

Wisconsin Human Resources Handbook

Chapter 660

Catastrophic Leave Program

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Sec. 660.010 Introduction

The catastrophic leave program allows most permanent and project employees to voluntarily donate certain leave credits to other permanent and project employees who have been absent from pay status due to a catastrophic need for which no eligible paid leave benefits or replacement income are available. These donations are a conditional benefit and not a right of employment.

Sec. 660.020 Statutory and Rule Authority

1. Section 230.35(2r), Wis. Stats., provides the authority for the Administrator of the Division of Personnel Management (DPM) in the Department of Administration to establish a catastrophic leave program.
2. Section ER 18.15, Wis. Adm. Code, sets forth the policies to be followed in the administration of the catastrophic leave program.
3. Chapter ER 18, Wis. Adm. Code, sets forth the policies to be followed in the administration of annual leave/holiday benefits and leave of absence without pay for employees. Annual leave entitlements are covered under s. ER 18.02, Wis. Adm. Code, holiday benefits under s. ER 18.04, Wis. Adm. Code, and leave of absence without pay provisions under s. ER 18.14, Wis. Adm. Code.
4. The public safety collective bargaining agreement may contain catastrophic leave program provisions for bargaining unit employees that supersede the provisions of this chapter.

Note: Employees may donate leave credits to other employees, subject to section 660.070(2) of this handbook chapter. Public safety represented employees may donate leave credits to other employees or receive donation from other employees, subject to the catastrophic leave provisions of the collective bargaining agreement.

Sec. 660.030 Definitions

The following definitions are used in this chapter.

1. “Catastrophic need” means an illness or injury that incapacitates or is expected to incapacitate an employee or an employee’s family member that requires the employee to take time off from work for an extended period of time and that creates a financial hardship for the employee. See s. 230.35(2r), Wis. Stats., and s. ER 18.15(1)(a), Wis. Adm. Code.
2. “Donor” means any person meeting the eligibility requirements under s. ER 18.15(3), Wis. Adm. Code. See s. ER 18.15(1)(b), Wis. Adm. Code, and section 660.060 of this handbook chapter.
3. “Employee” means any person who receives remuneration for services rendered to the state under an employer-- employee relationship, except employees of the University of Wisconsin, unclassified employees of the State of Wisconsin Investment Board, elected officials and limited term employees.
4. “Employment status” has the meaning given in s. ER 18.01(3), Wis. Adm. Code.
5. “Family member” means a member of the employee’s immediate family as defined under s. ER 18.01(4), Wis. Adm. Code.
6. “Leave credits” means earned but unused termination leave, sabbatical leave, personal and legal holiday time, and anticipated or earned but unused annual leave, subject to s. 230.35(1)(b), Wis. Stats. Leave credits *do not include* sick leave credits or compensatory time off credits. See s. ER 18.15(1)(d), Wis. Adm. Code.
7. “Recipient” means any person meeting the eligibility requirements under s. ER 18.15(2), Wis. Adm. Code. See s. ER 18.15(1)(e), Wis. Adm. Code, and section 660.050 of this handbook chapter.

Sec. 660.040 Organization

1. A committee of agency representatives will be convened by the DPM Administrator as necessary to address issues related to the catastrophic leave program. Issues which may be addressed by the committee include but are not limited to:
 - a. Recommendations for policy changes.
 - b. Establishment and/or modification of program guidelines.
 - c. Review of agency application and approval processes.
 - d. Review of confidentiality measures provided for potential recipients and donors.
2. Each agency:
 - a. Will appoint an agency contact person(s) for catastrophic leave program coordination purposes. The agency may designate the same or different individuals as the DPM and employee contact.
 - b. May appoint an individual or committee as the agency appointing authority’s designee to review and approve/deny catastrophic leave requests. This may or may not be the same individual(s) designated under (a), above.
 - c. Will develop catastrophic leave application procedures consistent with program policies.
 - d. Will develop procedures for notifying the appropriate payroll/personnel staff of approved

catastrophic leave applications.

