

## *Unemployment Compensation*

### **Are employees entitled to unemployment compensation while on furlough?**

It is possible that furloughed employees will become eligible for unemployment compensation. State unemployment compensation requirements differ. Some states require a 1-week waiting period before an individual qualifies for payments. In general, the law of the state of your official duty station will be the law that determines your eligibility for unemployment insurance benefits. For more information on your local employment office, see below:

### **Unemployment Compensation Websites for DC and Regional Offices: Headquarters and Constitution Center (DC):**

General information - <https://does.dcnetworks.org/claimantservices/Logon.aspx> (works best in Chrome)

On-line filing - <https://does.dcnetworks.org/initialclaims/>

District of Columbia FAQs -

<https://does.dcnetworks.org/claimantservices/FederalShutdownFAQDEC2018.pdf> and <http://does.dc.gov/node/224102> (10 things you should know when filing a claim in DC)

**East Central Region** - <http://jfs.ohio.gov/ouc/ClaimInformationPage.stm>

**Midwest Region** - <http://www.ides.illinois.gov/Pages/Unemployment%20Insurance.aspx>

**Northeast Region** - <http://www.ny.gov/services/get-unemployment-assistance>

**Northwest Region** - <https://esd.wa.gov/>

**Southeast Region** - <http://dol.georgia.gov/unemployment-benefits>

**Southwest Region** - <http://www.twc.state.tx.us/jobseekers/unemployment-benefits-services>

**Western Region** - <https://eapply4ui.edd.ca.gov>

## *Benefits*

### **Federal Health Benefits (FEHB)**

#### **To what extent does non-pay status affect my FEHB coverage?**

FEHB coverage continues for up to 365 days of non-pay status. The non-pay status may be a continuous period or it may include an employee's return(s) to pay status for a period(s) of less than four consecutive months. The Government contribution continues while you are in a non-pay status (5 CFR 890.303(e)). When you return to duty status, the payroll office will send you a Request for Bill of Collection letter for health benefit premiums for each pay period of non-pay status that would normally have been paid through salary deduction. If the debt is \$50.00 or less, it will automatically be collected from your next paycheck. If the debt is over \$50.00, you will be able to select one of the following options: (1) elect to pay the full amount of debt by check or money order; (2) elect to pay

the full amount of debt by a one-time payroll deduction; (3) elect to repay the debt through biweekly payroll deductions at 15% of disposable income (interest will continue to accrue), or (4) elect to repay the debt through biweekly payroll deductions of a specified amount (interest will continue to accrue).

**Will I continue to be covered under the FEHB program if the agency is unable to make its premium payments on time?**

Yes. Your FEHB coverage will continue even if the FTC does not make the premium payments on time.

**What happens if employees cancel FEHB coverage while in a non-pay status in order to avoid the expense?**

Unlike other types of non-pay status, employees in a non-pay status due to a lapse of appropriations (shutdown furlough) will not have the opportunity to terminate or cancel FEHB coverage. The employee will remain covered; the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.

**Would a lapse in appropriations alter the effective date of an FEHB Open Season enrollment if an enrollment request was fully processed by an agency and submitted to the health plan prior to the lapse?**

No. The effective date would still be the first day of the first full pay period in January.

**If a furlough delays processing of FEHB Open Season enrollment changes, will the enrollment be retroactive?**

Yes. Per FEHB regulations, all Open Season enrollments and enrollment changes are effective on the first day of the first full pay period in January.

**Federal Employees Group Life Insurance (FEGLI)**

**To what extent does non-pay status affect Federal Employees Group Life Insurance coverage?**

Life insurance coverage continues for 12 consecutive months while in a non-pay status without cost to the employee or the FTC. The non-pay status may be continuous or it may be broken by a return to duty for periods of less than four consecutive months.

**Thrift Savings Plan (TSP)**

**To what extent does a non-pay status affect my TSP participation?**

Because you are not paid during a shutdown due to a lapse of appropriations, your TSP contributions may be impacted depending on the length of the shutdown. If you are a FERS employee, you may not receive agency contributions during this time. You cannot make direct contributions to your TSP account. When you return to duty, you may adjust your TSP contribution election(s) to make up for any missed contributions while in non-pay status due to the shutdown. Changes to the amount you contribute to the TSP can be made through Employee Express at: [www.employeeexpress.gov](http://www.employeeexpress.gov) or by submitting form TSP-1 for regular contributions or form TSP-1C for catch-up contributions to the Human Capital Management Office.

