

110.0371 [Catastrophic Sick Leave Pool] General Provisions and Establishment¹

(a) General Provisions

- (1) Effective Date. Sections 110.0371 through 110.0379 are effective upon adoption by the Commissioners Court.
- (2) Construction. Sections 110.0371 through 110.0379 shall be construed liberally to accomplish their purpose.
- (3) Severability. If any provision of sections 110.0371 through 110.0379 or the application of them to any person or circumstances is held invalid, the validity of the remainder of sections 110.0371 through 110.0379 and the application of them to other persons and circumstances shall not be affected.

(b) Authority. Sections 110.0371 through 110.0379 are adopted by the Commissioners Court acting in its capacity as the governing body of Travis County under the authority granted to it under Texas Local Government Code Annotated sections 157.071-157.075 (2014).

(c) Purpose. The purpose of these sections are to create a catastrophic sick leave pool (CSL Pool) to allow Full-time Employees to voluntarily contribute Accrued Leave into the CSL Pool so that they may apply for and receive leave from the CSL Pool after exhausting all accrued paid leave because of their own catastrophic injury or illness or that of an immediate family member. (See Immediate family member definition 110.076 (a)(7).)

(d) Designation of Administrator. The Administrator of the CSL Pool is the Director of the Human Resources Management Department (HRMD).

110.0372 Definitions for Sections 110.0371 through 110.0379²

In sections 110.0371 through 110.0379, the following terms have the meaning adjacent to them:

- (1) Accrued Leave. Either accrued sick leave or accrued vacation leave earned by the employee.
- (2) Catastrophic Illness or Injury. A catastrophic illness or injury is defined as a severe condition or combination of conditions affecting the mental or physical health of the individual which has resulted in a life threatening condition and / or has a major impact on life functions. Such life functions shall include, but are not limited to, the loss of physical senses, the loss of physiological processes, or the loss of limb. Leave taken on an intermittent basis which does not require the employee to be absent from work for a period of at least seven days

¹Sections 110.0371 through 110.0379 added 7/29/2014, Item 23 Revised.

² Sections 110.0371 through 110.0379 added 7/29/2014, Item 23 Revised.

does not qualify. A health care provider, as defined below, must certify the catastrophic condition. The catastrophic illness or injury must:

- (A) present for a minimum of seven consecutive calendar days, and
 - (B) require continuous or on-going medical treatment or rehabilitation by a health care provider for an extended time, and
 - (C) be characterized by the sudden onset of symptoms which can be life threatening, or can cause significant or serious impairment or disability, and
 - (D) be incurable or so serious as to significantly interfere with the ability of the employee or an immediate family member to perform with reasonable continuity the material duties of his or her job for 30 consecutive days or longer, and includes complications that requires one or more of the following:
 - (i) hospital care like inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to that care; or,
 - (ii) supervision due to an incapacity for a permanent or long term condition for which treatment may not be effective, like a severe stroke or heart attack or the terminal stages of a disease; or
 - (iii) multiple treatments by a health care provider for a non-chronic condition when the treatments results in an absence from work, such as chemotherapy or radiation for cancer or therapy for organ transplant, but
 - (iv) does not include conditions like elective surgery, a broken limb, cold or flu or allergy, some routine types of surgery, such as orthopedic, appendectomy with minor or no complications.
- (3) Catastrophic Sick Leave (CSL). Leave from the CSL Pool that may be transferred to the credit of an employee.
- (4) CSL Pool. The catastrophic sick leave pool which is funded by contributions of Accrued Leave made by employees. It is maintained as the number of hours of Accrued Leave contributed minus awards of CSL made to qualified employees.
- (5) Health Care Provider. A licensed professional who is legally certified to carry out the process of providing health treatment to patients. Includes physicians, podiatrists, dentists, and clinical psychologists authorized to practice in the State and performing within the scope of their practice as defined under State law or any health care provider that is recognized by the employer or accepted by the group health plan (or equivalent plan) of the employer.

- (6) Full-time Employee. A person hired by the County without limitation as to duration of employment, who is eligible for employee benefits, and who has physically worked for an average of the designated full-time hours per week for the 12 months before the date of contribution. (i.e. if the County defines full-time as a minimum of 30 hours per week, and an individual works 30 hours, then the designation is full-time).

