



## Industrial Relations Supplementary Information

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## PERSONAL LEAVE EVIDENTIARY REQUIREMENTS

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### 1. SCOPE

The purpose of this supporting information is to provide guidance on the evidence required to support an application for personal leave made by staff employed under the following industrial agreements:

- *WA Health System – Australian Nursing Federation – Registered Nurses, Midwives, Enrolled (Mental Health) and Enrolled (Mothercraft) Nurses – Industrial Agreement 2018 (Registered Nurses Agreement)*
- *WA Health System – United Voice – Enrolled Nurses, Assistants in Nursing, Aboriginal and Ethnic Health Workers Industrial Agreement 2018 (Enrolled Nurses Agreement)*
- *WA Health System – HSUWA – PACTS Industrial Agreement 2018 (Salaried Officers Agreement)*
- *WA Health System – United Voice WA – Hospital Support Workers Industrial Agreement 2017 (Support Workers Agreement)*

### 2. GUIDELINES

An employee is required to submit evidence to satisfy a reasonable person in accordance with the Personal Leave clause of the relevant industrial agreement:

- An application for personal leave exceeding two consecutive working days will be supported by evidence that would satisfy a reasonable person of the entitlement.
- In general, supporting evidence is not required for single or two consecutive day absences. However, where the employer has good reason to believe that the absence may not be reasonable or legitimate, the employer may request evidence be provided. The employer must provide the employee with reasons for requesting the evidence. The leave will not be granted where the absence is not reasonable or legitimate.

An employee may provide reasonable evidence other than a medical certificate, however in many cases the nature of the illness or injury will mean that a medical practitioner or relevant health professional (e.g. physiotherapist or dentist) will still be required to certify that an employee was unfit for work.

In certain circumstances line managers are able to approve personal leave on the basis of the obvious appearance and behaviour of an employee where they are satisfied that the employee is ill or injured.



Managers are required to assess each personal leave application in light of the relevant facts and circumstances. What will be considered reasonable will depend on the circumstances of each case.

There may be some circumstances where it is reasonable for an employee to submit an application for personal leave supported by a statutory declaration and which includes the circumstances resulting in non-attendance with a medical practitioner or relevant health professional.

Such circumstances will generally be where there is some difficulty in obtaining a medical certificate from a medical practitioner or relevant health professional. Examples of where an application for personal leave supported by a statutory declaration may be considered reasonable are where an employee:

- contacts their line manager and expects to return to work after two days absence (or less) but is still unable to attend work on the third day and is unable to secure an appointment before becoming fit to return to work;
- is able to secure an appointment but is unable to obtain a certificate that covers the entire period of the absence;
- attempts but is unable to secure an appointment at short notice;
- has a recurrent illness or injury previously certified by a medical practitioner which is known to the line manager and causes a standard period of absence from work, e.g. dialysis treatment;
- has an illness or injury that does not require prescription of medication or diagnosis and treatment by a medical practitioner or relevant health professional, e.g. a common cold.

In accordance with the Registered Nurses Agreement and Salaried Officers Agreement, circumstances where there is doubt about the cause of an employee's illness, or an absence extends over an excessive period or occurs with frequency and regularity, an employee may be required to obtain and furnish a report from a registered medical practitioner as to their condition.

An employee must see a registered medical practitioner if a workers' compensation claim is to be submitted as the *Workers' Compensation and Rehabilitation Act 1981* (WA) and associated Regulations require a medical certificate in a prescribed form.

Where evidence is submitted to accompany an application for personal leave to provide care or support to a member of an employee's family or household; or an unexpected emergency affecting the member, such evidence must address the requirement to care or support for another and/or the emergency.

**Appendix 1** provides further guidelines and examples of the type of evidence that may be acceptable for the certification of personal leave.

**Appendix 2** contains extracts from the Order of the Western Australian Industrial Relations Commission which underpins the guidelines on interpretation and application of evidence to



satisfy a reasonable person applicable to the Support Workers Agreement and Enrolled Nurses Agreement.

