Workplace Absence Management (WAM)

Guidelines for Managers on dealing with Sick Absence in Sun International

January 2019

GUIDELINES FOR MANAGERS ON DEALING WITH SICK ABSENCE AND THE ROLE OF WAM (Workplace Absence Management as part of One Sun Wellness)

The purpose of this document is to provide guidelines to Managers of Sun International when dealing with sick absent employees in the workplace.

Basic Conditions of Employment Act – Section 22 and 23 Sick Leave and Medical Certificates

What the Basic Conditions of Employment Act says:

22. Sick leave.—(1) In this Chapter, "sick leave cycle" means the period of 36 months' employment with the same employer immediately following—
(a) an employee's commencement of employment; or
(b) the completion of that employee's prior sick leave cycle.

(2) During every sick leave cycle, an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

(3) Despite subsection (2), during the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 days worked.

(4) During an employee's first sick leave cycle, an employer may reduce the employee's entitlement to sick leave in terms of subsection (2) by the number of days' sick leave taken in terms of subsection (3).

23. Proof of incapacity.—(1) An employer is not required to pay an employee in terms of section 22 if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

(2) The medical certificate must be issued and signed by a medical practitioner or any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament.

(3) If it is not reasonably practicable for an employee who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of subsection (1) unless the employer provides reasonable assistance to the employee to obtain the certificate.

Medical certificates – what constitutes a "valid" medical certificate?

The BCEA and medical certificates

In order to address this we will have to go back to basics and determine whether a medical certificate is a **valid** certificate that would justify the payment of the employee from his or her sick leave entitlement.

Who may sign medical certificates?

From Section 23 of the Act it is clear that there are two requirements in order for a medical certificate to be a valid medical certificate; it **must state that the employee was unable to perform his or her normal duties as a result of illness (or an injury)** and must **be based on the professional opinion of the medical practitioner**. In other words, a certificate that states that the practitioner "saw the patient" or "was informed by the patient" is not considered to be a valid medical certificate since the practitioner did not declare in his or her professional opinion that the employee was unable to perform his or her normal duties as a result of illness (or an injury). Such certificates are merely an indication that the practitioner saw the patient, in example a check- up, or that he was informed that the patient was unfit for duty.

The **second requirement** is that the certificate must be **issued by a medical practitioner**. A medical practitioner is described in the definitions of the Act as:

''. . . . a person entitled to practise as a medical practitioner in terms of section 17 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974);"

In terms of the above mentioned Act the following professionals are considered to be medical practitioners:

- Medical practitioners (Doctor with MBChB degree) that are registered with the Health Professions Council of South Africa.
- Dentists that are registered with the Health Professions Council of South Africa.
- Psychologists with a Masters Degree in Educational, Counselling or Clinical Psychology that are registered with the Health Professions Council of South Africa.

The above mentioned Act makes reference of another Act, the Allied Health Service Professions Act 63 of 1982. Practitioners mentioned in this Act must be registered with the Allied Health Service Professions Council in order to issue medical certificates. Employers must accept medical certificates from such practitioners as proof of incapacity in terms of the Basic Conditions of Employment Act.

A practitioner is defined in terms of the aforementioned Act as a person registered as

- Acupuncturist (Acupuncture is a form of alternative medicine in which thin needles are inserted into the body. It is a key component of traditional Chinese medicine).
- Ayurveda (this is one of the world's oldest holistic "whole-body" healing systems. It was developed more than 3,000 years ago in India. It's based on the belief that health and wellness depend on a delicate balance between the mind, body, and spirit).
- Chinese medicine practitioner (Traditional Chinese medicine (TCM) originated in ancient China and has evolved over thousands of years. TCM practitioners use herbal medicines and various mind and body practices, such as acupuncture and tai chi, to treat or prevent health problems).
- Chiropractor (a practitioner of the system of complementary medicine based on the diagnosis and manipulative treatment of misalignments of the joints).
- Homeopath (a practitioner of the system of complementary medicine in which ailments are treated by minute doses of natural substances that in larger amounts would produce symptoms of the ailment).
- Naturopath (a practitioner of the system of alternative medicine based on the theory that diseases can be successfully treated or prevented without the use of drugs, by techniques such as control of diet, exercise, and massage).

- Osteopath (a practitioner of the system of complementary medicine involving the treatment of medical disorders through the manipulation and massage of the skeleton and musculature).
- Phytotherapist (commonly known as Western Herbalism, is based on the diagnostics and treatment of various diseases using plant substances and extracts).
- Unani-Tib practitioner (Unani is a Persian word meaning Greek and Tibb an Arabic word meaning medicine. It is a system of medicine that began with Imhotep in Africa, was embraced by Greeks like Hippocrates and refined over many centuries by Arab physicians like Ibn Sina).