110.0373 Coordination with Other Benefits and Policies³

- (a) Family Medical Leave. All eligible events that qualify for Family and Medical Leave (FML) may not qualify as a Catastrophic Illness or Injury; however a Catastrophic Illness or Injury may qualify as FML. If the employee is eligible for FML, all days away from work as a result of Catastrophic Illnesses or Injuries must be counted against the employee's FML entitlement.
- (b) Workers' Compensation. Employees who have applied for or are eligible to receive Workers' Compensation benefits may not use CSL.
- (c) Short and Long Term Disability. Hours from the CSL Pool will be considered in the same way an employee's use of accrued sick leave hours are considered in determining eligibility for employees who are participating in the short and/or long term disability benefits.
- (d) Grievance Policy. Denial of CSL is not grounds for filing a grievance. CSL is not a right and is awarded based on availability of CSL in the CSL Pool and the eligibility of the employee as determined by the Administrator.

110.0374 Contributions to CSL Pool⁴

- (a) Effective Date of Contributions. Contributions made during open enrollment are effective and transferred out of the employee's Accrued Leave balances on October 1st of each fiscal year. Contributions made when the person is ceasing to be a county employee for any reason are effective on the day prior to the employee's termination date. The balances are transferred as part of the employee's termination pay process.
- (b) Contributor Eligibility. To be eligible to make any contribution, an employee must have been employed full-time by Travis County for at least twelve consecutive months before the contribution is effective. To contribute Accrued Leave to the CSL Pool, a Full-time Employee must have a balance equal to or more than the contribution of accrued sick and vacation leave at the time of the contribution to the CSL Pool.
- (c) Requirements for Contributions. Contributions to the CSL Pool:
- (1) must be voluntary,

³ Sections 110.0371 through 110.0379 added 7/29/2014, Item 23 Revised.

⁴ Sections 110.0371 through 110.0379 added 7/29/2014, Item 23 Revised.

- (2) must be in 8 hour increments, from any combination of sick and vacation hours
 - (3) must not total more than 40 hours of Accrued Leave in any fiscal year unless the employee is ceasing to be a county employee and in that case must not total more than an additional 80 hours of Accrued Leave,
 - (4) cannot be contributed for a particular person,
 - (5) are permanent and cannot be reversed after they are contributed, and
 - (6) must be made during open enrollment or when ceasing to be a county employee in the manner prescribed by HRMD.
- (d) Notification to Contributors. To ensure voluntariness of contributions, the Administrator must notify any employee who asks to contribute that the contribution must be voluntary and ensure that the employee is voluntarily making the contribution.
- (e) Administration of Contributions
- (1) The Administrator receives CSL Pool contributions, reviews them for accuracy and completeness and verifies that the employee is eligible to make a contribution.
 - (2) If the employee is not eligible to contribute to the CSL Pool, the Administrator sends a notice to an employee who is not eligible to make the proposed contribution with an explanation of the eligibility criterion of the CSL Pool and the reason the proposed contribution does not meet the criterion.
 - (3) If the employee is eligible to contribute, the Administrator processes the CSL Pool contribution.
 - (4) The Administrator processes CSL Pool contributions that are received during open enrollment. The Administrator processes CSL Pool contributions for terminated employees that may be submitted directly to the Administrator or through the departmental liaison during the year and enters by the end of the pay period in which they are submitted.
 - (5) The Administrator enters the contributions into the payroll records of each employee who contributed Accrued Leave by deducting from the employee's appropriate Accrued Leave and noting the employee's CSL Pool contribution effective date in accordance with 110.0374(a).
 - (6) The Administrator increases the balance in the CSL Pool by the number of hours in each transfer to the CSL Pool as noted on the CSL Pool contribution submitted by the employee to the Administrator.

110.0375 Eligibility to Apply for CSL⁵

Full-time Employees may apply for CSL if they have contributed at least 8 hours of Accrued Leave to the CSL Pool at any time during the previous two fiscal years, have not had a break in employment during those two fiscal years, and have exhausted all of their Accrued Leave because of a catastrophic injury or illness.