- e. Will develop procedures for soliciting donations for approved recipients, including measures for maintaining the confidentiality of recipients and/or donors upon request.
- f. Will notify agency employees that the catastrophic leave program is available. The notification will include the agency application and donation procedures, (c) and (e), above, respectively, and provide the name of the agency contact.
- g. Will provide catastrophic leave usage reports to DPM, as requested.

Sec. 660.050 Determining Recipient Eligibility

1. Potential recipients must fill out an “Application for Catastrophic Leave” form as developed by DPM. Forms are available from the agency’s designated catastrophic leave contact person/office. The agency designee will determine recipient eligibility consistent with program policies and guidelines.
2. To be an *eligible recipient*, an employee must satisfy *all of the following conditions*:
 - a. Meet the definition of “employee” as specified under section 660.030(3) of this handbook chapter.
 - b. Have completed the first six months of service as a permanent classified, project or unclassified employee.
 - c. Be on approved unpaid leave due to a catastrophic need of the employee or an immediate family member. The unpaid leave may be taken in non-continuous increments.
 - d. Anticipate an approved unpaid leave of at least 160 hours duration. The 160 hours will be prorated for seasonal, sessional, school year, and part-time employees. For example, a 50 percent employee must anticipate an approved unpaid leave of at least 80 hours duration, a 75 percent employee at least 120 hours, etc.
 - e. Have provided medical certification of the catastrophic need if required by the agency appointing authority.
 - f. Have used all available sick leave credits earned under ss. 36.30 and 230.35(2), Wis. Stats.
 - g. Have a leave balance of no more than 16 hours of combined accrued annual leave, including sabbatical/termination leave, and personal/legal holiday credits.
 - h. Must not be receiving other salary replacement income. Salary replacement income may include, but is not limited to:
 - Replacement income from other employment.
 - Income Continuation Insurance.
 - Workers Compensation.
 - Hazardous duty benefits under s. 230.36, Wis. Stats.
 - Unemployment Compensation.
 - Social Security.
 - Private insurance.
 - i. Be approved as an eligible recipient by the agency appointing authority or designee.

Sec. 660.060 Determining Donor Eligibility

1. Potential donors must fill out a “Catastrophic Leave Donor Authorization” form as developed by DPM. Forms are available from the agency’s designated catastrophic leave contact person/office. The agency designee will determine donor eligibility consistent with program policies and guidelines.
2. To be an *eligible donor*, an employee must satisfy *all of the following conditions*:
 - a. Meet the definition of “employee” as provided under section 660.030(3) of this handbook chapter or the applicable collective bargaining agreement.
 - b. Have completed the first six months of service as a permanent classified, project or unclassified employee.
 - c. Have at least one year of continuous service.

Sec. 660.070 Leave Credit Donations

1. A donor may donate no more than 24 hours (see specific contract language for a different limitation on donated hours) of leave credits to any and all recipients in any calendar year. The 24-hour limit will be prorated for seasonal, sessional, school year, and part-time employees.

NOTE: If a donor’s FTE changes during the calendar year, the leave credit donation limit will be based on FTE at the time the donation is made.

EXAMPLE: If a full-time employee has previously donated 20 hours of leave credits and then accepts a half-time position, the employee cannot donate any additional leave credits for the remainder of that calendar year because the employee has already exceeded the prorated 12 hour limit for half-time employees. The employee may donate up to an additional four hours of leave credits that calendar year if the employee moves back to full-time employment.

2. A donor may donate leave credits to any recipient, within the same employing state agency, who has access to a catastrophic leave program subject to the definition provided under s. ER18.15(1), Wis. Adm. Code. A recipient may receive donations from employees in other state agencies with the approval of the donor’s agency’s appointing authority.
3. Leave credits will be donated in whole-hour increments and on an hour-for-hour basis irrespective of the base hourly rates of the donor and recipient.

