

LABOR RELATIONS



September 10, 2007

Mr. Greg Bell
Director, Industrial Relations
American Postal Workers
Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005-4128

CERTIFIED MAIL NUMBER:
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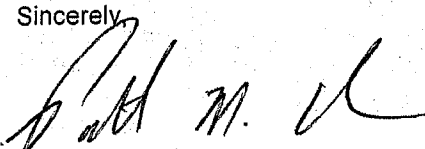
Dear Greg:

This is in response to your August 27 letter regarding medical documentation or other acceptable evidence for absences of 3 days or less which was received in this office on August 28. In your correspondence, you allege that the RMD/eRMS application improperly mandates management to require employees to provide medical documentation or other acceptable evidence for periods of absence of 3 days or less.

Please be assured that the eRMS application does not change Postal Service policy concerning medical documentation for absences when employees call in sick. As far as the Postal Service is concerned, there is no dispute or disagreement regarding the conditions under which an employee may be required to submit medical documentation or other acceptable evidence for periods of absence of 3 days or less.

If you have any questions concerning this matter, please contact Clifton Wilcox at (202) 268-5916.

Sincerely,


John W. Dockins
Manager
Contract Administration (APWU)





American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

August 27, 2007

Greg Bell, Director
Industrial Relations
1300 L Street, NW
Washington, DC 20005
(202) 842-4273 (Office)
(202) 371-0992 (Fax)

Via Facsimile and First-Class Mail

Mr. John W. Dockins, Manager, Contract Administration
United States Postal Service
475 L' Enfant Plaza, S.W.
Washington, DC 20260-4100

Re: Medical Documentation or Other Acceptable Evidence for Absences of Three (3) Days or Less

National Executive Board
William Burrus
President

Cliff "C.J." Guffey
Executive Vice President

Terry R. Stapleton
Secretary-Treasurer

Greg Bell
Industrial Relations Director

James "Jim" McCarthy
Director, Clerk Division

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Director, Maintenance Division

Robert C. "Bob" Pritchard
Director, MVS Division

Regional Coordinators
Sharyn M. Stone
Central Region

Jim Burke
Eastern Region

Elizabeth "Liz" Powell
Northeast Region

William E. "Bill" Sullivan
Southern Region

Omar M. Gonzalez
Western Region

Dear Mr. Dockins:

The purpose of this letter is to determine if there is a disagreement between the parties regarding the conditions under which an employee may be required to submit medical documentation or other acceptable evidence for periods of absence of 3 days or less; particularly with regard to the Postal Service's obligation to adhere to Article 10 of the National Agreement and applicable provisions/requirements of Subchapter 510 of the Employee and Labor Relations Manual before an employee can be required to submit medical documentation for 3 days or less.

It has been called to my attention that through the application of the RMD/eRMS, local management is improperly requiring employees to submit medical documentation or other acceptable evidence for future absences of 3 days or less. It is my understanding that based on a supervisor's review of an employee's attendance record, supervisors are making a determination that medical documentation is deemed desirable (requiring an employee to submit medical documentation of other acceptable evidence) for absences of 3 days or less, for the protection of the interest of the Postal Service. As you know, it is improper for management to deem documentation desirable for 3 days or less based on a review of an employee attendance record. Moreover, in the absence of an employee being on restricted sick leave, supervisors may not require medical documentation or other acceptable evidence because of abuse or excessive use of sick leave for 3 days or less.

There are only two (2) circumstances under which supervisors may require medical documentation or other acceptable evidence for absences of three (3) days or less. Medical documentation or other acceptable evidence of incapacity for work or need to care for a family member *may only be required*:

1. When the employee is on restricted sick leave (pursuant to part 513.39) of the ELM, or
2. When the supervisor deems documentation desirable for the protection of the interests of the Postal Service (Part 513.361 of ELM)

Accordingly, supervisors *may only require* an employee to submit medical documentation or other acceptable medical evidence for absences of 3 days or less for *future requests* for sick leave by placing the employee on restricted sick leave, pursuant to part 513.39 of the ELM

In regard to *individual requests* for sick leave, a supervisor may deem documentation desirable for the protection of the interests of the Postal Service pursuant to part 513.361 of the ELM. However, the supervisor has the burden, on a case-by-case basis of justifying any demand for medical documentation or other acceptable evidence for 3 days or less...

If the Postal Service disagrees with the APWU position, it is requested that you provide the Employer's position and any supporting authority to the contrary.