110.0376 Employee Procedures for Award of CSL Due to Catastrophic Illness or Injury⁶

- (a) Effective Date of Award of CSL. Awards of CSL are not effective until the employee receiving the award has exhausted all accrued paid leave and compensatory time to which the employee would otherwise be entitled.
- (b) Request
 - (1) To apply for CSL, an employee must:
 - (A) be a regular Full-time Employee who meets eligibility in 110.0375;
 - (B) complete an Application for CSL which states the number of days requested and submit it to the Administrator at least 10 working days before the first day on which CSL awarded will be needed to ensure continuation of pay if the need can be anticipated, or in the case of an unanticipated emergency need, as soon as practical;
 - (C) provide a certification from a Health Care Provider that the employee or immediate family member as defined in section 110.076(a)(7) has or had an illness or injury that is catastrophic as defined in section 110.0372(2) and a statement of the diagnosis, prognosis and anticipated recovery time for the illness or injury;
 - (D) provide a signed release of medical information to each Health Care Provider involved in the care of the employee or immediate family member who has medical documentation supporting the existence of a Catastrophic Illness or Injury that caused the employee to exhaust all Accrued Leave so that the Administrator can obtain additional information from them, if needed; and
 - (E) if the initial medical record information supplied is not adequate, the employee must provide further sufficiently detailed medical record information and additional releases of medical information to the Administrator, if requested.
 - (2) Failure to comply with a request for additional medical information may result in delay or denial of the application.

⁵ Sections 110.0371 through 110.0379 added 7/29/2014, Item 23 Revised.

⁶ Sections 110.0371 through 110.0379 added 7/29/2014, Item 23 Revised.

- (3) Employees participating in the CSL Pool may apply for an award of CSL each time that all Accrued Leave is exhausted or will be exhausted because of a Catastrophic Illness or Injury.
 - (4) Exclusions:
 - (A) Elective surgery does not qualify as a catastrophic illness or injury. If complications arise resulting in a serious health condition, the situation may then qualify as a catastrophic illness or injury.
 - (B) CSL is not available for time off due to a job-incurred condition covered by Workers' Compensation benefits.
 - (C) Pregnancy in and of itself, is not a catastrophic illness or injury.
- (c) Proxy Requests for CSL. If an Employee who is participating in the CSL Pool has suffered a Catastrophic Illness or Injury and is not able to complete an application for CSL or provide the certification from a Health Care Provider due to the effects of that illness or injury, the following persons may complete the application, certification and release requirements for the employee:
- (1) any person who is legally qualified to authorize a release of medical information on behalf of the employee, or
 - (2) any person whom the employee has designated to complete these requirements, or
 - (3) the employee's supervisor may initiate the application and seek the cooperation of any person who is legally qualified to provide the certification and to authorize the releases required.
- (d) Award
- (1) The Administrator may take into consideration the length of time recommended for recovery by the patient's Health Care Provider in conjunction with the number of hours of Accrued Leave available in the CSL Pool when determining the exact amount of CSL that may be awarded to an eligible employee.
 - (2) If an Employee has complied with these requirements and qualifies for it, the Administrator must award CSL which may be sufficient for the employee to be able to use CSL for the entire period that is medically necessary for recovery from the Catastrophic Illness or Injury but in a 12 month period may not exceed the lessor of:
 - (A) one third of the number of hours in the CSL Pool at the time of submission of the application for the CSL, or
 - (B) 360 hours or 45 work days, whichever is less.
- (e) Amendment Provision
- (1) If an employee's medical circumstances change after the original request and the amount of CSL awarded is not adequate to meet the

continued or changed circumstances, then a request can be made to the Administrator to amend the amount of CSL originally awarded to provide additional CSL. If it is anticipated that the CSL balance will not be sufficient, the employee, or any person who is authorized to act for the employee in applying for CSL, may initiate a request for an amended award on the employee's behalf. To avoid loss of a pay check, this request should reach the Administrator 10 days before the initial CSL award is exhausted.

- (2) There is no automatic right or guarantee that an amendment request will be approved. If a request for an amendment is approved, the CSL awarded on the original application, all amendments, and previous awards for other catastrophic conditions must not exceed the maximum award amount for an employee in any twelve month period.
- (3) The total award in a fiscal year cannot exceed the total award described in 110.0376(d)(2).

110.0377 Restrictions on Use of CSL and Return of Unused CSL to the CSL Pool⁷

- (a) Employees who are awarded CSL:
 - (1) may receive payment for the CSL awarded if the employee had unpaid time while the application was being processed and these payments will be processed based on regular deadlines during the next payroll payment cycle,
 - (2) may ONLY use CSL for the purposes for which County policy allows an employee to use sick leave earned, and
 - (3) may only use CSL after all available leave that is earned while on CSL has been exhausted.
- (b) If the employee, for any reason, terminates employment with the County while on CSL the employee is not entitled to payment for any CSL awarded that is unused.
- (c) The estate of any deceased employee is not entitled to payment for any CSL awarded that is unused at the time of death.
- (d) An employee on CSL is treated for all purposes as if the employee were absent on earned sick leave. Employees on CSL continue to accrue leave. Leave accruals are posted to the employee's pay report each pay period.
- (e) Employees who use CSL are not required to pay back the CSL to the CSL Pool.
- (f) Return of Unused CSL to the CSL Pool. The Administrator must track each employee receiving CSL for 6 months following the date the award is initially used by the employee. Any balance of CSL remaining after the period for

⁷ Sections 110.0371 through 110.0379 added 7/29/2014, Item 23 Revised.

which the CSL was awarded must be returned to the CSL Pool. This action should also be taken if, anytime within the period following the date the award was initially used, any of the following situations is met:

- (1) employee is deceased,
- (2) employee terminates employment, or
- (3) employee retires.