Traditional Health Practitioner Certificates

In 2014, the Traditional Health Practitioners Act was passed to standardise and regulate the affairs of all traditional healers. Late in 2015 additional regulations were published to give effect to the act. The government has invited public comment on the regulations. To date no Traditional Healer has been registered with the Department of Health and accredited according to the set protocols and standards.

In light of this, employers do not have to accept sick certificates from traditional health practitioners until the Department of Health communicates that standards have been met, however an employer may have to accept such certificates is they are bound by a collective agreement.

The issue of Traditional Health Practitioners remains a challenge within Sun international. To-date, GrandWest is the only Business Unit to provide a list of Traditional Healers as per the signed 2008 Interim Agreement regarding the Recognition of Traditional Health Practitioners**. The other Business Units are urged to compile their list of preferred providers according to the agreement. This will assist WAM in managing the sick notes from Traditional Healers more effectively.**

For the above certificate to be "valid" it needs to meet the following criteria:

- Name, address, practice number (where applicable) of the Traditional Health Practitioner;
- Employment number of patient or any other form of clear identification of the patient;
- Date and time of examination;
- Whether the certificate is issued after the Traditional Health Practitioner has personally examined the patient;
- An indication that the Traditional Health Practitioner is satisfied that the employee was too sick or injured to work for the whole period of absence.

Clinic Certificates

Regarding medical certificates issued by a clinical hospital, it is normally found that the certificates are not signed by a registered medical practitioner. Every clinic and every hospital has qualified medical practitioners in attendance, and any person who is ill must be examined by such a person.

An examination by a nurse or other person who is not qualified to carry out examination and diagnosis is not acceptable. A certificate signed by a person other than a qualified medical practitioner who is authorised to make such examination and diagnosis is equally unacceptable. This means that any certificate bearing an illegible signature and a rubber stamp is unacceptable and in such cases you must insist that the rule 15 (1)(j) of the Medical and Dental Professions Board Rules are complied with, otherwise you must treat the period of illness as unpaid leave.

Remember also that the those occasions where an employee takes only one day or two days off sick and of course is not required to produce a medical certificate, those days remain classified as sick leave days and are deductible from the employees sick leave entitlement. However, an employee must still notify the employer of their absence in due time. This is often referred to as "self-diagnosed sick leave absence".

Medical and Dental Professions Board Rules – Medical Certificates

The following excerpt from the Ethical and Professional Rules of the Medical and Dental Professions Board of the Health Professions Council of South Africa can further serve as guidelines for employers in order to determine the validity of a medical certificate.

Rule 15(1) A practitioner shall only grant a certificate of illness if such certificate contains the following information, namely:

(a) Name, address and qualification of the practitioner;
(b) Name of the patient;
(c) Employment number of the patient (if applicable);
(d) Date and time of the examination;
(e) Whether the certificate is being issued as a result of personal observations by the practitioner during an examination, or as the result of information received from the patient and which is based on acceptable medical grounds;
(f) A description of the illness, disorder or malady (disease or ailment) in layman's terminology with the informed consent of the patient. Provided that if the patient is not prepared to give such consent, the medical practitioner or dentist shall merely specify that, in his or her opinion based on an examination of the patient, the patient is unfit to work;
(g) Whether the patient is totally indisposed for duty or whether the patient is able to perform less strenuous duties in the work situation;
(h) Exact period of recommended sick leave;
(i) Date of issuing of the certificate of illness; and
(j) Clear indication of the identity of the practitioner who issued the certificate which shall be personally and originally signed by him or her next to his or her initials and surname in printed or block letters.
NB: A Medical Practice number from the council must be on the sick note especially in the case of locums (practitioner temporarily fulfilling the duties if another practitioner).

(2) If pre-printed stationery is used, a practitioner shall delete words which are irrelevant.

(3) A practitioner shall issue a brief factual report to a patient ***where such a patient requires information*** concerning him or herself (Medical Report).

The above is largely self-explanatory. Rule (e) refers to those occasions where, for example, the employee has been off sick on Monday and Tuesday and then on Wednesday he goes along to the Doctor and informs the Doctor that he had flu since Monday and requires a sick note. The Doctor will then normally write in the sick note that "I was informed that the patient …….etc."

NB: You do not have to accept this as genuine illness. The Doctor is only telling you that the ***patient*** says he was ill. The Doctor is not certifying that he made an examination and is able to confirm the illness.

