

REGULATION

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Subject: SEVERANCE PAY			

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1. PURPOSE

This regulation establishes the standards and procedures for severance payment for eligible non-exclusively represented employees.

2. CIVIL SERVICE COMMISSION RULE REFERENCE

Note: This Section 2 reprints only selected Commission Rules for quick reference by the reader. Additional Rules (that are not reprinted below) may apply. The complete, current version of the Rules can be found at www.michigan.gov/mdcs.

Rule 5-6 Additional Compensation: Miscellaneous

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5-6.10 Severance Pay**(a) Eligibility.**

(1) Employees. *The following employees are eligible for severance pay if they meet the criteria in subsection (a)(2) and are not disqualified by the criteria in subsection (a)(3):*

(A) *An “agency based” employee of the department of health and human services laid off because of deinstitutionalization of the department of health and human services resident population after October 1, 1996.*

(B) *A nonexclusively represented employee who is indefinitely laid off on or after October 1, 1995.*

(2) Criteria. *An employee is eligible if the employee was (1) laid off for at least 6 months, (2) was laid off in satisfactory employment status, and (3) was not separated from a temporary or limited-term appointment.*

(3) Disqualification. *An otherwise eligible employee is disqualified from receiving severance pay for any of the following reasons:*

(A) *The employee dies before accepting payment.*

(B) *The employee is hired in any position in the classified service.*

(C) *The employee refuses recall to state employment located within a 75-mile radius of the agency from which the employee was laid off.*

(D) *The employee is recalled to an indefinite appointment in a position covered by a collective bargaining agreement, in which case the agreement controls.*

(E) *The employee is hired for any position outside of the classified service and the initial base hourly rate for the position is 75 percent or more of the employee’s final base hourly rate in the position from which the employee was laid off.*

(b) Time limits. *The appointing authority shall notify an employee of the employee’s severance pay option 6 months and 12 months after the layoff.*

(1) *The employee may accept in writing the lump sum severance payment at any time after the first notice until 14 calendar days after the second notice. The employee is deemed to have rejected severance pay if the employee does not timely accept the severance pay in writing.*

(2) *If the employee accepts severance pay, the appointing authority shall pay the employee within 60 calendar days and remove the employee’s name from all recall and layoff lists.*

(3) *Acceptance of severance pay constitutes a break in service and terminates any rights to continuous service credits for any purpose, including annual leave accrual and longevity.*

(c) **Severance pay rates.** *The severance payment for an eligible employee who accepts severance pay is determined by the regulations and the following table:*

<i>Years of Service</i>	<i>Weeks of Severance Pay</i>	<i>Years of Service</i>	<i>Weeks of Severance Pay</i>
1	1	13	24
2	2	14	27
3	3	15	30
4	4	16	33
5	5	17	36
6	7	18	39
7	9	19	42
8	11	20	45
9	13	21	48
10	15	22	51
11	18	23 or more	52
12	21		

(d) *If an employee receives a severance payment, the employee may be rehired in the classified service only under the conditions provided in the regulations.*

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3. **DEFINITIONS**

A. Definitions as used in this Regulation

1. **Layoff** means a termination of active state employment solely as a direct result of a reduction in force.
2. **Severance payment** means a lump sum payment in accordance with the approved pay schedule granted to eligible employees in return for forfeiting all recall rights.
3. **Week's pay** means an employee's gross pay for 40 hours of work at straight time rates excluding premiums, such as shift differential and "P" rate.
4. **Year of service** means one year of seniority (2,080 hours) as defined in the HRMN "continuous service hours" counter.

4. STANDARDS

A. Eligibility.

1. Department of Health and Human Services "agency-based" employees who meet the eligibility criteria of standard A.3. are eligible for severance pay if they have been laid off because of deinstitutionalization of the Department of Health and Human Services resident population after October 1, 1996.
2. Nonexclusively represented employees who meet the eligibility criteria of Standard A.3. and who are indefinitely laid off may be eligible for severance pay if monies exist in a special severance fund approved by the Civil Service Commission.
3. Employees who meet the above eligibility criteria are eligible for severance pay if they (1) have more than one year of state service at time of layoff; (2) have been laid off for 6 months or more; (3) are in satisfactory employment status; and (4) are not in a temporary or limited-term appointment.
4. Otherwise eligible employees are disqualified from receiving severance pay under any of the following conditions:
 - a. The employee dies before accepting payment.
 - b. The employee is hired for any position within the classified service.
 - (1) Disqualification occurs upon date of hire, unless the new position requires completion of a probationary period.
 - (2) Disqualification occurs upon completion of probationary period, if one is required.

Note: If the required probationary period is not completed and the employee is separated, such time of employment is bridged for purposes of the time limits for severance pay.
 - c. The employee refuses recall to state employment located within a 75 mile radius of the agency from which laid off.
 - d. The employee is permanently recalled to another job in state government covered by a collective bargaining agreement, in which case the agreement will control.
 - e. If the employee is hired for any position outside of the state classified civil service and the initial base hourly rate for that new employment is 75 percent or more of the employee's final base hourly rate of the position from which the employee was laid off.

B. Time Limitations.

The agency must notify eligible employees of the option of severance pay after 6 months of layoff, and again after 12 months of layoff.

1. The employee may accept in writing the lump sum severance payment at any time from receipt of first notice until 14 calendar days after receipt of second notice. An employee who does not accept severance payment in writing within the prescribed time frame is deemed to have permanently rejected the payment.

2. If payment is accepted, the agency must, within 60 calendar days, make payment to the employee and remove the employee's name from all recall lists.
3. Acceptance of severance pay constitutes a break in service and terminates rights to continuous service credits for all purposes, including annual leave accrual rate and longevity.

