

FILE NO. 040194

ORDINANCE NO. 84-04

1 [Amending the Employee Catastrophic Illness Program to Authorize Employee
2 Reimbursement of Program for Disability Benefits and Transfer of Unused Hours to Pool at
3 End of Participation in Program.]

4 **Ordinance amending Section 16.9-29A(d) of the San Francisco Administrative Code to**
5 **authorize employee reimbursement of the Catastrophic Illness Program upon**
6 **qualification for or receipt of disability benefits and amending Section 16.9-29A(i) of the**
7 **San Francisco Administrative Code to authorize employee transfer of unused hours to**
8 **pool if participation in Catastrophic Illness Program expires or is terminated.**

9 Note: Additions are *single-underline italics; Times New Roman*; deletions
10 are ~~*strikethrough italic; Times New Roman*~~
11 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Article 16 of the San Francisco Administrative Code is hereby amended by
14 amending Sections 16.9-29A(d) and (i) to read as follows:

15 Sec. 16.9-29A. T. J. ANTHONY EMPLOYEE CATASTROPHIC ILLNESS PROGRAM -
16 - TRANSFER OF SICK LEAVE AND VACATION CREDITS TO INDIVIDUAL
17 CATASTROPHICALLY ILL EMPLOYEES OR TO A POOL OF CATASTROPHICALLY ILL
18 EMPLOYEES.

19 **(a) Purpose.**

20 To enable catastrophically-ill employees to continue to be paid through
21 donations of sick leave and vacation hours from other employees, as authorized by Charter
22 Sections A8.364 and A8.441. This program shall be known as the Catastrophically Ill
23 Program, or "CIP." This Section only provides for receipt of such credits as are donated and
24 does not provide for an absolute right of continued paid leave.

25 **(b) Establishment of Pool; Administration and Rule-Making Authority.**

Supervisor Ammiano, Daly
BOARD OF SUPERVISORS

1 There is hereby established a pool into which employees may donate sick leave
2 and/or vacation credits to benefit catastrophically-ill employees. The Controller shall have
3 authority to administer the CIP program, including the authority to make and enforce rules not
4 inconsistent with this Section, with consultation from the Director of Health.

5 **(c) Definitions.**

6 (1) A "catastrophic illness" shall mean a life-threatening illness or injury, as
7 determined by the Department of Public Health.

8 (2) An "active participant" in the CIP is defined as a City employee who has
9 applied for Catastrophic Illness Status and been notified of his or her acceptance in the CIP
10 by the Department of Public Health or its designee and whose participation in the CIP has not
11 terminated, regardless of whether or not the employee has actually received or used any
12 donated sick leave and/or vacation credits.

13 **(d) Eligibility of Employees To Participate in CIP.**

14 Any employee of the City and County of San Francisco may participate in the
15 CIP if the employee meets all of the following conditions:

16 (1) the employee is eligible to accumulate and use sick leave and vacation
17 credits;

18 (2) the employee is catastrophically ill;

19 (3) the employee has exhausted all of his/her available paid leave; and

20 (4) the employee does not participate in a short or long-term disability
21 program for which the City pays in whole, directly or indirectly, or if the employee participates
22 in such a program, the employee agrees to, and does, apply for disability benefits immediately
23 upon becoming eligible for such benefits. Any employee who participates in a short or long-
24 term disability program for which the City pays in whole, directly or indirectly, may participate
25 in the CIP program until the employee receives or is qualified to receive benefits under the

1 terms of a short or long-term disability program for which the City pays in whole, directly or
2 indirectly. Any employee who is receiving or is qualified to receive short or long term disability
3 benefits from a short or long term disability program for which the City pays in whole, directly
4 or indirectly, may not participate in the CIP program until and unless the employee's disability
5 benefits terminate. Any employee who, while or after participating in the CIP program, retroactively
6 receives or is qualified to receive short or long term disability benefits from a short or long term
7 disability program for which the City pays in whole, directly or indirectly, must reimburse the City for
8 the CIP payments received during the period which the short or long term disability program applies.
9 Failure to do so will result in the City's placing a lien for the unreimbursed amount on the employee's
10 future wages and benefits (not including workers' compensation or retirement). This paragraph does
11 not apply to employees who are active participants in the CIP as of the effective date of this
12 Amendment and have been active participants since March 29, 2002.

13 **(e) Procedure for Applying for Catastrophic Illness Status.**

14 (1) An employee must complete a prescribed application form and return it to
15 the Department of Public Health, together with supporting medical documentation. The
16 Department of Public Health shall produce and maintain sufficient quantities of the prescribed
17 application for employee access and distribution.