**Can I take a TSP loan while I am furloughed?**

If the furlough is expected to last 30 days or less — yes. When you sign your TSP Loan Agreement, you promise to repay your loan and authorize the TSP to deduct your loan payments from your pay. The first payment is due on or before the 60th day following the loan issue date (5 Code of Federal Regulations (CFR) § 1655.14(c)). If you reasonably believe your furlough will last 30 days or less, you can truthfully sign the Loan Agreement because you reasonably believe that your loan payments will start within the required period and that you will be able to repay your loan. However, should the furlough exceed 30 days, you run the risk of being required to pay taxes on all or a portion of the loan amount, as well as an additional 10% tax penalty. See the TSP Fact Sheet – Impact of a Government Shutdown at: <https://www.tsp.gov/PDF/formspubs/oc95-4.pdf>.

### **What happens to my TSP loan payments while I am in a non-pay status? (NEW – 1/8/2019)**

The TSP allows for the suspension of loan payments when you go into nonpay status to prevent your loan from going into default. Normally, TSP requires documentation from the FTC. However, the TSP does not need documentation of your furlough at this time. If your loan payments were up to date prior to the furlough, missing one or two payments will not cause your loan to be in default. You can check the status of your loan by logging into My Account, selecting “TSP Loans,” and then selecting “Are my payments up to date?” Or you can call the ThriftLine at 1-877-968-3778 and speak to a Participant Service Representative.

As long as retroactive pay is approved, all missed loan payments will be submitted and posted to your loan. TSP will provide more information as the furlough continues or as events change. For additional information, please visit the TSP website at [www.tsp.gov](http://www.tsp.gov).

### **Flexible Spending Account (FSA)**

#### **To what extent does non-pay status affect my flexible spending account(s)?**

Deductions for FSA allotments cease during periods of non-pay status when there are insufficient funds to cover the allotments. Incurred eligible **health care** expenses will not be reimbursed until the employee returns to a pay status and the allotments are successfully restarted (in which case the remaining allotments would be recalculated over the remaining pay periods to match the employee's annual election amount). Eligible **dependent care** expenses incurred during the non-pay status may be reimbursed up to whatever balance is in the employee's dependent care account, as long as the expenses incurred during the non-pay status allow the employee (or employee's spouse if married) to work, look for work, or attend school full-time. Once dependent care allotments are successfully restarted, remaining allotments would be recalculated over the remaining pay periods to match the employee's annual election amount.

#### **Federal Employees Dental and Vision Insurance Plan (FEDVIP) To what extent does furlough affect FEDVIP coverage?**

Coverage will continue. BENEFEDS, the OPM sponsored premium processing system, will generate a direct bill for past due premiums when no premium is paid for two consecutive pay periods. Coverage will continue only if the direct bills are paid on time.

## **Federal Long Term Care Insurance Program (FLTCIP)**

### **What about my Federal Long Term Care Insurance coverage and premiums?**

Coverage continues for as long as premiums are paid. If Long Term Care Partners receives no premium payments for three consecutive pay periods, you will be billed directly. Coverage will continue only if the direct bills are paid on time.

## ***Retirement***

### **When a furlough occurs during the three years of service prior to retirement, what effect will time in a furlough status have on an employee's high-3 average?**

Generally, there will be no effect on the high-3 average unless the furlough causes the employee to be in a non-pay status for more than six months during the calendar year.

### **Are the retirement rules concerning the effect of a furlough the same for employees under the Civil Service Retirement System and the Federal Employees Retirement System?**

Yes.

### **What will happen to employees who would have retired during a shutdown furlough?**

For employees who, on or before the requested retirement date, submitted some notice of their desire to retire, agencies should, when the lapse in appropriations ends, make the retirement effective as of the date requested. The retirement request may be informal (such as a letter requesting retirement), and can be either mailed or personally submitted to the agency. Any additional required paper work, such as the formal retirement application form, may be completed when the agency reopens. No time spent by the retiree in such actions after the effective date of the retirement may be considered as duty time, since the individual would no longer be an employee of the agency.