Note: Order 2010 WAIRC 01244 – Schedule 1 and Schedule 2 was issued in relation to the WA Health – LHMU – Support Workers Industrial Agreement 2007, and WA Health – LHMU – Enrolled Nurses and Assistants in Nursing Industrial Agreement 2007 respectively. Although, the Order applies to the agreements as varied or replaced, consideration needs to be given to any variations made to each agreement that may impact on the application of the guidelines. Accordingly, the Order should be referred to as a guide only, where relevant.

Any queries regarding this supporting information should be directed to your Industrial Relations team.



**PERSONAL LEAVE EVIDENTIARY REQUIREMENTS**

The following relates to where the absence is in excess of two consecutive working days.

This is a guide only - it is the responsibility of line managers to assess each application on its own merits and approve all reasonable and legitimate requests, subject to available leave credits.

Reason for granting leave	Appropriate		Inappropriate	
	Example	Form of Evidence	Example	Inappropriate form of evidence
Where the employee is ill or injured	<ul style="list-style-type: none"> <li>• Personal illness or injury (e.g. flu, nausea, migraine etc.)</li> <li>• Toothache</li> <li>• Injury on way to work</li> <li>• Medical appointment/procedure</li> </ul>	<ul style="list-style-type: none"> <li>• Certificate from Medical Practitioner</li> <li>• Certificate from Dentist Physiotherapist/Chiropractor (provided certification strictly relevant to treating persons qualifications)</li> <li>• Naturopath/ Acupuncturist (not unless condition has been previously certified by a Medical Practitioner who has endorsed the treatment)</li> <li>• Self-certification of illness/injury supported by a statutory declaration detailing nature of illness/injury</li> <li>• Direct observation by the Manager on the basis of appearance and</li> </ul>	<ul style="list-style-type: none"> <li>• Repeated occasions where the illness or injury is of an avoidable nature e.g. a hangover</li> <li>• Illness/ injury directly caused by the misconduct of the employee.</li> </ul>	<ul style="list-style-type: none"> <li>• Parent/family member signed note</li> <li>• Receipt for Panadol or other medication from chemist</li> </ul>



Reason for granting leave	Appropriate		Inappropriate	
	Example	Form of Evidence	Example	Inappropriate form of evidence
		behaviour of employee		
To provide care or support to a member of the employee's family or household who requires care or support because of an illness or injury to the member; or an unexpected emergency affecting the member	<ul style="list-style-type: none"> <li>• Attending to medical matters for incapacitated member of family or household</li> <li>• Care for sick or injured member of family or household</li> <li>• Child excluded from day care due to illness or injury</li> <li>• Partner pregnancy emergency issue (except for matters covered by Parental Leave provisions)</li> <li>• Care for member of family or household following discharge from Hospital</li> </ul>	<ul style="list-style-type: none"> <li>• As with personal illness or injury</li> <li>• Notice of exclusion from child care provider</li> </ul>	<ul style="list-style-type: none"> <li>• For care of members of family following birth of child. (This provided for under Parental Leave).</li> </ul>	<ul style="list-style-type: none"> <li>• Parent/family member signed note</li> <li>• Receipt for Panadol or other medication from chemist</li> </ul>
For unanticipated matters of a compassionate or pressing nature which arise without notice and require immediate	<ul style="list-style-type: none"> <li>• Attending to flooding, storm damage to house</li> <li>• Attending to house break in and/or damage</li> </ul>	Unlikely to exceed two consecutive working days. <ul style="list-style-type: none"> <li>• Police report (e.g. in case of fire)</li> </ul>	Access to Personal Leave is limited to those matters arising during rostered working hours. An employee cannot take personal	<ul style="list-style-type: none"> <li>• Letter from family member or friend</li> </ul>



