

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1013
Appropriations

(Delegate Wolek, *et al.*)

Finance

State Employees - Paid Sick Leave - Certificate of Illness or Disability Signed by
a Licensed Clinical Professional Counselor

This bill authorizes a licensed clinical professional counselor (LCPC) to sign a certificate of illness or disability that is required under current law for an employee in the State Personnel Management System (SPMS) to be paid when the employee uses five or more consecutive workdays of sick leave for a personal illness or disability or the illness or disability of the employee's immediate family. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: None. The bill generally codifies existing practice. Additionally, the bill is procedural in nature and does not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: State employees in SPMS, except temporary employees, currently accrue paid sick leave at the rate of 1.5 hours for every 26 hours worked in no overtime status. Employees earn a maximum of 15 days, or 120 hours, of sick leave each year.

SPMS employees who use sick leave for at least five consecutive workdays for personal illness or disability or that of an immediate family member may not receive payment unless the employee gives his or her immediate supervisor an original certificate of illness or disability. This certificate must be signed by either a medical doctor authorized to practice

medicine or surgery, an accredited Christian Science practitioner, a health care provider as provided by the federal Family Medical Leave Act (FMLA), or one of the following if authorized to practice and performing within the scope of that authority:

- a chiropractor;
- a clinical psychologist;
- a dentist;
- a licensed certified social worker – clinical;
- a nurse midwife;
- a nurse practitioner;
- an oral surgeon;
- an optometrist;
- a physical therapist; or
- a podiatrist.

The certificate of illness or disability must include a prognosis about the employee's ability to return to work.

Federal Family and Medical Leave Act

FMLA defines a health care provider as a Doctor of Medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices or any other person determined by the Secretary of Labor to be capable of providing health care services. Others capable of providing health care services only include specified providers, which include, among others, clinical psychologists, clinical social workers, and any health care provider from whom an employer or employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a benefits claim.

The Department of Budget and Management advises that the State's health plan accepts certification from LCPCs if they are operating within their scope of practice for FMLA purposes. Thus, LCPCs meet the definition of a health care provider under FMLA and are eligible to certify illnesses or disabilities under SPMS's sick leave policy.

Additional Comments: The bill does not directly affect State employees in agencies with independent personnel systems, including the Maryland Department of Transportation, the Judiciary, and public four-year institutions of higher education.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); University System of Maryland; Department of Budget and Management; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2024
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