110.0378 Procedures for Awarding CSL⁸

(a) Administrator Responsibilities

- (1) The Administrator is responsible for:
 - (A) receiving all applications for CSL;
 - (B) reviewing the application for award of CSL and the authorization to release and certification of medical information and documents form for completeness and accuracy;
 - (C) determining whether to award or deny all applications for CSL and to determine the amount of CSL to be awarded;
 - (D) certifying by signature that the employee meets the general eligibility and CSL Pool criteria of being a regular employee, having exhausted all sick leave because of a Catastrophic Illness or Injury, having completed the application form and submitted all required releases and certifications;
 - (E) notifying the applicant of award or denial of the application for CSL and, if awarded, the amount of CSL awarded;
 - (F) providing notification of an award to:
 - (i) the employee's office or department for time records and
 - (ii) the Administrator to credit the employee sick leave account and deduct from the CSL Pool.
- (2) The Administrator must process the applications on a first come, first served basis determined by the date or time when all necessary information, certifications and releases have been provided.
- (3) In determining all administrative aspects of eligibility for an award of CSL, the Administrator has the sole authority to make the determination of whether to award or deny CSL and the amount of CSL to be awarded.
- (4) If the Administrator is uncertain whether a particular employee is eligible for an award of CSL, the Administrator may request that the employee or person with the Catastrophic Illness or Injury be examined by a second Health Care Provider selected by the Administrator and may consider the opinions of that Health Care Provider to the extent

⁸ Sections 110.0371 through 110.0379 added 7/29/2014, Item 23 Revised.

that the Administrator deems appropriate. If such a request is made, the employee must obtain the examination and provide releases of medical information to that Health Care Provider as well and the county will pay for the examination fee or co-pay required.

- (5) The Administrator shall not award any employee more than a total of 360 hours or 45 workdays of CSL during any 12-month period for all awards of CSL without regard to the number of illnesses or injuries.
 - (6) The Administrator may not award CSL to be effective more than 30 calendar days prior to the date on which the application for CSL was first submitted to HRMD. The date of submission is determined by the Administrator's receipt of the first written application for CSL, even if all of the information, certifications and releases are not provided at that time.
 - (7) After determining that an employee is eligible and before awarding any CSL, the Administrator, must
 - (A) divide the number of hours in the CSL Pool by 3 to determine the maximum number of hours of CSL that may be awarded to that employee,
 - (B) determine the amount of CSL that should be awarded to the employee based on the circumstances of the application,
 - (C) award the employee the lessor of the amount that could be awarded and the maximum allowable, and
 - (D) decrease the balance in the CSL Pool by the number of hours of CSL awarded to the employee from the CSL Pool.
- (b) Departmental/Office Responsibilities. The employee's department or office is responsible for annotating CSL used on the time record for the employee each pay period.

110.0379 Recordkeeping and Confidentiality⁹

- (a) The Administrator must maintain a confidential record of all CSL Pool records, and submit annual fiscal year reports to the Commissioners Court on the usage and status of the CSL Pool. The annual reports will include:
 - (1) the total number of hours contributed,
 - (2) the total number of hours awarded,
 - (3) the total number of awarded hours that were used,
 - (4) the total number of applications for CSL received,
 - (5) the total number of applications approved, and
 - (6) the total number of applications denied.

⁹ Sections 110.0371 through 110.0379 added 7/29/2014, Item 23 Revised.

- (b) Applications for CSL and all documents related to the application, including the notice of an award or denial, must be treated as confidential at all times. All notices to be sent to any person involved in the process (such as HRMD, or the Administrator) must be sent in envelopes clearly labeled "confidential" and directed to the attention of the intended receiver.
- (c) The applications for award of CSL and all supporting documentation must be kept in a separate file for confidential medical information. The employee must approve and sign a form to authorize the release of medical information and other documents before any information can be released. If the employee is medically unable to sign the required release form, the next of kin or person who is legally authorized to do so must sign the form before any documentation can be released.
- (d) Failure to keep the information on an application for CSL or any document associated with it as confidential may result in termination.