

The following information is intended to provide guidance to our people leaders with respect to requesting medical documentation from Employees, in accordance with the Unifor Local 5555, Unit 1 Collective Agreement (the “CA”).

Effective June 10, 2016, Article 30.01 (c) provides that:

*“If requested, an Employee must provide medical documentation supporting the absence to her Supervisor that includes confirmation of an in-person assessment by a physician; workplace restrictions if any; and a return to work or reassessment date. If any diagnostic information is in the physician’s note, then Article 30.02(d) applies. Where the requested medical documentation includes the foregoing information, the Employer will, to a maximum of \$50.00, reimburse the Employee 50% of the cost of the first medical documentation requested for each period of absence due to personal illness or injury regardless of length.”*

Effective January 1, 2018, the Employment Standards Act (the “ESA”) provides that:

The ESA entitles all employees to up to 10 Personal Emergency Leave days in a calendar year, the first 2 of which are to be paid. An employer may require an employee who takes Personal Emergency Leave to provide evidence *reasonable in the circumstances* that they are entitled to the leave; however, an employer is not permitted to require an employee to provide a certificate from a qualified health practitioner as such evidence.

As a result, a certificate from a qualified health practitioner *may only be required to access benefits in excess of the ESA*, and not as evidence of eligibility for a leave that constitutes Personal Emergency Leave under the ESA.

#### **BEST PRACTICES FOR REQUESTING MEDICAL DOCUMENTATION:**

The following principles are based on best practices and should be considered when requesting medical documentation from Unifor, Unit 1 Employees who are absent due to personal illness or injury:

- Medical documentation from a physician can be requested at any point to determine eligibility for salary continuance benefits that are in excess of an Employee’s statutory entitlement to pay for the first 2 Personal Emergency Leave days in a calendar year.
- It is appropriate to ask for medical documentation if you have a concern about the legitimacy of the Employee’s eligibility for salary continuance benefits with respect to the absence, and if the Employee has exhausted their statutory entitlement to 2 Personal Emergency Leave days with pay in the current calendar year. An Employee who disputes the request for medical documents can be informed that the requested information is necessary for obtaining the salary continuance benefits. In the absence of this documentation, any remaining absences up to the maximum of 10 Personal Emergency Leave days would be unpaid.
- If you request an Employee to provide medical documentation, clearly explain what information is needed on the medical documentation as per Article 30.01(c) of the CA:
  - i) confirmation of an in-person assessment by a physician;
  - ii) workplace restrictions, if any, or confirmation that there are no limitations/restrictions upon the employee’s return to work; and
  - iii) a return to work or reassessment date.
- If requesting medical documentation for the first time for a period of absence, clearly explain to the Employee that to be eligible for reimbursement:

- a. the medical documentation must be completed by a medical doctor (“MD”), **and**;
  - b. the medical documentation must include the above information, **and**;
  - c. the Employee will be required to provide proof of payment.
- Advise the employee that, to protect privacy, if the medical documentation contains diagnosis, treatment, or a specialist’s details, the documentation must be submitted by the Employee to the University’s Occupational Health Nurse in Employee Health Services (“EHS”). If you receive a note that contains this information, forward it to the Occupational Health Nurse and do not keep a copy.
  - If the medical documentation contains information about workplace restrictions or limitations upon an employee’s return to work, speak with your EHS Consultant for information about McMaster’s workplace accommodation process.
  - Contact your EHS Consultant once you are aware that the length of an absence is expected to be 10 days or greater.
  - Seek advice from your Employee/Labour Relations Advisor or FHS Human Resources Consultant if you request medical documentation from an employee and do not receive it.
  - Maintain confidentiality and be respectful of the Employee’s dignity when you receive information relating to the Employee’s absence.
  - Express concern, offer support and refer the Employee to University and community resources (e.g. Unifor Representative, EHS, Employee and Family Assistance Program), as may be appropriate.
  - Stay in touch with the Employee for the duration of their absence and consult with your EHS Consultant if you have reservations about doing so.

**THE FOLLOWING PRACTICES ARE NOT RECOMMENDED:**

- Asking the Employee to share with you: diagnosis, treatment information or information about their medical specialist(s).
- Soliciting medical information, making treatment recommendations or asking an Employee about any referrals to medical specialists.
- Contacting the Employee’s treating physician. If contact with the Employee’s physician is required, it will be done through EHS and only with the written consent of the Employee.

**PROCESS TO PROVIDE REIMBURSEMENT:**

- 1) Confirm that the medical documentation provided is the first documentation requested for the period of absence.
- 2) Confirm that the requested medical documentation meets **all 3** criteria outlined in Article 30.01(c) of the CA.

- 3) Provide the Employee with the necessary information to submit an Expense Report in accordance with normal departmental processes.