those employees under their jurisdiction. Availability for work is a basic condition of employment; abuse of sick leave is a violation of this condition and detrimental to the individual's overall job performance. Sick leave should be monitored to identify cases of abnormally high use with no specific or substantial reason on the part of the employee for such sick leave use. A suggested method for monitoring sick leave is outlined in Paragraph 19 of the Supplement to this Standard Practice.

SUBJECT:

SICK LEAVE

- b. Satisfactory evidence of an employee's illness or disability may be required before sick leave will be approved for payment.
- c. If an individual's sick leave use is excessive and the supervisor is unable to satisfactorily determine the cause of the problem or contributing factors, then it is appropriate to call the Employee Counselor - General Office Personnel Relations Department, for assistance in the clarification of the employee's problem.

SUPPLEMENT

- 6. The information required for the administration of this Standard Practice is outlined in the attached Supplement.

APPROVED BY

R. K. Miller
R. K. MILLER
 Vice President-Personnel
 and General Services

DISTRIBUTION

Officers
 Division Managers
 Department Managers

ADDITIONAL COPIES

Additional copies of this Standard Practice may be obtained from General Office Personnel Relations Department, Room 924, 245 Market Street, Ext. 2852.

REPORTING ABSENCE ON SICK LEAVE

- *7 Transmittals will indicate all sick leave absences. Absences of less than one full day must be included and should be shown on clock time basis. This includes periods of less than one hour.

Sick time will be charged as follows:

- a) For non-bargaining unit employees paid on a weekly basis, and all employees covered by a bargaining unit contract, sick leave will be charged in units of at least one hour for absence on a regularly scheduled work day.
- b) For monthly exempt employees not represented by a bargaining unit, sick leave will be charged in units of at least 4 hours, for absence on regularly scheduled work days.

CURRENT ANNUAL SICK LEAVE

8. An employee who qualifies will be allowed current annual sick leave with pay for a total of eighty (80) hours in each calendar year. A regular part-time employee who qualifies will be allowed sick leave with pay for such portion of eighty (80) hours per calendar year as the average number of hours the individual regularly works in a week bears to forty (40) hours.

ACCUMULATED SICK LEAVE

9. In addition to the current annual sick leave which may be allowed, the employee will be allowed further sick leave which shall not exceed the total of the individual's unused annual sick leave in the eight (8) calendar years immediately preceding. Accumulated sick leave will be applied to absences in the order in which it accumulated, and will be used before annual sick leave for the current year is applied.

ADDITIONAL SICK LEAVE ALLOWANCE

10. In the calendar year which it is anticipated that employees may attain ten (10) years of Company service, and in any calendar year thereafter, employees whose sick leave records qualify them in accordance with the formula shown below shall, upon exhausting their accumulated and current sick leave, be allowed additional sick leave, if needed, not to exceed 160 hours in such calendar year.
- a. For each of the preceding eight (8) calendar years, the employee's annual sick leave accrual is calculated by subtracting from eighty (80) hours each year the hours (not exceeding eighty (80) hours) of sick leave the person used in such year.
 - b. Add the number of hours as determined in a. above, for each of the eight (8) years involved.

- c. If such total is 320 hours or more, the employee shall be qualified for the additional sick leave allowance.
 - d. When the employee has qualified for such additional allowance, it shall be renewed in full on the first day of each succeeding calendar year, but such allowance shall not accumulate from year to year.
11. In the calendar year in which Company anticipates that an employee may attain 20 years of Service, an employee who has qualified for the additional sick leave under Paragraph 10 shall, upon exhausting such additional sick leave, be allowed, if needed, an additional 160 hours in such calendar year. Once the employee has qualified for such additional allowance, it shall be renewed in full on the first day of each succeeding calendar year, but such allowance shall not accumulate from year to year.

HOLIDAYS DURING ABSENCE ON SICK LEAVE

12. If a holiday occurs on a workday during the time an employee is absent on sick leave with pay, the person will receive payment for the holiday as such, and it will not be counted as sick leave.

SICK LEAVE ALLOWANCE UPON SEVERANCE OF EMPLOYMENT

13. An employee who is required to leave the service of the Company permanently because of physical disability will be entitled to the sick leave that may be due under the provisions of Paragraphs 8, 9, 10, and 11.