Abuse or Excessive Use of Sick Leave

It is APWU position that management may only require medical documentation or other acceptable evidence for absences of 3 days or less because of "abuse" of sick leave or "excessive" use of sick leave from employees on restricted sick leave.¹

In other words, (1) when a supervisor is considering whether to require an employee to submit medical documentation because he/she has evidence indicating an employee is abusing sick leave - under the terms of the collective bargaining agreement between the parties, the supervisor may only require medical documentation or other acceptable evidence for 3 days or less by placing the employee on restricted sick

¹ In some post offices, local management may have chosen not to use restricted sick leave as a device to control what it may perceive as abuse or excessive use of sick leave - and instead prefers to use discipline procedures to address such matters. Nevertheless, it is improper for supervisors to require an employee to submit medical documentation or other acceptable evidence due to "abuse or excessive" use of sick leave for 3 days or less unless the employee is on restricted sick leave pursuant to part 513.39 of the ELM.

leave pursuant to Part 513.37 of the ELM. Additionally, (2) when a supervisor is considering whether to require an employee to submit medical documentation for excessive use of sick leave – under the terms of the collective bargaining agreement, the supervisor may only require medical documentation or other acceptable evidence for 3 days or less by placing the employee on restricted sick leave pursuant to Part 513.37 of the ELM. Moreover, except where there is evidence that abuse of sick leave is involved, for reasons involving excessive use of sick leave, the listed requirements in 513.371 of the ELM must be followed.

In the absence of an employee being on restricted sick leave pursuant to part 513.39 of the ELM, it is improper to require an employee to submit medical documentation or other acceptable evidence for 3 days or less involving abuse or excessive use of sick leave.

If the Postal Service disagrees with the APWU position, it is requested that you provide the Employer's position and any supporting authority to the contrary.

Deems Documentation Desirable

It is the APWU position that when a supervisor deems documentation desirable for the protection of the interests of the Postal Service pursuant to part 513.361 of the ELM, the supervisor has the burden, on a case-by-case basis of justifying a demand for medical documentation. In other words, the supervisor must have a legitimate reason for suspecting the validity of a sick leave request. In the absence of evidence of a legitimate reason to suspect that an employee's request for sick leave is not for purposes² in which sick leave may be used, a demand for medical documentation is improper.

It is also the APWU position that it is improper for management to deem documentation desirable (requiring an employee to submit medical documentation or other acceptable evidence) for 3 days or less because of alleged (1) abuse of sick or (2) excess use of sick leave. Management may only require an employee to submit medical documentation or other acceptable evidence for absences of 3 days or less because of alleged abuse or use of sick leave by placing such employee on restricted sick leave pursuant to part 513.39 of ELM. In the absence of an employee being on restricted sick leave pursuant to part 513.39 of the ELM, it is improper for management to deem documentation desirable for the protection of the interests of the Postal Service because of alleged abuse or excessive use of sick leave for absences of 3 days or less

² For example, illness, injury, pregnancy and confinement, and medical, dental, or optical examination or treatment, or sick leave for dependent care.

If the Postal Service disagrees with the APWU position, it is requested that you provide the Employer's position and any supporting authority to the contrary.

RMD/eRMS

As you are aware, in the national-level pre-arbitration settlement in case Q98C-4Q-C 01005505, the parties settled the dispute involving the implementation of the Postal Service Resource Management Database (RMD), its web-based enterprise Resource Management System (eRMS), and the application of current leave-related rules and polices, including the Family and Medical Leave Act. As part of that settlement, the parties agreed:

The purpose of the RMD/eRMS is to provide a uniform automated process for recording data relative to existing leave rules and regulations. RMD/eRMS (or similar system of records) may not alter or change existing rules, regulations, the National Agreement, law, local memorandums of understanding and agreements, or grievance-arbitration settlements and awards.

In regard to those facilities using RMD/eRMS, it is the APWU position that in the absence of an employee being on restricted sick leave pursuant to part 513.39 of the ELM, it is improper to flag or enter the employee's name into RMD/eRMS (or similar system of records), requiring an employee to submit medical documentation or other acceptable evidence for absences of 3 days or less.

If the Postal Service disagrees with the APWU position, it is requested that you provide the Employer's position and any supporting authority to the contrary.

Your response to the above-referenced inquiry would be appreciated. If you have any questions regarding this matter, I can be contacted at 202-842-4273.

Sincerely,


Greg Bell, Director
Industrial Relations

GB:LB:pjr
Opeiu#2,afl-cio