

Return to Duty Fact Sheet and Q&As October 18, 2013

General Guidance

- Employees are returned to duty to the same position (title, series, grade/band) and duty station as the employee held prior to the October 1, 2013, emergency furlough.
- Employees are returned to duty with the same work schedule and hours of duty unless the employee's alternative work schedule was changed as a result of performing excepted activities during the emergency furlough period.
 - Employees whose work schedules were changed may revert to their pre-furlough work schedule at the beginning of the next full pay period (October 20, 2013).
- The President signed legislation that provides retroactive compensation for furloughed Federal employees covering the period of the lapse in appropriations. The purpose of this portion of the legislation is to make furloughed Federal employees whole by ensuring that they receive their "standard rate of compensation" for the entire period of the lapse in appropriations.
- All paid time off (annual, sick, compensatory, credit, etc.) was canceled during the emergency furlough; therefore, no paid time off can be recorded for the time period of the emergency furlough with the exception of previously approved Continuation of Pay and paid time off for October 14, as explained in the Columbus Day holiday section.
- Employees who work an alternative work schedule that has an 80-hour bi-weekly work requirement that is scheduled for fewer than 10 days in the biweekly pay period are not entitled to an "in-lieu" non-duty day that fell during the emergency furlough.
- Employees who were on previously approved Leave Without Pay (LWOP) during the furlough, will continue to be in a LWOP status for the duration of the approved LWOP.
- Employees who were on previously approved Continuation of Pay (COP) under the Federal Employee's Compensation Act, will remain in COP.
- Employees who were unable to report to work on the first regularly scheduled work day following the emergency furlough, should be afforded workplace flexibilities such as unscheduled telework, and/or unscheduled paid leave (i.e. annual, sick, compensatory time, credit et.) as appropriate, upon request.
- Employees who had approved paid leave scheduled on the first regularly scheduled work day following the emergency furlough, can remain in the approved leave status.

Employee Assistance Program (EAP)

Counselors in the EAP are available, and their services are free. EAP services and contacts with individuals or families are kept totally confidential, and using the EAP has no impact on an employee's job status.

EAP service providers vary based on the Commerce bureau and an employee's specific work location. To find out how to contact the appropriate EAP office, please contact your servicing human resources office.

Additional information regarding EAP services can be found at:

http://hr.commerce.gov/Employees/WorkLifeIssues/DEV01_006091

Intermittent Employees

1. Will employees working an intermittent work schedule receive retroactive pay for the hours that he/she would have normally worked?

A. It varies; employees who work an intermittent work schedule will receive retroactive pay for the hours in which they were actually scheduled to work. Employees who did not have actual hours scheduled during the furlough are not entitled to retroactive pay. Your servicing human resources office can assist you with determining your entitlement to retroactive pay.

2. Will employees working an intermittent work schedule receive pay for the Columbus Day holiday on October 14, 2013?

A. Most employees who work an intermittent schedule are not entitled to pay for October 14, 2013, as it would not have been a scheduled work day. Your servicing human resources office can assist you with determining your entitlement to pay.

Columbus Day Holiday

1. Are Non-Senior Executive Service (SES) employees who were required to work on Monday, October 14, 2013, entitled to holiday pay?

A. Yes, non SES employees who were excepted from the furlough and required to work on Monday, October 14, 2013, are entitled to holiday pay, consistent with will rules governing pay for work on a holiday.

2. Are Senior Executive Service (SES) employees who were required to work on Monday October 14, 2013, entitled to holiday pay?

A. No, SES employees who were required to work on Monday, October 14, 2013, are not entitled to holiday pay.

3. Are employees who work an alternative work schedule in which Monday October 14, 2013, would have been their non-duty day, still entitled to an “in-lieu” of holiday?

A. Yes, for T&A recording only. Employees whose non-duty day was October 14, 2013, should record “Federal holiday” on Friday, October 11, 2013.

4. Do employees who work a flexible 5-4/9 work schedule that has a 9 hour work requirement for Columbus Day, October 14, only receive 8 hours of Federal Holiday pay as usual and have to charge 1 hour of another form of paid leave?

A. Yes, employees who work a flexible 5-4/9 schedule will have to charge 1 hour of paid leave for October 14 because the law stipulates that employees on a flexible work schedule can only receive 8 hours of Federal Holiday pay.

