

# Post-Lapse Pay, Leave, and Benefits Fact Sheet

## Retroactive Pay

### Furloughed Employees

An employee who was furloughed during the lapse in appropriations (December 22, 2018 – January 25, 2019) is entitled to retroactive pay at the employee's "standard rate of pay". The "standard rate of pay" is the pay the employee would have received for the furlough hours if the lapse in appropriations had not occurred and the employee performed work. The "standard rate of pay" includes:

- The employee's rate of basic pay;
- Overtime and other premiums for regularly scheduled work;
- Regular premium payments (such as law enforcement availability pay); and
- Allowances and differentials payable on a regular basis.

An employee who was scheduled to be in a non-pay status during the furlough period is **not** entitled to retroactive pay for furlough periods, if the non-pay status was scheduled before the lapse in appropriations began. For, example, an employee may have scheduled leave without pay (LWOP) for an extended period or be in a suspension status (i.e., pay suspended based on an adverse action). Generally, an employee is not placed in a furlough status if they are scheduled to be in a nonpay status during the furlough period. As such, the "standard rate of pay" for such previously scheduled periods of nonpay status is zero.

All furlough hours for which retroactive pay is received are treated as time in a pay status for pay, leave, and benefit purposes. For example, for the purpose of applying General Schedule waiting periods associated with within-grade increases, the furlough time during the lapse in appropriations is treated as time in pay status.

### Excepted Employees

An excepted employee who performed work during the lapse in appropriations is entitled to pay for all work periods occurring during the lapse. Excepted employees are entitled to pay at the employee's "standard rate of pay". For excepted employees, the "standard rate of pay" is the pay the employee is entitled for the actual hours of work under normally applicable pay rules. For example, if an excepted employee performed additional overtime work beyond the normal requirements for his or her job, he/she would be paid for that actual overtime. The "standard rate of pay" for excepted employees also includes any regular premium payments, allowances, or differentials that are payable on a regular basis.

For periods of time during which an excepted employee was placed in a furlough status during the lapse in appropriations, the "standard rate of pay" is the pay the employee would have received for the furlough hours had the lapse in appropriations not occurred and the employee had performed work.

## **Leave**

### **Charges to Leave and Other Paid Time Off**

#### **Furloughed Employees**

An employee may not be charged any type of paid leave (e.g., annual or sick leave) or other form of paid time off (e.g., earned compensatory time off, earned compensatory time off for travel, credit hours under a Flexible Work Schedule, or time off award) while in a furlough status.

#### **Excepted Employees**

An excepted employee may not receive pay for any paid leave or other form of paid time off during a lapse in appropriations. Excepted employees who had an approved absence during the lapse in appropriations were placed in a furlough status for the absence and will receive pay for the absence, without a charge to leave or other paid time off, once retroactive pay is processed. Consistent with the normal leave rules, an *excepted* employee may not use paid leave during periods when the employee is found to be absent without official leave (AWOL).

### **Leave Accruals**

#### **Furloughed Employees**

An employee furloughed during the lapse in appropriations is considered to be in a pay status through authorization of backpay. As a result, furloughed employees are entitled to accrue annual and sick leave in accordance with the normal rules. Annual and sick leave accounts will be updated to include any missing leave accruals and leave balances will be updated on the Leave and Earnings Statement (LES).

#### **Excepted Employees**

An excepted employee is entitled to accrue annual and sick leave during the periods they performed excepted work activities. Annual and sick leave accounts will be updated to include annual and sick leave accruals and leave balances will be updated accordingly on the LES.

### **Restoration of “Use or Lose” Annual Leave**

The lapse in appropriations qualifies as an exigency of the public business for purposes of restoring annual leave that was forfeited at the end of the end of the 2018 leave year. Annual leave that was forfeited by a furloughed or excepted employee during the lapse in appropriations will be restored to the employee, as long as the annual leave was properly scheduled by November 24, 2018. Restored annual leave will be placed in a separate leave account and must be used by the end of the 2021 leave year (January 1, 2022).

Any previously restored annual leave that was due to expire at the end of the 2018 leave year, and was subsequently forfeited, may not be restored again—even if the forfeiture was due to the lapse in appropriations.

### **“Use or Lose” Annual Leave Scheduled for December 24, 2018**

Normally, annual leave that was scheduled for December 24, 2018 would not be eligible for restoration if the leave was lost because of the establishment of a holiday by the President. However, a furloughed or excepted employee may have annual leave that was lost on December 24, 2018 restored if:

- The annual leave forfeited on December 24 was originally scheduled in writing by November 24, 2018; **and**
- The employee attempted to reschedule the December 24<sup>th</sup> for another workday in the remaining leave year *before* the lapse in appropriations began; **and**
- The employee was unable to use the rescheduled leave on another workday because of the lapse in appropriations.

### **Compensatory Time Off “in-lieu-of” Overtime Premium Pay**

There is no authority to extend the use of earned compensatory time off in-lieu-of overtime that expired during the lapse in appropriations (December 22, 2018 – January 25, 2019). However, an employee who forfeits compensatory time because of the lapse in appropriations is entitled to payment for the unused compensatory time off at the overtime rate in effect when the compensatory time off earned. This applies to both FLSA-exempt and FLSA-nonexempt employees.