18 (2) The Department of Public Health or its designee shall examine the
19 documentation supporting the application. The Department of Public Health or its designee
20 may ask the applicant to submit further documentation and/or to submit to examination by a
21 physician that it designates to determine in fact that the applicant does suffer from a
22 catastrophic illness within the meaning of this Section. An applicant's failure to comply with
23 these requirements may be grounds for rejection of the application.

24 (3) In order to continue to qualify as catastrophically ill, a CIP employee may
25 from time to time be required to submit to specified examination, or to supply further

1 documentation of current medical status, as is necessary in the opinion of the Department of
2 Public Health or its designee; provided, however, that such requests shall not be made for the
3 purpose of harassing said employee. In addition, an employee may be required to submit
4 documentation of application for and/or status of disability benefits.

5 (4) If the Department of Public Health determines that an employee is not
6 catastrophically ill, the employee shall have a right to appeal the decision through an
7 administrative appeal process to be established by the Health Commission, which shall
8 include the right to a review by the Director of Health and, finally, a hearing before the Health
9 Commission. The Department of Public Health shall provide the employee with a written letter
10 setting forth the reasons for denial and the procedure for filing an administrative appeal. The
11 Health Commission shall promulgate and post the administrative appeal rules within 60 days
12 of the effective date of this ordinance. The administrative appeal process in its entirety shall
13 not exceed 60 days. An employee whose application has been disapproved is not obligated to
14 exhaust the administrative appeals process before reapplying. Instead, the employee may
15 reapply after observing a 30-day waiting period from the date of the initial denial.

16 **(f) Posting of Eligible Recipients.**

17 (1) The Department of Public Health shall assign an exclusive number to
18 each catastrophically ill employee deemed eligible to participate in the CIP.

19 (2) The Department of Public Health shall maintain, reproduce and post a
20 running list of CIP employees, to be identified only by their exclusive numbers, in order to let
21 transferring employees designate a recipient.

22 (3) The list may include the amounts of sick leave and vacation credits
23 already transferred or on reserve to each CIP employee.

24 (4) In all cases, the Department of Public Health and its designees shall
25 shield and protect the true identities of CIP employees.

1 **(g) Eligibility to Transfer Sick Leave and/or Vacation Credits.**

2 Any employee of the City and County of San Francisco who is eligible to
3 accumulate and use vacation credits and sick leave may transfer sick leave and/or vacation
4 credits to the CIP pool or to an individual CIP employee, subject to the following conditions:

5 (1) The transferring employee must retain a minimum sick leave balance of
6 64 hours.

7 (2) Transfers must be in units of eight hours.

8 (3) All transfers are irrevocable.

9 (4) The transferring employee may transfer hours to the CIP (pool or
10 individual) only once per pay period.

11 (5) The transferring employee may transfer a maximum of 160 hours per pay
12 period, of which no more than 80 hours may be to individual CIP employees.

13 (6) The transferring employee may transfer a maximum of 480 hours per
14 fiscal year to the pool and to individual CIP employees combined.

15 (7) Neither a transferring employee nor a CIP employee may be in violation
16 of Subsection (k).

17 **(h) Use of Transferred Sick Leave and Vacation Credits.**

18 (1) All hours transferred shall be credited as sick leave for the CIP employee.
19 As they are used, they shall be treated as the employee's own sick leave for all purposes,
20 including for continued accrual of vacation credits, sick leave, and retirement service; service
21 for pay increments; and eligibility for holiday pay.

22 (2) At the beginning of each pay period, a CIP employee must use all sick
23 leave and vacation credits accrued during the previous pay period before using any
24 transferred hours.

1 (3) A CIP employee may use transferred hours retroactively from the date of
2 certification of eligibility back to the date of application.

3 (4) A CIP employee may use transferred credits in a pay period to the extent
4 that when combined with other compensation from the City and County and all other benefits
5 from public sources, the total does not exceed the pay for 100 percent of the employee's
6 regularly scheduled hours for such pay period (excluding regularly scheduled overtime and
7 premium pay). A CIP employee may be required to provide financial records to prove
8 compliance with this subsection. Failure to provide such records is grounds for exclusion from
9 the CIP.

10 (i) **Redistribution of Transferred Hours Upon Termination of Participation In**
11 **CIP.**

12 If a CIP employee dies, retires, resigns or begins receiving disability benefits
13 before having used all hours transferred pursuant to this Section, the unused hours shall be
14 transferred to the CIP pool. If a CIP employee ~~returns to work and terminates~~ participation in
15 the CIP expires or is terminated before ~~having the employee has~~ used all hours transferred
16 pursuant to this Section, all unused hours in excess of 64 hours shall be transferred to the CIP
17 pool.