Order of Precedence for Applying Deduction

1. When there are insufficient funds to permit all deductions to be made from a partial paycheck during a furlough, what is the order of precedence for applying deductions?

A. Below is the order of precedence for applying deductions:

- 1) Retirement
- 2) Social Security Tax
- 3) Medicare Tax
- 4) Federal Income Tax
- 5) Basic Health Insurance Premiums (including FEHB)
- 6) Basic Life Insurance Premiums (including FEGLI)
- 7) State Income Tax
- 8) Local Income Tax
- 9) Collection of Debts Owed to U.S. Government
- 10) Court-Ordered Collection/Debt
- 11) Optional Benefits (including
- 12) Other Voluntary Deductions/Allotments
- 13) IRS Paper Levies

More information regarding the order of precedence can be found at:

<http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=1477>

Corrected PP19 Processing

1. Will employees receive a corrected PP19 Leave and Earning Statement (LES)?

A. No, the National Finance Center is not going to provide corrected PP19 LES. The LES for PP20 will have all of the accumulated deductions documented.

2. Will the corrected PP19 and PP20 pay periods be processed together?

A. No, the corrected PP19 and PP20 pay periods will be processed separately and will disburse a single payment by the **official** pay date of October 31, 2013.

Unemployment Compensation

1. I received unemployment compensation during the furlough; will I have to pay that back since Congress passed legislation that retroactively provides for the payment of salary?

A. The state unemployment office will determine whether or not any overpayment exists and, generally the recovery of the overpayment is a matter for state action under its law.

Leave

1. I had approved leave scheduled for use during the emergency furlough, am I still required to code that leave on my T&A records?

A. No, all leave was canceled during the emergency furlough; therefore, employees should not record any type of paid leave (i.e. annual, sick, credit, compensatory, etc.) during the emergency furlough period, except for Admin/Excused Absence. For more information on coding T&A records, please refer to the separate Time and Attendance (T&A) Coding guidance.

2. I had approved “use or lose” annual leave scheduled during the emergency furlough, do I need to reschedule the use of my leave?

A. Yes, employees who had “use or lose” annual leave scheduled during the emergency furlough are encouraged to reschedule the leave for use before the end of the current leave year (January 11, 2014).

3. If I am unable to re-schedule my “use or lose” annual leave for use before the end of the leave year, can it be restored?

A. Forfeited annual leave may only be considered for restoration due to an exigency of public business, administrative error, or sickness of the employee if it was scheduled in writing before the start of the third biweekly pay period (November 30, 2013) prior to the end of the leave year. The emergency furlough does not automatically meet the requirements for restoration of annual leave.

4. I had restored annual leave scheduled for use that is due to expire at the end of the leave year (January 11, 2014) that was canceled due to the emergency furlough, must I reschedule and use the leave by the end of the leave year?

A. Yes, the restored annual leave must be scheduled and used before the end of the leave year as there is no provision in existing law or regulation that allows restored annual leave to be restored a second time.

5. Will employees' leave accrual be adjusted since legislation was passed providing employees with retroactive pay?

A. Yes, since employees will receive retroactive pay, annual and sick leave will accrue in accordance with normal rules.

Family Medical Leave Act (FMLA)

1. Does an employee who was previously scheduled to take LWOP under the FMLA still charge LWOP?

A. Yes, the employee continues to charge LWOP.

2. Does Leave Without Pay (LWOP) under the Family Medical Leave Act (FMLA) that was scheduled to be taken during the emergency furlough period count toward the 12-week FMLA leave entitlement?

A. Yes, since the legislation provided for retroactive application of the employee's "standard rate of compensation," employees will continue to receive any previously invoked FMLA coverage during the furlough period and overtime time (paid or unpaid) counts toward the 12-week entitlement.

Personnel Actions

1. Will my within-grade or step increase be impacted by the emergency furlough?

A. Within-grade and step increases for GS and WG employees are awarded on the basis of length of service and individual performance; therefore, extended periods of non-pay status such as a furlough could affect the timing of such increases. However, since Congress signed into law retroactive pay for Federal employees furloughed during the lapse in appropriations, there will not be any period of non-pay status as a result of the emergency furlough. Effective dates of within-grade and step increases will not be impacted by the emergency furlough. Employees will receive retroactive pay if applicable.

3. Will the furlough impact the length of a Performance Improvement Plan?

A. Yes, Performance Improvement Plans will be extended by the equivalent number of calendar days as the emergency furlough.