### **Compensatory Time Off for Travel**

Agencies have discretionary authority to extend the time limit for using compensatory time off for travel under certain conditions. Compensatory time off for travel that expired during the lapse in appropriations (December 22, 2018 – January 25, 2019) must be used by June 1, 2019 or forfeited by the employee.

### **Holidays**

Furloughed and excepted employees will receive his or her regular holiday pay for the Christmas Eve, Christmas Day, New Year’s Day, and Martin Luther King, Jr holidays (or “in lieu of” holidays, if applicable). An excepted employee is entitled to holiday premium pay for work performed during his or her normal hours of duty on the holiday, plus overtime pay for work in excess of the normal hours of duty on the holiday. Also, if an employee was *regularly scheduled* to work on these holidays and was instead furloughed, the employee is now entitled to holiday premium pay.

An employee who was on preapproved LWOP from December 22, 2018, until the end in the lapse of appropriations, must continue to be charged LWOP for the duration of the period

approved as LWOP. If such an employee was on LWOP on both the last workday before a holiday and the first workday after the holiday, he or she will not be paid for the holiday.

## **Retirement**

Employee retirement contributions under the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS) must be deducted from a furloughed or excepted employee's retroactive basic pay for the period from December 22, 2018 – January 25, 2019. The employee's retirement deductions and agency contributions for each employee will be remitted to the Office of Personnel Management (OPM) as if the lapse in appropriations had not occurred.

## **Thrift Savings Plan (TSP)**

### **TSP Contributions**

Employee basic TSP contributions and catch-up contributions (for participating employees) will be deducted from a furloughed or excepted employee's retroactive pay for the period from December 22, 2018 – January 25, 2019. The employee's contributions and any agency contributions for each employee will be remitted to TSP as if the lapse in appropriations had not occurred.

### **Roth TSP**

Employee Roth TSP contributions will be deducted from a furloughed or excepted employee's retroactive pay for the period from December 22, 2018 – January 25, 2019. The employee's Roth TSP contributions will be remitted to TSP as if the lapse in appropriations had not occurred.

### **TSP Loans**

TSP loan payments will not be deducted from an employee's retroactive pay. Employees may make their loan payments current by submitting payment directly to the TSP. Generally, if an employee's TSP loan payments were up to date before the furlough, missing one or two payments will not cause the loan to be in default. However, employees are responsible for verifying the status of their loan to ensure that the loan is not in default. Employees may check the status of their loan on the TSP website at [www.tsp.gov](http://www.tsp.gov) by logging into My Account, selecting "TSP Loans" and then selecting "Are my payments up to date?". Employees may also contact the ThriftLine at 1-877-968-3778 and speak to a Participant Service Representative.

## **Federal Employees Health Benefits (FEHB) Program**

### **FEHB Premiums**

FEHB coverage for furloughed and excepted employees continued during the lapse in appropriations. FEHB premiums will be deducted from an employee's retroactive pay and submitted to OPM along with agency contributions through the normal procedures.

### **Open Season Elections**

Elections that were made during the Open Season enrollment period went into effect on January 6, 2019. Adjustments for FEHB deductions due to elections made during the Open Season, as well as the normal adjustments for FEHB premiums that take effect in the first full pay period of the year, will be made accordingly. Employees who made changes to FEHB coverage during the Open Season should have received information from the health carrier to implement the changes. Employees may contact their servicing Human Resources (HR) office or their FEHB plan directly for additional information.

### **Enrollments and Qualifying Life Events**

The 60-day enrollment period for FEHB enrollment for new employees, as well as FEHB enrollments and changes to existing FEHB coverage for employees affected by a qualifying life event, has been extended for employees affected by the lapse in appropriations. Requests for enrollment or changes to existing enrollment must be made no later than March 15, 2019.

The effective date for FEHB actions prompted by a qualifying life event will be determined as if the employee had submitted the enrollment or change request immediately following the qualifying life event. The effective date for initial FEHB enrollment for new employees will be the first day of the first pay period after the day the enrollment request is received by the HR office.

## **Federal Employees Dental and Vision Insurance Program (FEDVIP), Federal Long Term Care Insurance Program (FLTCIP), and Federal Flexible Spending Account (FSAFEDS) Program**

Furloughed and excepted employees will not receive direct bills for missed FEDVIP, FLTCIP, or FSAFEDS deductions due to the lapse in appropriations. Instead, missed deductions for these benefits will be repaid by affected employees as follows:

- FEDVIP will deduct one additional retroactive premium at a time until the missed deductions are caught up.
- FLTCIP Long Term Care Insurance will increase up to \$50 to catch up for missed deductions; the additional funds will be deducted in future pay periods until the total missed deductions are paid in full.

- FSAFEDS deductions will resume in Pay Period 3 and any missed deductions will be re-amortized over the remaining pay periods to match the employee's annual election amount.

### **Federal Employees' Group Life Insurance (FEGLI) Program**

FEGLI coverage for furloughed and excepted employees continued during the lapse in appropriations. FEGLI premiums will be deducted from an employee's retroactive pay and submitted to OPM along with agency contributions through the normal procedures.

### **Unemployment Compensation for Federal Employees (UCFE)**

Generally, furloughed employees who filed claims for unemployment compensation are responsible for repaying the amount of the unemployment compensation received once retroactive pay is provided. Employees are responsible for making any repayments for unemployment compensation in accordance with the applicable laws and regulations of the state from which the unemployment compensation was received.