18 (j) **Confidentiality.**

19 (1) All medical records submitted by an employee pursuant to this statute are
20 to be kept confidential by the Department of Public Health or its designee.

21 (2) Until the Department of Public Health has rendered its opinion pursuant
22 to Subsection (d) that the employee is catastrophically ill, the fact of an employee's application
23 is to be kept confidential by the parties processing the application and not shared with the
24 employee's department head.

1 (3) The names of employees donating hours pursuant to this provision are to
2 remain confidential.

3 (4) Violation of the provisions of this subsection or any other provision
4 relating to confidentiality protections shall be grounds for disciplinary action.

5 **(k) No Selling or Coercion.**

6 (1) No individual shall directly or indirectly solicit the receipt of, or accept, any
7 compensation in full or partial exchange, directly or indirectly, for sick leave or vacation credits
8 to be transferred pursuant to this Section.

9 (2) No individual shall solicit the receipt of, or accept, the transfer of any sick
10 leave or vacation credits pursuant to this Section in full or partial ex-change, directly or
11 indirectly, for any compensation.

12 (3) No individual shall threaten or in any way attempt to coerce an employee
13 with respect to transfer of sick leave or vacation credits pursuant to this Section.

14 (4) Violation of the provisions of this subsection shall be grounds for
15 termination of participation in the CIP and for disciplinary action.

16 **(l) Notices.**

17 The Civil Service Commission shall develop notices with relevant information
18 about the CIP. These notices shall be distributed to all appointing officers who shall then post
19 them in public places where other notices advising employees of rights and benefits are
20 posted.

21 **(m) Termination of this Provision.**

22 Unless otherwise specified by ordinance or Charter provision, the provisions of
23 this Section shall expire upon the effective date of an ordinance or Charter section instituting,
24 or upon the effective date of the last MOU through which all City employees are covered by, a
25 long-term disability program.

1 **(n) Limitation.**

2 In undertaking the adoption and enforcement of this ordinance, the City and
3 County of San Francisco is assuming an undertaking only to promote the general welfare. It is
4 not assuming, nor is it imposing on its officers and employees, an obligation for breach of
5 which it is liable in money damages to any person who claims that such breach proximately
6 caused injury.

7 SEC. 16.9-29B. PROGRAM FOR EMPLOYEES WITH CATASTROPHICALLY ILL
8 FAMILY MEMBERS -- TRANSFER OF VACATION CREDITS TO INDIVIDUAL EMPLOYEES
9 WITH A CATASTROPHICALLY ILL FAMILY MEMBER.

10 **(a) Purpose.**

11 To create a program, as authorized by Charter Section A8.441, to allow
12 employees with catastrophically ill family members to receive donations of vacation credits to
13 take time off to care for their ill family member. This program shall be known as the
14 Catastrophically Ill Program for Family Members, or "CIP-FM." This Section only provides for
15 receipt of such credits as are donated and does not provide for an absolute right of continued
16 paid leave.

17 **(b) Administration and Rule-Making Authority.**

18 The Controller shall have authority to administer the CIP-FM program, including
19 the authority to make and enforce rules not inconsistent with this Section, with consultation
20 from the Director of Health.

21 **(c) Definitions.**

22 (1) A catastrophic illness shall mean a life-threatening illness or injury, as
23 determined by the Department of Public Health.
24
25

1 (2) "Family member" means a spouse, registered domestic partner, or
2 another dependent as dependent is defined in the Internal Revenue Code (26 U.S.C. sec. 152
3 as amended from time to time).

4 **(d) Eligibility of Employee To Participate in CIP-FM Program.**

5 In order to participate in the CIP-FM, an employee must meet all of the following
6 conditions:

- 7 (1) The employee must be eligible to accumulate and use sick leave credits;
8 (2) The employee must have exhausted all of his/her available paid leave;
9 (3) The employee must have a catastrophically-ill family member; and
10 (4) The employee must need to take time off from work to care for the
11 catastrophically ill family member.

12 **(e) Procedure for Applying to Participate in CIP-FM.**

13 (1) An employee must complete a prescribed application form and return it to
14 the Department of Public Health, together with supporting medical documentation. The
15 Department of Public Health shall produce and maintain sufficient quantities of the prescribed
16 application for employee access and distribution.

17 (2) The Department of Public Health or its designee shall examine the
18 application and supporting documentation. The Department of Public Health or its designee
19 may ask the employee to submit further documentation or the family member to submit to
20 examination by a physician. Failure to comply with these requirements may be grounds for
21 rejection of the application.