COMPUTATION OF SICK LEAVE PAY - TEMPORARY CLASSIFICATIONS

14. When an employee is assigned to work temporarily in a classification other than the individual's regular classification, and such assignment is authorized on daily or weekly time reports, pay for absence on sick leave while so assigned will be computed at the rate for the employee's regular classification.
15. When an employee is assigned to work temporarily in a higher classification, and such assignment is authorized on Payroll Change (Form 62-7028), pay for absence on sick leave while so assigned will be computed at the rate for the higher classification.

COMPUTATION OF SICK LEAVE PAY - DUAL CLASSIFICATION

16. When an employee is assigned to work temporarily in dual classifications, and such assignment is authorized on daily or weekly time reports, pay for absence on sick leave while so assigned will be computed at the rate for the individual's regular classification.

17. When an employee is assigned to work temporarily or regularly in dual classifications, and the assignment is authorized on Payroll Change (Form 62-702B), pay for absence on sick leave while so assigned will be computed as follows:
- a. Where the work is performed on a recurring schedule which has been determined in advance, any sick leave to which the employee may become entitled while so assigned will be at the rate of pay which would have been applicable had the individual continued to work as scheduled.
 - b. Where the work is not performed on a predetermined, recurring schedule, any sick leave pay to which the employee may be entitled while so assigned will be determined as follows:
 - (1) Where the absence is for one day, it will be at the rate of pay for the classification in which the person worked on the workday preceding the day of absence.
 - (2) Where the absence is for two or more consecutive days, it will be at a rate based on the employee's average straight time earnings for the four (4) calendar weeks immediately preceding the calendar week in which the first day of absence occurred.

REFUND OF SICK LEAVE CREDITS

18. Where sick leave pay was received for time off which was later determined to have resulted from an industrial injury (a delayed or disputed claim), the following steps will be taken upon receipt of advice from the Safety, Health, and Claims Department.
- a. The employee's sick leave account will be credited with the number of days sick leave used during the period of absence and the employee will be billed for the amount paid.
 - b. Any Supplemental Benefits due will be applied to the amount owed by the employee and the remaining balance, if any, will be deducted from the individual's regular earnings.

SUGGESTED METHOD OF AUDITING SICK LEAVE USE

19. In relation to overall standards of performance, each Division and General Office Department should establish what is considered to be a normal annual average use of sick leave. An individual who consistently uses more than this yearly average (including unpaid sick days), may be

abusing sick leave or not taking prudent action to solve specific Medical and/or Behavioral problems. All supervisors, for the employees under their jurisdiction should:

- a. Review employees listed on the periodic "Extensive Time Off" report and eliminate, from further study, those employees who have suffered a verified medical problem which caused a large amount of time to be used for a specific, continuous period; and those employees who have known chronic problems which are causing higher than normal sick leave usage, and it is known that these employees are following programs of appropriate assistance (treatment) to resolve their problems.
 - b. Finally, review the remaining list and determine what action should be taken based on your analysis of each individual's circumstances and performance. The action taken may include one or a combination of the following:
 - (1) performance counseling,
 - (2) request a report from the individual's personal physician,
 - (3) call for assistance from the Employee Assistance Program - General Office Personnel Relations Department,
 - (4) referral to a panel physician for medical clarification of the problem,
 - (5) disciplinary action.
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SUMMARY - SICK LEAVE REVERSAL FOR AN EMPLOYEE WHO
USED 43 DAYS (344 HOURS) PAY: \$841.55/WEEK

OLD SYSTEM

1. Employee could elect not to buy back any sick leave (S/L).
2. If employee elected to buy back S/L, he or she had to buy back all 43 days (344 hours), an out-of-pocket cost to the employee of \$2,328.79 after adjustment for tax deductions, etc., for temporary disability/ Supplemental Benefits payable during the time the employee was using S/L.

NEW SYSTEM

1. 134.75 hours of S/L would be credited immediately to the employee's S/L account based on amount of temporary disability indemnity payable during period when S/L was paid.
2. Employee can elect to use Supplemental Benefits that would be payable during time S/L was paid to buy back 104.50 hours of S/L. Or, employee can elect not to be paid supplemental Benefits and the Company will not have that equivalent credit against any permanent disability that might be owing.
3. Employee can elect to purchase the remaining 104.75 hours of S/L used by paying about \$2,328.79 out-of-pocket.

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