You would therefore be perfectly justified in informing the employee that the time taken off will be regarded as unpaid leave and that in future he should visit the Doctor *on the first day of illness* and not *after he has recovered from the alleged illness.*

Rule (f) states that the Doctor should give a description of the illness. This may not always be stated, particularly where the nature of the illness, if disclosed, may embarrass the patient.

If you have extremely good reason, for example if the employee is regularly off sick, then perhaps you could assist the employee in typing a letter (*which the employee must sign*) for the Doctor, authorising him to disclose to you the

nature of the illness. Alternatively you could request the employee to go to the Doctor and obtain the information in terms of rule (3).

Note that in terms of rule (j) the medical practitioner is required to print his name and initials on the medical certificate in addition to his usual signature.

Remember also that these rules are not law; they can be used as guidelines. The medical profession agreed to these rules *for the guidance of the medical profession only.*

Therefore an employer cannot reject a medical certificate if it does not comply with these rules. An employer can only reject a medical certificate if it does not comply with section 23 of the Basic Conditions of Employment Act.

Key Points
- The abuse of sick leave or altering a medical certificate is a serious misconduct and may result in dismissal. - Medical certificates must be signed by a medical practitioner as described in section 17 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974). - Medical practitioners must be registered with either the Health Professions Council of South Africa or the Allied Health Professions Council of South Africa. - The certificate must state that the employee was based on an examination declared medically unfit to perform his or her normal duties. - Rule 15 of the Medical and Dental Professions Board Rules may be used as guidelines for determining whether a certificate is valid. - Traditional Health Practitioner certificates are not considered to be valid medical certificates under the Basic Conditions of Employment Act however refer to Sun International 's interim agreement. - Check-ups and routine visits are not considered to be sick leave in terms of the Basic Conditions of Employment Act.

Exhausted Sick Leave

In instances where employees have exhausted their 36 days paid sick leave in their current cycle as well as their accumulated balance of "off" days as well as annual leave days - the company may grant additional paid sick days based on years of service and their sick leave record. Refer to the Extended Sick leave Agreement Sun International signed with SACCAWU.

Return to Work Interview

A Return to Work Interview should be conducted by the Line Manager as soon as possible after the employee's return from sick leave, ideally on their first day back at work.

There is no legal requirement for an employer to hold a back-to-work meeting but it is generally regarded as good practice and can assist in curbing sick leave abuse. The purpose of the meeting is to welcome the employee back, enquire about their health and to discuss any implications following their return.

A Return to Work Form is recommended for completion by employees when they return to work to confirm they have been off sick. This form also captures any recommendations/adjustment etc. to aid their return to work if applicable

Why carry out a return to work interview?

Research shows that carrying out a return to work interview is one of the most effective ways to manage attendance and reduce absence. By carrying out return to work interviews and making it clear in the company sickness policy that you will do so assists in discouraging unauthorised and non-genuine sickness absence.

A Line Manager should carry out return to work interviews to:

- welcome employee back and ascertain if they are well enough to work;
- update employee about any changes that have taken place during their absence;
- identify any workplace adjustments that may be needed;
- develop, or discuss, the details of the agreed Return to Work Plan;
- confirm that the employee's absence record is correct;
- allow them to discuss any other issues that the employee may need help with.

Tips for conducting a return to work interview

Return to work interviews should take place face-to-face, where possible, but they don't need to be overly formal. To make the interview as productive and successful as possible, follow these guidelines:

- make sure that you listen to your employees;
- show an interest in what they have to say and take their concerns on board;
- be objective – don't allow yourself to be influenced by personal emotions or feelings;
- ask open-ended questions;
- use the opportunity to explain the 8 week rule to the employee;
- determine if there is a pattern of sick leave.

Pattern of behaviour

What is really important when dealing with sick leave abuse is to look for a pattern of absences. Most employees who abuse sick leave do so before or after weekends, public holidays and paydays. They also tend to visit different doctors, claim different maladies and take one or two days' sick leave.