EXAMPLE: A recipient has a base hourly rate of \$15.00. The donor has a base hourly rate of \$20.00. The donor donates 2.5 hours of annual leave to the recipient.

1. As leave may be donated only in whole hour increments, payroll may either return the Donor Authorization form to the donor as an inappropriate donation, or use two hours of annual leave for the recipient and return the .5 hour of annual leave to the donor with an appropriate explanation, depending on established agency procedures.
2. Since leave credit donations are made on an hour-for-hour basis irrespective of the base hourly rates of the donor and recipient, the two hours of annual leave will be used by/paid to the recipient at the base hourly rate of \$15.00.

4. Previously donated leave credits will be returned to the donor with an appropriate explanation upon either of the following circumstances:
 - a. Leave credits are donated in excess of the maximum number of leave credits required for a recipient; or

- b. Donated leave credits are no longer needed by the recipient (e.g., due to the recipient's return to work or resolution of the catastrophic need).
5. If a donor moves to a position not covered by catastrophic leave provisions, moves to another agency, or separates from employment prior to the donated leave credits being used by the recipient, the donated leave credits will be returned to the donor with an appropriate explanation. If donor movement occurs after donated leave credits have been used by the recipient, the donated leave credits will not be returned to the donor. See (2), above, for donor movement within the agency.

NOTE: A donor may not elect to allow the recipient to use donated leave credits under (5), above. Upon any of the specified donor movements, unused leave credits *must* be returned to the donor.

6. Unused leave credit donations returned to the donor during the last six months of the calendar year may be carried over for use during the first six months of the ensuing calendar year, at the donor's discretion. Permission for carryover of returned unused leave credit donations to the ensuing calendar year is not required under s. ER 18.02(6)(b), Wis. Adm. Code.

EXAMPLE: A donor donated 24 hours of annual leave to a recipient. The recipient's catastrophic need was resolved in August, prior to using the leave donated by the donor. Consequently, the 24 hours of donated annual leave are returned to the donor. The donor has the remainder of the calendar year and through June 30 of the ensuing calendar year to use the returned unused donated leave. The employee may not be required to submit a request for carryover of these leave credits.

7. Donated leave credits will be deducted from a donor's official leave accounting balance when the credits are actually used by the recipient. If a donor uses donated leave credits prior to use by the recipient, the donation is negated.

Sec. 660.080 Leave Credit Usage by Recipients

NOTE: Exempt employees may use leave without pay in less than eight-hour blocks. See 520.060 of the *Wisconsin Human Resources Handbook* Chapter entitled "Administration of the Federal Fair Labor Standards Act and the Wisconsin Statutes Pertaining to Hours Worked and Overtime Provisions for State Classified Employees and Certain Unclassified Employees."

NOTE: For ease of administration and consistency in application, when processed, donated leave should be credited to the recipient's annual leave balance regardless of the type of leave actually donated.

1. Donated leave credits will be processed only after a catastrophic leave application has been approved and notice provided to the appropriate payroll and/or personnel office pursuant to established agency procedures.
2. A recipient may not receive more than 640 hours of donated leave credits during any calendar year. The 640 hour limit will be prorated for seasonal, sessional, school year, and part-time employees. For example, a 50 percent employee will be limited to 320 hours during any calendar year, a 75 percent employee to 480 hours, etc. See (8), below, for carryover of donated leave credits to the ensuing calendar year.
3. Donated leave credits will be used on a first-in, first-used basis as determined by the date of receipt of the donor authorization form at the appropriate payroll and/or personnel office.
4. Donated leave credits may be used by the recipient retroactively, subject to the biweekly pay period limitations specified in (5), below. For a recipient who subsequently leaves the position and is no longer an eligible employee or who separates from state service, donated leave credits may only be used up to the date of ineligibility or separation.

