



7.09 MEDICAL LAYOFF

Rule

After ORS 659A injured worker reinstatement rights, ADA and/or FMLA/OFLA rights have been exhausted, if applicable, the appointing authority may place any permanently appointed regular status employee on medical layoff. Medical layoff is appropriate for employees who cannot perform the essential duties of their regular assignment. An employee who is qualified and participates in vocational assistance shall not be eligible for medical layoff. If an employee is medically laid off and then participates in vocational assistance, the employee's name shall be removed from the recall list and the employee will no longer be eligible for recall.

This rule does not alter the City's right to terminate an employee for cause.

Medical Information

Determination of the suitability of positions and an employee's ability to perform the essential duties of the position, with reasonable accommodation if applicable, shall be based on medical information from the employee's treatment provider or other competent source.

The employee's bureau shall have the right to gather appropriate and sufficient medical information for the purpose of making a recommendation on whether to medically lay off an employee. The Director of Human Resources makes the final decision, in consultation with the appointing authority, concerning whether to medically lay off an employee.

If the employee refuses to provide the necessary medical information, or sign a release allowing their treatment provider to provide the necessary information, the decision to layoff will be based on information that is available.

Notice

The City shall give an employee advance written notice of the intention to place the employee on Medical Layoff.

Medical Layoff Process

The bureau must notify the Bureau of Human Resources of the intent to medically layoff an employee. Upon approval from the bureau and the Director of Human Resources, the employee will be placed on the Medical Layoff List for a period of up to five years, after which their name will be removed from the recall list and they will no longer be eligible for recall. If the employee is medically laid off as a result of a work-related injury or occupational disease, their name will be removed from the recall list once five years have passed from the date of injury, and they will only be eligible for recall during the five year period following their date of injury. All consideration for potential recall will be subject to the [Administrative Rule for Layoff & Recall](#).

Reappointment Procedure

During the period in which an employee is on the recall list and is eligible for recall, an employee who has been medically laid off may notify the City of their intent to return to work. The employee must provide a written statement from their treatment provider stating the employee is released to return to work and can perform the essential functions of the position including any reasonable accommodations. This notification and release to return to work must be provided to the City within 90 days of the date of the employee's release to work by their treatment provider. An employee who is released to return to work who does not provide timely notice will be removed from the recall list and will not be eligible for recall.

The Director of Human Resources or a bureau designee may request additional information or require an independent medical exam to verify the employee's ability to return to work. The employee will then be placed on the recall list for the classification, which they held at time of medical layoff. The procedure for re-hire will be guided by the [Administrative Rule on Layoff & Recall](#). A medically laid off employee's rights to recall expire five years from the date of their lay off.

Administrative Rule History

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