

**MEMORANDUM OF UNDERSTANDING
U.S. DEPARTMENT OF LABOR (DOL)
MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)
AND
THE AFGE/AFL-CIO
NATIONAL COUNCIL OF FIELD LABOR LOCALS (NCFLL)**

INTRODUCTION

This Memorandum of Understanding (MOU) is entered into between MSHA and the NCFLL in accordance with the applicable provisions of the master DOL-NCFLL agreement and the MOU entered into between the parties on October 27, 2005.

SUBJECT

This MOU covers the agreement reached between the parties, effective October 27, 2005, over the impact and implementation of the revisions to MSHA's Administrative Policy and Procedures Manual, Chapter 1000, Qualification Requirements (Medical), and further serves as clarification on MSHA's return to work policy.

TERMS OF AGREEMENT

1. The parties understand that this agreement applies only to those MSHA employees who must meet medical qualifications in the performance of their duties and who have been off work 30 calendar days or more with a non-work related injury or illness. The parties also understand that the immediate supervisor has options under this agreement that are provided under the Collective Bargaining Agreement and the DOL Sick Leave Policy, and may choose to only ask for employee certification if the absence is less than 30 calendar days.
2. Employees who are covered under Medical Standards and return to work after an extended absence of 30 calendar days or more for an off the job injury or illness should follow guidance provided by DOL Sick Leave Policy and the Collective Bargaining Agreement. The employee must provide a letter or written statement from their medical care provider. The medical care provider's letter or written statement must state that the employee can return to full duty. Should the medical care provider state the employee can return to only light duty, the letter or written statement must outline the limitations the employee has and any time limit associated with those restrictions. If light duty assignments meeting those requirements are not available, the employee will remain on personal leave (sick leave, annual leave, or LWOP) until he/she can return to work with no restrictions. It is understood, however, that employees will not be allowed to remain on personal leave indefinitely. A full physical exam may not be necessary and any costs associated with exams or procedures performed by the medical care

provider due to an off the job injury or illness are borne by the employee, not the agency.

3. A sample letter (see item 5) is provided for the Field Coordinator or District to give the employee for delivery to his or her medical care provider. It outlines the information that constitutes administratively acceptable medical documentation. This documentation must be in the letter or written statement from the employee's medical care provider. The supervisor must have that information from the medical care provider in order to return the employee to work. The employee may be delayed in returning to work without administratively acceptable medical documentation as outlined in the sample letter (see item 5).
4. The employee will give his or her supervisor the medical care provider's letter or written statement. So long as the medical care provider's letter or written statement contains the appropriate medical documentation which is administratively acceptable as outlined in the sample letter, the supervisor will allow the employee to return to work, assuming the letter or written statement releases the employee to return to full duty. If the letter or written statement from the medical care provider states the employee has job limitations and there is no light duty assignments available that can accommodate those limitations, the employee will remain on personal leave (sick leave, annual leave, LWOP) until he or she can return to full duties or until such time light duty becomes available that meets the job limitations as stated by the employees medical care provider. However, it is understood by the parties that an employee cannot remain on personal leave indefinitely. So long as the medical documentation provided to the supervisor contains the information outlined in the sample letter, the medical care provider's letter or written statement will be considered sufficient documentation for the employee to return to work, and the medical documentation will not be forwarded to the Medical Review Section for further review.
5. The parties agree to the following sample letter for medical care provider for employees returning to work after an off the job injury or illness of 30 calendar days or more. The parties also agree that the Field Coordinators or Districts will provide this letter to the employee for hand deliverance by the employee to his or her medical care provider. The employee will bring the required medical documentation to his or her supervisor.

Sample Letter:

[INSERT DATE]

Dear [INSERT NAME OF MEDICAL CARE PROVIDER]:

The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) employs [INSERT EMPLOYEE NAME], who is under your care, as a [INSERT EMPLOYEE'S JOB TITLE]. This position (Attachment 1 – Position

Description) is subject to meeting specific medical standards (Attachment 2). Since [INSERT NAME OF EMPLOYEE] indicates he/she has been/will be on extended leave for 30 calendar days or more due to [INSERT NATURE OF ABSENCE], it is MSHA's policy to require appropriate administratively acceptable medical documentation prior to his or her returning to work.

Administratively acceptable medical documentation consists of a letter or written statement from you that indicates you have reviewed the position description and state that [INSERT NAME OF EMPLOYEE] has recovered and is able to return to the full range of his or her duties. A full physical is not required; information regarding the injury or illness that led to the absence is sufficient, as is your statement that you are aware of the medical requirements of his/her position and that you release [INSERT NAME OF EMPLOYEE] for return to full duty. If he/she is not released to full duty, please specify the physical limitations affecting the employee and indicate how long you expect that condition to last.

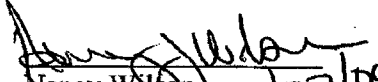
[INSERT NAME OF EMPLOYEE] must take your letter or written statement to his/her supervisor on his/her first day back to work.


Should you have any questions, please call me at [INSERT PHONE NUMBER].

Sincerely,
[INSERT NAME/TITLE OF MEDICAL OR FIELD COORDINATOR]


6. The parties agree that if, through no fault of the employee, he or she is unable to provide appropriate medical documentation on his or her first day back to work after 30 calendar days or more absence due to an off the job injury or illness, the District may allow a few extra days to obtain the necessary medical documentation. The employee will be provided office work during this time. District approval in such situations is the exception rather than the rule and will be granted on a case by case basis.

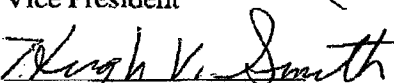
FOR THE AGENCY:


Nancy Wilson 3/27/06
MSHA

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Ben Felder
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FOR THE NCFLL:

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