It is therefore important to analyse sick leave to determine the average number of days absence, the number of doctors visited and the number of diagnosis. It is also important to identify and closely monitor the employees who take the most sick leave. It is also important to get to the root cause of their behaviour as absence and sick leave abuse is usually accompanied by the following symptoms:

- Poor timekeeping – late in the mornings and/or after lunch, unexplained absences from area of work.
- Tired / 'lazy' – lacks energy, constantly tired and unenthusiastic.
- Inattentiveness – constantly pre-occupied, forgets things, unable to concentrate on work and/or during training sessions.
- Poor or deteriorating performance – mistakes due to inattentiveness or forgetfulness. Failure to meet deadlines. Disinterested and unenthusiastic about work matters.
- Sick leave – excessive sick leave, usually for 1 or 2 days. Sick after weekends, rest and pay days. Dubious certificates from different doctors (gastro-enteritis, lumbago, etc.)
- Behaviour patterns – mood swings and/or sudden changes in behaviour including:-
    - Irritable and/or temper tantrums;
    - Overreaction to real or imagined criticism;
- Accidents, especially afternoons or after breaks;
- Untruthful, brags or overstates accomplishments;
- Avoiding behaviour, will not discuss problems.
- Appearance – deterioration in general appearance and personal hygiene.
- Financial difficulties – garnishee orders; excessive requests for cash advances or loans; problems with loan sharks.

- Family and personal relationship problems – substance abuse, physical abuse and financial difficulties usually lead to some form of relationship problem.

Sick Absence Data/Reports

It is highly recommended that the Personnel Practitioners inform their Management of the sick absenteeism Qlikview analytics and so identify departments/cost centres with high absence rates. By looking at the following stats Management will get an insight into which departments in their Business Unit take the most sick leave and measurements can also be compared to overall company results:

- Sick Absence Rate (SAR)
- Average Days per Employee
- Sick Frequency Rate (SFR)

Line Managers should also look into individuals within these cost centres contributing to the high absence and follow the process of a WAM referral.

THE ROLE OF WAM (Workplace Absence Management as part of One Sun Wellness)

Managers are urged to refer to the electronic version of the OSW WAM Handbook that has been attached to this document. This Tool Kit provides managers with all the information they need to make use of this support programme.

Manager referral

Participation of line managers is a critical success factor. Managers are reminded to familiarise themselves with WAM so that they can interact constructively with their people and the programme. Manager orientation training is available from LifeAssist to equip managers to fulfil this role effectively.

WAM is most effective when a sick employee can be contacted while he/she is off work as the knowledge, insight or referral for care could improve the health outcome and hasten return to work.

WAM can intervene proactively and express the company's care and concern when managers refer employees as soon as they become aware of these circumstances:

- Admission to hospital
- Diagnosed chronic illness
- > 5 consecutive days Sick Leave
- Disciplinary process
- Exhausted Sick Leave
- Frequent Sick Leave
- Health-related issue – e.g. lifestyle
- Organisational issue – e.g. burnout, conflict, stress
- Disability – early identification
- Suspicion about Sick Leave abuse/improbable excuses
- Patterns of behaviour /symptoms (refer to the list mentioned in the previous section)

Download the WAM Manager Referral Form from the website www.yourlifeassist.co.za/sunint , go to Resource Centre>Your Programme Forms>WAM Manager Referral Form

Or

Request a form via wam@lifeassist.co.za

It is advisable that the Line Manager informs the employee that they have been referred to WAM and can expect a contact for assistance/support, keeping in mind that all WAM interactions are private, confidential and voluntary. The aim is for WAM to ascertain the reasons for absence (Categorised as Physical Chronic / Physical Acute / Psychosocial), offer advice and counselling, refer appropriately and follow-up where indicated.

All feedback reports to Managers and HR are done with permission from the employee to distribute.

Verification of Medical Certificates/Sick Notes

The WAM team is well trained to assist with Verification where there is concern about the validity of medical certificates/sick notes. Line Managers may forward them to WAM by email (wam@lifeassist.co.za) together with a completed WAM Manager Referral Form. Written feedback will be sent to the referring Manager after completion of the process to indicate whether the certificate/sick note is acceptable and the practitioner is registered.

It is highly recommended that Line Managers also request on the referral form, a WAM intervention with the employee and not only a verification of the sick note. By doing this, WAM can get to the bottom of the sick absence occurrences and reasons for absence (Categorised as Physical Chronic/Physical Acute/Psychosocial) if the employee is willing to share.

Turnaround times making contact with absentees

LifeAssist endeavours to make contact with an absentee within 48 hours.

If the absentee cannot be reached within this time frame, feedback will be provided to the referring manager and other avenues will be explored.

When follow-up coaching is indicated, LifeAssist will attempt to contact the absentee a maximum of three times. If we not successful, the referring manager will be informed with a view to assist us to reach the absentee.

Manager feedback report

The report is provided within 48 business hours after all the relevant parties have been interviewed (e.g absentee, manager, healthcare provider).

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January 2019

Sources:
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SA Labour Guide
B&A Article
OSW WAM Handbook