C. Amount of Severance Pay.

Eligible employees who accept severance payment are paid in accordance with the severance pay table in rule 5-6.10(c).

1. The appointing authority deducts from the severance payment any amount required to be withheld by reason of law or regulation for payment of taxes to federal, state, county, or municipal government.
2. Eligible employees who work less than full-time (80 hours per pay period) receive a proportional severance payment. The appointing authority calculates the average number of hours the employee worked for the calendar year preceding layoff. This number is used to determine the proportion of time in relation to full-time employment. This proportion is then applied to the severance pay table for purposes of payment.

EXAMPLE OF SEVERANCE PAY FOR A LESS THAN FULL-TIME EMPLOYEE

Average number of hours worked in previous calendar year:	1,980 hours
Full-time employee hours:	2,088 hours
Proportion (or percentage):	1,980 = 94.8% of 2,088
.948 X severance payment from table = gross amount to be paid	

D. Return to State Service.

1. **An employee recalled to state service before exercising the option of severance pay.**
 - a. An employee temporarily recalled for less than 60 calendar days has this time bridged for purposes of counting the time in accordance with standard A.
 - b. An employee permanently (more than 60 calendar days) recalled to a position qualifying for severance pay, and subsequently laid off, is eligible for severance pay, if the employee meets all of the requirements of this procedure. The time limits are applied from the date of the most recent layoff.

2. An employee who has received severance payment and is rehired into state service.

- a. An employee rehired after two years have elapsed since receipt of severance payment is treated as any other employee who has separated and returns to state employment.
- b. An employee who returns within two years of acceptance of severance payment must:
 - (1) Repay the state the net amount of the severance payment received.
 - (a) The employee has a 12 month period in which to make repayment to the agency from which severance payment was received.
 - (b) Time limitations for repayment begin with the date of return to state service or upon the completion of any required probationary period.
 - (c) The method and time schedule for repayment must be documented in a written agreement between the employee and the appointing authority.
 - (2) Have current hours restored from prior service hours when repayment of severance pay is made in full.

E. Effect on Retirement.

The acceptance or rejection of severance pay has no effect on vested pension rights under the State Retirement Act. Severance payment will not be included in the computation of compensation for the purpose of calculating retirement benefits.

F. Payment.

1. The appointing authority must notify eligible employees in writing of the option of severance pay at the completion of six months of layoff and again at the completion of 12 months of layoff.
2. Upon receipt of a laid-off employee's written acceptance of the severance pay option, the appointing authority must do the following:
 - a. Provide for payment to the employee by having the necessary forms completed and gross pay adjustment processed.
 - b. Immediately provide copies of the severance pay form to the Office of the State Employer and Civil Service for removal of the name from all recall lists.

Note: A laid-off worker whose name is currently included in a candidate pool for consideration at the time the Office of the State Employer or Civil Service receives notification of the severance payment remains eligible for appointment.

G. Rehire.

1. After more than two years have elapsed since an employee has received severance payment, the employee is only returned to the state service as either a new hire or a reinstatement in accordance with regular procedures for such appointments. All state service time before receipt of severance pay is transferred to the prior service counter, and cannot be restored as continuous service credit under any condition.
2. If an employee who has received severance pay is returned to state service within 2 years from the date of receipt of such payment, the employee is subject to the following:
 - a. The employee is initially returned to state service as a reinstatement. Current continuous service time which existed at the time of the severance payment is transferred to the prior service counter.
 - b. If the employee returns to state service in a different calendar year from the one in which the payment was made, the employee is credited with an initial annual leave grant of 16 hours. The employee is credited with annual leave at the rate of four hours for each 80 hours of completed service in the same manner as a new hire.
 - c. The employee is notified in writing that contact must be made with the appointing authority of the agency from which the severance payment was made to arrange for a repayment schedule for both severance payment and sick leave payoff (if applicable).
 - d. The employee must notify the current agency in writing of the arrangements that have been made and the time frame within which they are to be completed.
 - e. The employee is treated as a newly reinstated employee during the entire period of repayment. The employee accrues annual leave at the rate of four hours for each 80 hours of paid service and, even if the employee had been previously eligible for longevity payment, does not receive credit for this period of time toward an annual longevity payment.
 - f. At the completion of repayment, the employee's current agency changes the reinstatement to a return from layoff.
 - (1) The agency restores to the continuous service hours counter from the prior service hours counter, those hours the employee had in the continuous service hours counter at the time the severance payment was made.
 - (2) The agency re-credits all sick leave hours the employee had at the time that the severance payment was made.
 - (3) If the employee qualified for an initial longevity payment, but had not received one before being laid off, the agency must make this initial payment to the employee.

- (4) If the employee has previously qualified for longevity, returns in one fiscal year, and completes repayment in another, the agency must make a pro-rata longevity payment to the employee for such hours worked in the previous fiscal year.
 - (5) When the employee has made complete and total repayment of severance pay and the agency has made the necessary adjustments in the employee's history and hours counters, the employee is eligible to buy back paid off annual leave. The eligibility and time limits of the employee to make this purchase start from the date that the final repayment of severance pay is made. All regular procedures for buy back must be followed.
3. Under no circumstances may the appointing authority do any of the following:
 - a. Make any adjustment in the 16 hour initial annual leave grant.
 - b. Retroactively adjust the annual leave counter for any differences that may have occurred between the accrual rate for each 80 hours of service the employee had been receiving while making repayment and the accrual rate the employee would have received, based on the service hours after restoration.
 - c. Allow the employee to use any re-credited sick leave hours for any lost time the employee may have due to illness during the period of repayment.
4. The employee is not placed on any recall lists.

CONTACT

Questions regarding this regulation should be directed to Compensation, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone, at 517-335-7862, 517-373-7618, or 1-800-788-1766; or by e-mail to MCSC-Compensation@mi.gov.