Reason for granting leave	Appropriate		Inappropriate	
	Example	Form of Evidence	Example	Inappropriate form of evidence
attention	<ul style="list-style-type: none"> <li>• Car breakdown on way to work</li> <li>• Meet tradesperson working at residence to deal with emergency repairs</li> <li>• Termites in house – urgent treatment required</li> <li>• Taking sick pet to the vet in emergency situation</li> <li>• Visit family member/ member of household being treated in an emergency situation</li> </ul>		leave for matters dealt with outside of working hours. <ul style="list-style-type: none"> <li>• Matters that can Be booked/arranged in advance</li> <li>• Matters that can be organised outside of working hours</li> </ul>	
Planned matters where arrangements cannot be organised outside of normal working hours or be accommodated by the utilisation of flexible working hours or other leave <b>[An employee is</b>	<ul style="list-style-type: none"> <li>• Attend court (non-work related)</li> <li>• Children’s assemblies/ graduation/sports carnival</li> <li>• Funeral of a non-family member (in some circumstances bereavement or cultural leave may be relevant)</li> <li>• Pre-arranged meeting</li> </ul>	Most leave would be unlikely to exceed two consecutive working days	<ul style="list-style-type: none"> <li>• Christening</li> <li>• Moving house</li> <li>• Wedding</li> </ul>	<ul style="list-style-type: none"> <li>• Letter from family member or friend</li> </ul>



Reason for granting leave	Appropriate		Inappropriate	
	Example	Form of Evidence	Example	Inappropriate form of evidence
<i>required to access accrued days off, or other leave, prior to utilising personal leave]</i>	with Building Supervisor <ul style="list-style-type: none"><li>• Parent/Teacher meeting</li><li>• Picking up family member who requires assistance from the airport</li><li>• Professional Appointment e.g. lawyer, accountant etc.</li></ul>			

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**WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**  
**C 37 OF 2009 [2010 WAIRC 01244]**  
**EXTRACT OF ORDER**

1. THAT the “Personal (Sick) Leave – Support Workers Guidelines to Line Managers/Supervisors” attached at Schedules 1 and 2 to this Order be recognised by the parties as the correct interpretation and application of “evidence to satisfy a reasonable person” for the purposes of Clause 35. – Personal Leave of the WA Health - LHMU - Support Workers Industrial Agreement 2007 (as varied or replaced) and Clause 45. – Personal Leave of the WA Health - LHMU - Enrolled Nurses and Assistants in Nursing Industrial Agreement 2007 (as varied or replaced) respectively.
2. The effective date of the order is the 17<sup>th</sup> day of December 2010.

**2010 WAIRC 01244 - SCHEDULE 1**  
**PERSONAL (SICK) LEAVE – SUPPORT WORKERS**

In accordance with subclause 35.21 of the WA Health – LHMU – Support Workers Industrial Agreement 2007, an employee who is unable to attend for work due to illness or injury is required, where practicable, to give reasonable notice prior to taking leave. Where prior notice cannot be given, an employee must advise their line manager as soon as reasonably practicable of their absence, the nature of the illness or injury and the estimated period of the absence from work. Other than in extraordinary circumstances an employee is required to provide this advice within 24 hours of the commencement of the absence.

Subclauses 35.22 and 35.27 of the Industrial Agreement provide that an employee is required to support their application for any period of personal (sick) leave exceeding two consecutive working days, or any period of personal (sick) leave without pay, with evidence that would satisfy a reasonable person of the entitlement.

Line managers are required to properly consider each application on its individual merits and approve reasonable and legitimate requests for personal leave, subject to available credits.

Applications for personal (sick) leave supported by a certificate from a registered medical practitioner, or written advice from a relevant health professional (such as a physiotherapist or dentist), will normally be approved by line managers.

In certain circumstances line managers are able to approve personal (sick) leave on the basis of the obvious appearance and behaviour of an employee where they are satisfied that the employee is ill or injured.

In many circumstances the nature of the illness or injury is such that the employee needs to attend a medical practitioner or relevant health professional for diagnosis and treatment or prescription of medication. In these circumstances the employee is able to obtain appropriate certification to submit in support of their claim for leave.

However, WA Health recognises that on occasions there can be some difficulty in obtaining certification by a medical practitioner or relevant health professional or that it may not be necessary for an employee to consult with a medical practitioner or relevant health professional.





On such occasions, an employee could submit a self-certified application for leave that is supported by a statutory declaration which adequately details the nature of the illness or injury and the circumstances that resulted in the non-attendance with a medical practitioner or relevant health professional. In each case the line manager will assess the application in light of the facts and circumstances relevant to the application. What is considered to be reasonable will depend on the circumstances of each case.