EXAMPLES:

1. An employee submits a Catastrophic Leave Application on May 20 and begins an approved unpaid leave on May 25. The agency determines the employee is an eligible recipient and solicits donations. The agency payroll office begins receiving Donor Authorization forms on June 10. The agency may use donated leave to cover the recipient's unpaid leave beginning with the date the unpaid leave first began (in this case May 25), subject to applicable leave credit usage limitations under (5), below.
2. The employee under 1., above, terminates state employment on June 13. Donated leave credits may be used to cover the period from May 25 through June 13 (the date of termination). Leave credits donated in excess of the credits required to cover this period must be returned to the donor with an appropriate explanation.

5. In any biweekly pay period, a recipient may only use the lesser of the following, except as specified under retroactive provisions in (4), above:

- a. 80 hours of leave; or
- b. The number of hours consistent with the recipient's regularly scheduled hours per pay period at the time the recipient's unpaid leave began, unless the employee is working a reduced schedule due solely to the catastrophic need. (See Example 2, below). "Regularly scheduled hours" does not include overtime hours or hours worked in excess of the employee's budgeted FTE.

EXAMPLES: Subject to the retroactive use provisions in (4), above, if:

1. The recipient is employed in a 100 percent FTE position and was working full-time up to the time the leave without pay began, the employee may use up to 80 hours of donated leave per pay period.
2. The recipient is employed in a 100 percent FTE position and, due to a catastrophic illness, was working 50 percent prior to the time the leave without pay began, the employee may use up to 80 hours of donated leave per pay period.
3. The recipient is employed in a 100 percent FTE position and was working 90 percent either by choice or per the agency's requirement, the employee may use up to 72 hours of donated leave per pay period.
4. The recipient is employed in a 50 percent FTE position and was working half-time up to the time the leave without pay began, the employee may use up to 40 hours of donated leave per pay period.
5. The recipient is employed in a 50 percent FTE position and was working full-time up to the time the leave without pay began, the employee may use up to 40 hours of donated leave per pay period.
6. The recipient is a seasonal or school-year employee who was working full-time up to the time the leave without pay began, the employee may use up to 80 hours of donated leave per pay period limited to the time period during which the seasonal or school year position would exist. The employee may only use donated leave credits through what would normally be the end date of the seasonal or school year employment.

6. Leave time earned by the recipient while using donated leave credits will be used prior to donated leave credits, subject to sections 660.050(2)(f) and (g), of this handbook chapter. The recipient's earned leave time need not be deducted in less than whole hour increments.

EXAMPLES: The recipient is a full-time employee who has 7 years of continuous service, with no accrued sick leave and no other available paid leave, except 16 hours of annual leave as allowed under section 660.050(2)(g), of this chapter. The recipient used 80 hours of donated leave in a pay period. In the following pay period, prior to using donated leave:

1. The 5 hours of sick leave earned the previous pay period (while using donated leave) must be used; and
2. Any earned annual leave that has accrued to whole hour increments over the 16 hour maximum balance allowed for recipients must be used. This leave may be used in less than one hour increments at the agency's discretion.

In this case, the employee has earned 5.5 hours of annual leave for the pay period (144 hour annual leave rate conversion factor of 0.068966 x 80 hours = 5.51728 rounded to 5.5). The 5 hours of annual leave must be used (as the recipient already has the maximum 16 hour leave balance allowed), however, the agency may choose to use the 0.50 or let it accrue to a full hour prior to use.

7. A recipient is eligible to be paid for any legal holiday which falls during a pay period in which donated leave is used for either the last scheduled work day immediately preceding or the first scheduled work day immediately following the holiday.

EXAMPLE:

1. An employee begins an unpaid leave of absence on June 23 and uses donated leave credits for the pay period June 22 through July 5. The employee receives pay for the legal holiday on July 4 because the employee is in pay status the last scheduled work day immediately preceding the holiday.
2. An employee begins an unpaid leave of absence on July 1. The employee's application for catastrophic leave benefits is not approved until July 21. The agency uses donated leave credits for the period of unpaid leave beginning July 1. The employee also then receives pay for the legal holiday on July 4 because paid leave credits are used for the last scheduled work day immediately preceding the holiday, as well as the first scheduled work day immediately following the holiday.

