

JOINT COMMUNICATION

Multi-Employer/UNA Collective Agreement Vacation Payout and Vacation Carry-over December 2009

UNA and AHS agree that vacation is an important benefit for employees and that paid vacation time away from work is important for the health, wellness and lives of employees. UNA and AHS also agree that the intent is for accrued vacation time to be utilized by employees in each year and that employees and managers should work together to ensure that this can occur. However, UNA and AHS also both acknowledge that there are exceptions to this and that there may be situations where the provisions of vacation carry-over or the payout of vacation need to be applied.

In cases of conflict, a collective agreement will always take precedence over employer policy. There are a number of areas where the AHS Vacation Policy conflicts with the UNA Collective Agreement. This communication clarifies the correct application of the UNA Collective Agreement terms and conditions related to carry-over of vacation and payout of vacation.

Vacation Carry-over

The carry-over of accrued vacation is not automatic. Article 17.03 (c) of the UNA Collective Agreement provides that:

“... an Employee may be permitted to carry forward a portion of unused vacation to the next vacation year. Requests to carry forward vacation shall be made in writing and shall not be unreasonably denied.”

Therefore, the Employee needs to specifically request that the vacation be carried over and the Manager needs to review each request and determine if the request can be approved.

The need to review each request individually and consider the circumstances related to each request means that the Employer cannot establish an across-the-board limit on the number of days that can be carried over. Each request has to be considered based upon its own circumstances. Things that a Manager may want to think about would include attempts made to schedule the vacation in the current year (for example, it may be unreasonable to deny a carry-over request if the employee attempted to schedule the vacation in the current year and such requests were not able to be approved), the amount of vacation and other banked time for this employee that need to be scheduled and the ability to schedule the carried over vacation in the next year, other known or predictable absences that will influence the ability to schedule the carried over vacation, etc.

The Employer's approval processes may differ depending upon the length of carry-over requested, but this does not change the requirement to consider all vacation carry-over requests individually. For example, even though the current AHS delegation of authority indicates that the Manager can only approve vacation carry-over up to five days, the Employer still needs to consider requests to carry over more than five days of vacation, even if this would need to be approved at the Director level of the organization.

Payout of Vacation

Article 17.03(f) provides that

"... at the written request of the Employee, the Employer shall provide the Employee with vacation pay rather than vacation time with pay, for that portion of the Employee's vacation entitlement that exceeds four weeks."

As a result, vacation payout can only occur at the request of the Employee. The Employer cannot unilaterally choose to payout unused vacation. **Provided that the other limitations of Article 17.03 are met, the Employer cannot refuse an Employee's request for payout.**

However, the amount of time that can be paid out is limited to that period of time that exceeds four weeks of vacation. The four week limitation can be a combination of vacation already used in the year and time remaining in the vacation bank. For example, if an Employee has already utilized two weeks of vacation this year and has eight weeks' vacation remaining in their vacation bank, the Employee can request to have up to six weeks vacation paid out. The four week limitation would be met with the two weeks already used and the two weeks that would be left in the bank after the payout of six weeks.

Note: The issue of payout of accrued vacation when an Employee transfers from Regular status to Casual status is dealt with in a separate AHS/UNA Joint Communication.

If you have any questions regarding these issues, please contact your applicable representative, as follows:

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