



THE STATE OF FLORIDA  
**JUSTICE ADMINISTRATIVE COMMISSION**

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**MEMORANDUM 017-15HR**

**TO:** Agency Administrators

**FROM:** Carolyn Horwich, J.D., Director of Human Resources

**THROUGH:** Rip Colvin, Executive Director

**SUBJECT:** Leave Without Pay (LWOP) and Employer Contributions

**DATE:** April 27, 2015

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The attached Management Advisory from the Department of Management Services, Division of State Group Insurance, provides further explanation regarding employer contributions for insurance premiums while an employee is on Leave Without Pay Status.

Thank you.

Attachment

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**MANAGEMENT ADVISORY 15-003**

**DATE:** April 27, 2015  
**TO:** Agency and University Personnel Officers and Benefit Coordinators  
**FROM:** Suzetta Furlong, Chief of Operations  
**SUBJECT:** Leave without Pay and Employer Contributions

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**Background**

Employees who are on any form of leave without pay covered by the federal Family and Medical Leave Act (FMLA) are entitled to the employer contribution toward health insurance, pursuant to FMLA, and those employees on authorized parental or medical leave not covered by the FMLA are entitled to the employer contribution toward health insurance for up to six months, pursuant to s. 110.123(4)(a), F.S. Employees on leave without pay for certain types of Military Leave are also entitled to the employer contribution for the duration of their leave pursuant to Florida Statutes. All other types of leave without pay have not, historically, been entitled to the employer contribution for health insurance.

**Federal Law**

The federal Affordable Care Act requires employers to offer affordable health insurance coverage to employees who meet eligibility requirements (i.e., employees who work more than 30 hours per week on average over a 12-month measurement period are considered full-time for insurance purposes). Eligibility for affordable coverage does not end when an employee goes on any form of leave without pay, including suspension. While the law does not require employers to continue their contribution toward health insurance, the state could face financial consequences for not offering affordable coverage.<sup>1</sup>

**Solution and Next Steps**

To avoid paying penalties and also to ensure employees have the opportunity to meet the individual mandate requiring health insurance coverage<sup>2</sup>, employers in the state group insurance program will continue to remit the employer contribution. For full-time employees, this will ensure the health insurance coverage is affordable during periods of leave without pay throughout their stability period.

From a People First system perspective, employees (full- and part-time) who are placed on leave without pay status will be treated as if they were on active status for purposes of insurance coverage. Therefore, the employer contribution will continue in its respective amounts for health, basic life, and SES/SMS disability.

Once the system change is implemented, DSGI will mail letters to affected employees, making a retroactive offer of affordable health insurance coverage effective January 1, 2015.

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<sup>1</sup> 4980H(b) penalty by offering coverage that is not affordable

<sup>2</sup> The ACA requires every citizen to have health insurance coverage. The fee for those not having coverage in 2015 is the higher of these two amounts:

- 2% of the yearly household income. (Only the amount of income above the tax filing threshold, about \$10,150 for an individual, is used to calculate the penalty.) The maximum penalty is the national average premium for a bronze plan.
- \$325 per person for the year (\$162.50 per child under 18). The maximum penalty per family using this method is \$975.