8. Leave credits donated to recipients are not subject to limitations on end-of-year carryover of leave credits under ss. ER 18.02(6)(b) and ER 18.04(4)(c), Wis. Adm. Code.

EXAMPLE: A recipient is on approved unpaid leave and is using donated leave. Donated leave credits remaining at the end of the calendar year will automatically carry over into the ensuing calendar year and will be used until donations are exhausted or the catastrophic need is resolved and any unused donated credits are returned to the donor.

9. Donated leave credits will not be reflected on the recipient's official leave accounting balance until the pay period in which the credits are actually used by the recipient.
10. If a recipient moves to a position not covered by catastrophic leave provisions, moves to another agency, or separates from employment, all unused donated leave credits will be returned to the donors with an appropriate explanation. If the recipient moves to another position in a different employing unit within the same agency, the leave credit donations may remain in effect with the approval of the agency appointing authority, in which case the recipient does not have to reapply for catastrophic leave benefits.
11. If a recipient moves to a represented public safety position or to another agency after the catastrophic leave application has been approved, the individual must reapply for catastrophic leave benefits under the applicable contract or rule. Donated leave credits already used by the recipient will count towards the employee's entitlement upon subsequent approval for benefits under s. ER 18.15, Wis. Adm. Code, in the same calendar year. However, donated leave credits already used by the recipient will *not* count towards the employee's entitlement upon subsequent approval for benefits under the public safety collective bargaining agreement in the same calendar year.

EXAMPLES:

1. While on approved intermittent unpaid leave and using donated leave credits, a recipient accepts a position with a *different employing unit within the same agency*. The previously donated leave credits may be used by the recipient in the new position with the approval of the agency appointing authority or designee. Absent such approval, donated leave credits must be returned to the donors with an appropriate explanation. In order to continue catastrophic leave benefits, the employee must submit a new Catastrophic Leave Application at the new employing unit. If the new application is approved, any donated leave credits used while at the first employing unit will count toward the employee's entitlement for that calendar year at the new employing unit.

EXAMPLES, continued:

2. While on approved intermittent unpaid leave and using donated leave credits, a recipient accepts a position with a *different agency*. Unused donated leave credits at the sending agency must be returned to the donors with an appropriate explanation. The recipient must submit a new Catastrophic Leave Application at the receiving agency to continue catastrophic leave benefits. If approved, any donated leave credits used while employed at the sending agency will count toward the employee's entitlement for that calendar year at the receiving agency.

Sec. 660.090 Application/Processing Procedures

1. Employees must follow the employing agency's catastrophic leave application procedure.
2. An employee may apply for catastrophic leave on his/her own behalf, or on behalf of another employee. When a catastrophic leave application is submitted on behalf of another employee, the agency designee(s) will obtain the consent of the intended recipient or other responsible party prior to continuing with the catastrophic leave approval process.
3. The agency designee(s) will review applications to determine eligibility of potential recipients.
4. The agency appointing authority or designee(s) will issue an approval or denial consistent with program policies and guidelines.
5. The agency designee(s) will notify the appropriate payroll and/or personnel office of approved recipients, consistent with established agency procedures.
6. The agency designee(s) will solicit donations for approved recipients, consistent with established agency procedures.
7. The payroll/personnel office will process donations consistent with sections 660.070 and 660.080, of this handbook chapter.

Sec. 660.100 Appeal Provisions

No employee may grieve under an agency's grievance procedure any agency appointing authority's decision relating to a catastrophic leave program or appeal any such decision to the commission under s. 230.44 or 230.45(1)(c), Wis. Stats. See s. 230.35(2r)(c), Wis. Stats.