General examples of such occasions include where an employee:

- contacts their line manager and advises the nature of the illness or injury and expects to return to work after two days absence (or less) but is still unable to attend work on the third day and is unable to secure an appointment before becoming fit to return to work.
- is able to secure an appointment but is unable to obtain a certificate that is back-dated to cover the entire period of the absence.
- attempts but is unable to secure an appointment at short notice.
- has a recurrent previous medically certified illness or injury known to the line manager that causes a standard period of absence from work (e.g. dialysis treatment).
- has an illness or injury that does not require prescription of medication or diagnosis and treatment by a medical practitioner or relevant health professional (e.g. a common cold).

Line managers should be aware that if an employee's absence from work on the grounds of illness or injury extends over such a length of time or occurs with such frequency and regularity to cause the line manager to believe that the employee is in such a state of health as to render a danger to themselves, fellow employees or the public, the employee can be required under Clause 35.24 to obtain and furnish a report as to the employee's condition from a registered medical practitioner nominated (and paid for) by the employer.

## **2010 WAIRC 01244 - SCHEDULE 2** **PERSONAL (SICK) LEAVE – ENROLLED NURSES & ASSISTANTS IN NURSING**

In accordance with subclause 45.16 of the WA Health - LHMU - Enrolled Nurses and Assistants in Nursing Industrial Agreement 2007, an employee who is unable to attend for work due to illness or injury is required, where practicable, to give reasonable notice prior to taking leave. Where prior notice cannot be given, an employee must advise their relevant line manager as soon as reasonably practicable of their absence, the nature of the illness or injury and the estimated period of the absence from work. Other than in extraordinary circumstances an employee is required to provide that advice within 24 hours of the commencement of the absence.

In accordance with subclauses 45.17.1 and 45.20.1 of the Industrial Agreement, an employee is required to support their application for any period of personal (sick) leave exceeding two consecutive working days, or any period of personal (sick) leave without pay, with evidence that would satisfy a reasonable person of the entitlement.

Line managers are required to properly consider each application on its individual merits and approve reasonable and legitimate requests for personal leave, subject to available credits.



Applications for personal (sick) leave supported by a certificate from a registered medical practitioner, or written advice from a relevant health professional (such as a physiotherapist or dentist), will normally be approved by line managers.

In certain circumstances line managers are able to approve personal (sick) leave on the basis of the obvious appearance and behaviour of an employee where they are satisfied that the employee is ill or injured.

In many circumstances the nature of the illness or injury is such that the employee needs to attend a medical practitioner or relevant health professional for diagnosis and treatment or prescription of medication. In these circumstances the employee is able to obtain appropriate certification to submit in support of their claim for leave.

However, WA Health recognises that on occasions there can be some difficulty in obtaining certification by a medical practitioner or relevant health professional or that it may not be necessary for an employee to consult with a medical practitioner or relevant health professional.

On such occasions, an employee could submit a self-certified application for leave that is supported by a statutory declaration which adequately details the nature of the illness or injury and the circumstances that resulted in the non-attendance with a medical practitioner or relevant health professional. In each case the line manager will assess the application in light of the facts and circumstances relevant to the application. What is considered to be reasonable will depend on the circumstances of each case.

General examples of such occasions include where an employee:

- contacts their line manager and advises the nature of the illness or injury and expects to return to work after two days absence (or less) but is still unable to attend work on the third day and is unable to secure an appointment before becoming fit to return to work.
- is able to secure an appointment but is unable to obtain a certificate that is back-dated to cover the entire period of the absence.
- attempts but is unable to secure an appointment at short notice.
- has a recurrent previous medically certified illness or injury known to the line manager that causes a standard period of absence from work (e.g. dialysis treatment).
- has an illness or injury that does not require prescription of medication or diagnosis and treatment by a medical practitioner or relevant health professional (e.g. a common cold).

Line managers should be aware that if an employee's absence from work on the grounds of illness or injury extends over such a length of time or occurs with such frequency and regularity to cause the line manager to believe that the employee is in such a state of health as to render a danger to themselves, fellow employees or the public, the employee can be required under Clause 45.17.3 to obtain and furnish a report as to the employee's condition from a registered medical practitioner nominated (and paid for) by the employer.