## ***Leave and other time off***

### **What happens to my webTA timecard during the shutdown?**

HCMO will continue to handle timecards for all FTC employees throughout the course of the current partial shutdown in consultation with the Commission's payroll provider. You should not make any changes to your timecard until the FTC reopens. You will receive instructions from HCMO on how to update your timecards. As a reminder, all leave and holidays are cancelled during a furlough.

### **If an employee has properly scheduled "use-or-lose" annual leave before the start of the third biweekly pay period prior to the end of the leave year, but is unable to use some or all of the scheduled leave because of the furlough, does the furlough constitute an "exigency of the public business" that would permit an agency to restore the leave after the beginning of the new leave year?**

During a lapse in appropriations, all paid leave or other paid time off is cancelled. Under 5 U.S.C. 6304(d)(1), annual leave in excess of an employee's annual leave ceiling "shall be restored" (i.e., no agency discretion) if it is lost (forfeited) "because of . . . exigencies of the public business" when the

leave was “scheduled in advance” (i.e., before the start of the third biweekly pay period prior to the end of the leave year, as required under 5 CFR 630.308(a)). Although, 5 CFR 630.305 provides that an agency head (or designee) is authorized to determine whether an exigency is of major importance, OPM and the Office of Management and Budget (OMB) had determined, in guidance issued prior to the lapse, that a lapse in appropriation qualifies as an exigency of the public business for purposes of annual leave restoration. Therefore, as long as the leave was properly scheduled in advance, agencies must restore any annual leave that was forfeited because of the lapse in appropriations—regardless of whether the affected employees were furloughed or excepted from the furlough. [See CHCO Memo 2019-02, Restoration of Annual Leave for Employees Affected by the Lapse In Appropriations](#) for additional information.

**May an excepted employee be permitted to earn compensatory time off and credit hours (under flexible work schedules) during the shutdown period?**

Yes. With agency approval, excepted employees may earn compensatory time off and/or credit hours subject to requirements found in 5 U.S.C. 5543 and 6120–6133; 5 CFR 550.114, 551.531, and part 610, subpart D; or other applicable authority. Each agency is responsible for approving the number of hours an excepted employee can work related to the performance of excepted activities. Employees will not be permitted to use earned compensatory time off or credit hours during the shutdown period.

**Does a shutdown furlough affect the accrual of annual leave and sick leave?**

If an employee is furloughed (i.e., placed in nonpay status) for part of a biweekly pay period, the employee’s leave accrual will generally not be affected for that pay period.

However, the accumulation of nonpay status hours during a leave year can affect the accrual of annual leave and sick leave over a period of time. (See 5 CFR 630.208 and Notes 1 and 2 below.) For example, when a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of nonpay status from the beginning of the leave year (either in one pay period, or over the course of several pay periods), the employee will not earn annual and sick leave in the pay period in which that 80-hour accumulation is reached. If the employee again accumulates 80 hours of nonpay status, he or she will again not earn leave in the pay period in which that new 80-hour total is reached. At the end of the leave year, any accumulation of nonpay status hours of less than 80 hours is zeroed out so that the accumulation of nonpay status hours for the next leave year starts at zero.

For part-time employees, the rule blocking accrual of leave based on the accumulation of nonpay status hours (5 CFR 630.208) does not apply. Instead, leave accrual for part-time employees is prorated based on hours in a pay status in each pay period; thus, time in nonpay status reduces leave accrual in each pay period containing such time (5 CFR 630.303 and 5 U.S.C. 6307).

Also, please see OPM’s fact sheet on the [Effect of Extended Leave Without Pay \(LWOP\) \(or Other Nonpay Status\) on Federal Benefits and Programs](#), which has a section entitled, “Accrual of annual and sick leave.”

***Service Credit***

**Is furlough or leave without pay (LWOP) considered a break in service?**

No, both mean the employee is in non-pay, non-duty status for those days/hours. However, extended furlough or LWOP (in excess of more than six months in a calendar year) may affect the calculation of creditable service for certain purposes.