Sec. 660.110 Catastrophic Leave Forms

The catastrophic leave-forms described and linked in 1. to 3., below may also be found in the Forms listing in the Reference Center on the DPM's website.

1. **Application for Catastrophic Leave** (Form #DOA-15304)

- a. This form is completed by an individual requesting catastrophic leave benefits pursuant to s. ER 18.15, Wis. Adm. Code. (<http://oser.state.wi.us/docview.asp?docid=1120>)
- b. The completed form is submitted for review and processing to the agency's catastrophic leave coordinator, as designated. The agency will provide the name/office which has been designated as Catastrophic Leave Coordinator in the box marked "Return Completed Form To:" prior to distributing the application to employees.

2. **Applicant Eligibility Verification for Catastrophic Leave** (Form #DOA-15305)

- a. Upon receiving a completed Application for Catastrophic Leave form, the agency's catastrophic leave coordinator submits an Applicant Eligibility Verification for Catastrophic Leave form to the personnel/payroll office for verification that the employee applying for catastrophic leave benefits pursuant to s. ER 18.15, Wis. Adm. Code, meets the recipient eligibility requirements. The catastrophic leave coordinator will provide the appropriate name in the box marked "Return Completed Form To:" prior to forwarding the verification form to the personnel/payroll office. (<http://oser.state.wi.us/docview.asp?docid=1119>)
- b. After verifying the applicant information, the personnel/payroll office returns the completed Applicant Eligibility Verification for Catastrophic Leave form to the agency's catastrophic leave coordinator, as designated, for review and approval/denial. The personnel/payroll office will provide the appropriate name in the box marked "Return Approved Signed Form To:" prior to returning the verification form to the catastrophic leave coordinator.
- c. The agency's catastrophic leave coordinator reviews the form and approves or denies the application, as appropriate. If approved, the signed form is returned to the personnel/payroll office, as designated, to serve as authorization for the processing of donations. If denied, the form is filed for future reference and no donations may be processed.

3. **Donor Authorization for Catastrophic Leave** (Form #DOA-15306)

- a. This form is to be completed by an employee who chooses to donate leave credits when the agency is soliciting donations for a recipient approved for catastrophic leave benefits in accordance with s. ER 18.15, Wis. Adm. Code. The agency will provide the appropriate name/office in the box marked "Return Completed Form To:" prior to distributing the authorization form to employees. (<http://oser.state.wi.us/docview.asp?docid=1194>)
- b. The completed form is submitted for processing. The agency may choose to have the donor forms submitted to the agency's catastrophic leave coordinator for review and subsequent forwarding to the personnel/payroll office, or directly to the agency's personnel/payroll office for review and processing.

Sec. 660.120 Referral of Questions

Questions regarding this handbook chapter and administration of the catastrophic leave program for may be directed to the agency catastrophic leave coordinator or to the Bureau of Compensation and Labor Relations.

Sec. 660.130 Administrative Information

This chapter was originally published as Chapter 752 of the Wisconsin Personnel Manual in June 1997. It was republished as Chapter 660 of the *Wisconsin Human Resources Handbook* in October 2001.

The chapter was revised in October 2005 to include represented employees (when applicable) and certain unclassified employees in the Catastrophic Leave Program and to reflect current formatting procedures. An Administrative Information section was added at that time.

The chapter was revised in August 2010, to remove the catastrophic leave forms as attachments, to instead rely on hyperlinks within this chapter to the forms on the Office of State Employment Relations website.

The chapter was revised in February 2016 to generally remove distinctions between represented and nonrepresented employees, and to remove University of Wisconsin employees as eligible recipients or donors, due to the creation of a separate civil service system for UW effective July 1, 2015. Also, pursuant to the changes introduced by 2015 Wisconsin Act 55, in July 2015, the Office of State Employment Relations was eliminated and the functions were transferred into the newly created Department of Administration, Division of Personnel Management. This chapter was updated to reflect the changes in terminology that resulted from the organizational restructuring.