



**This statement is prepared as a quick reference guide to options available if an employee needs to be out due to exposure to, contraction of or care for another with H1N1. Please note neither Short-Term Disability nor Donated Leave are options as both are intended for greater periods of absence than anticipated with H1N1.**

**Disclaimer**

This synopsis does not confer rights or privileges upon employees. It is not designed to be all encompassing, nor does it provide procedures or practices on how to apply the leaves. The State of Delaware policies and procedures, rules, orders and directives shall be controlling in regard to eligibility for employee benefits. The State's rules, policies and procedures, orders and directives may be changed from time to time and at the sole discretion of the State of Delaware.

In the case of any discrepancy between this synopsis and any State law, regulation, policy, rule, order, directive or collective bargaining agreement, the latter will prevail.

**For information on H1N1 here is a link to Division of Public Health**  
<http://dhss.delaware.gov/dhss/dph/index.html>

**Leaves and options agencies and employees may consider when illness strikes the employee or covered family member. The granting of leave is by agency approval.**

MR 5.3.6 Upon supervisory approval, which shall not be unreasonably denied, employees may use paid sick leave for the following reasons:

MR 5.3.6.1	<b>Employee illness</b> , injury, temporary disability or <b>exposure to contagious disease</b> .
MR 5.3.6.2	<b>Employee appointments with doctors</b> , dentists, or other similar practitioners <b>or to accompany the following individuals when their personal attendance is required: employees' spouse or domestic partner; and parent, stepparent or child of the employee, spouse or domestic partner</b> . In exceptional circumstances, agencies may approve the use of sick leave for someone not specifically listed. Whenever possible, such appointments should be scheduled outside of employee's normal working hours.
MR 5.3.6.3	<b>Serious illness or injury of the following individuals when their personal attendance is required: spouse or domestic partner; and parent, step-parent, or child of the employee, spouse or domestic partner. In exceptional circumstances, agencies may approve the use of sick leave for someone not specifically listed.</b>
MR 5.3.7	Employees may not take sick leave with pay in excess of the hours actually accrued. In extreme cases, agencies may allow <b>employees with more than 5 years service, who have not abused sick leave, to "borrow ahead" up to 112.5 hours (37.5 hour weekly schedule) or 120 hours (40 hour weekly schedule) of sick leave after their sick and annual leave is exhausted</b> . Prior to allowing an employee to borrow ahead all other leaves and pays should be considered such as Section 25 Leave, Floating Holidays and earned comp time.

MR 5.7	<p><b>Family and Medical Leave Act (FMLA).</b> FMLA eligible employees will be provided with FMLA leave in accordance with the Family and Medical Leave Act of 1993. Employees shall be required to use available accrued annual leave and sick leave while on FMLA with the exception of one work week of annual leave and one work week of sick leave, which they may elect to retain for use upon return to work. Usage of accrued sick leave shall only be in accordance with M.R. 5.3.</p> <p><b>NOTE: FMLA may or may not apply depending on the severity of the illness.</b></p> <p><a href="http://www.delawarepersonnel.com/labor/fmla/index.shtml">http://www.delawarepersonnel.com/labor/fmla/index.shtml</a></p>
<p>To avoid being in a no pay status, agencies and employees may consider the following if they have no accrued sick leave:</p>	
	<p><b>Annual Leave</b></p>
	<p><b>Section 25 leave</b></p>
	<p><b>Floating Holidays</b> <a href="http://www.delawarepersonnel.com/policies/floating_holiday.shtml">http://www.delawarepersonnel.com/policies/floating_holiday.shtml</a></p>
	<p><b>Available Compensatory Time</b>  <a href="http://www.delawarepersonnel.com/policies/comp_time_program.shtml">http://www.delawarepersonnel.com/policies/comp_time_program.shtml</a></p>
	<p><b>Telecommuting provided the employee meets the criteria</b>  <a href="http://www.delawarepersonnel.com/policies/docs/telecomm_criteria_032005.pdf">http://www.delawarepersonnel.com/policies/docs/telecomm_criteria_032005.pdf</a>  <a href="http://www.delawarepersonnel.com/policies/docs/telecomm_policy_012006.pdf">http://www.delawarepersonnel.com/policies/docs/telecomm_policy_012006.pdf</a>  <a href="http://www.delawarepersonnel.com/policies/docs/telecomm_agreement_032005.pdf">http://www.delawarepersonnel.com/policies/docs/telecomm_agreement_032005.pdf</a></p>
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