22 (3) In order for the employee to continue to participate in the program, an
23 employee may from time to time be required to supply further documentation, or the family
24 member may be required to submit to specified examination, as is necessary in the opinion of
25

1 the Department of Public Health or its designee; provided, however, that such requests shall
2 not be made for the purpose of harassment.

3 (4) If the Department of Public Health determines that an employee's family
4 member is determined not to be catastrophically ill, the employee shall have a right to appeal
5 the decision through an administrative appeal process to be established by the Health
6 Commission, which shall include the right to a review by the Director of Health and, finally, a
7 hearing before the Health Commission. The Department of Public Health shall provide the
8 employee with written notice setting forth the reasons for denial and the procedure for filing an
9 administrative appeal. The Health Commission shall promulgate and post the administrative
10 appeal rules within 60 days from the effective date of this ordinance. The administrative
11 appeal process in its entirety shall not exceed 60 days. An employee whose application has
12 been disapproved is not obligated to exhaust the administrative appeals process before
13 reapplying. Instead, the employee may reapply after observing a 30-day waiting period from
14 the date of the initial denial.

15 **(f) Posting of Eligible Recipients.**

16 (1) The Department of Public Health shall assign an exclusive number to
17 each employee deemed eligible to participate in the CIP-FM.

18 (2) The Department of Public Health shall maintain, reproduce and post a
19 running list of CIP-FM employees, to be identified only by their special numbers, in order to let
20 transferring employees designate a recipient.

21 (3) The list may include the amount of vacation credits already transferred or
22 on reserve to each employee; and

23 (4) In all cases, the Department of Public Health and its designees shall keep
24 confidential the true identities of CIP-FM employees and their catastrophically ill family
25 member.

1 **(g) Eligibility to Transfer Vacation Credits to Individual CIP-FM Employees.**

2 Any employee of the City and County of San Francisco who is eligible to
3 accumulate and use vacation credits may transfer vacation credits to an individual CIP-FM
4 employee, subject to the following conditions:

- 5 (1) Transfers must be in units of eight hours;
- 6 (2) All transfers are irrevocable;
- 7 (3) The transferring employee may transfer hours to the CIP-FM only once
8 per pay period;
- 9 (4) The transferring employee may transfer a maximum of 80 hours per pay
10 period;
- 11 (5) The transferring employee may transfer a maximum of 480 hours per
12 fiscal year to the CIP-FM program; and
- 13 (6) Neither a transferring employee nor a recipient may be in violation of
14 Subsection (k).

15 **(h) Use of Transferred Vacation Credits By a CIP-FM Employee.**

- 16 (1) All hours transferred shall be credited as sick leave for the CIP-FM
17 employee. As they are used, they shall be treated as use of the employee's own sick leave
18 for all purposes, including for continued accrual of vacation credits, sick leave, and retirement
19 service; service for pay increments; and eligibility for holiday pay.
- 20 (2) At the beginning of each pay period, a CIP-FM employee must use all
21 sick leave and vacation credits accrued during the previous pay period before using any
22 transferred hours.
- 23 (3) A CIP-FM employee may use transferred credits in a pay period to the
24 extent that when combined with other compensation from the City and County and all other
25 benefits from public sources, the total does not exceed the pay for 100 percent of the

1 employee's regularly scheduled hours for such pay period (excluding regularly scheduled
2 overtime and premium pay). A CIP-FM employee may be required to provide financial
3 records to prove compliance with this subsection. Failure to provide such records is grounds
4 for exclusion from the CIP-FM and disciplinary action.

5 **(i) Redistribution of Transferred Hours Upon Termination of Participation In**
6 **CIP-FM.**

7 If a CIP-FM employee dies, retires, resigns, or otherwise ends participation in
8 the CIP-FM before having used all hours transferred pursuant to this provision, all unused
9 hours in excess of 64 shall be redistributed to other CIP-FM employees.

10 **(j) Confidentiality.**

11 (1) All medical records submitted pursuant to this statute are to be kept
12 confidential by the Department of Public Health or its designee.

13 (2) Until the Department of Public Health has rendered its opinion pursuant
14 to Subsection (d) that an employee's family member is catastrophically ill, the fact of an
15 employee's application is to be kept confidential by the parties processing the application and
16 not shared with the employee's department head.

17 (3) The names of employees donating hours pursuant to this provision are to
18 remain confidential.

19 (4) Violation of the provisions of this subsection or any other relating to
20 confidentiality protections shall be grounds for disciplinary action.

21 **(k) No Selling or Coercion.**

22 (1) No individual shall directly or indirectly solicit the receipt of, or accept, any
23 compensation in full or partial exchange, directly or indirectly, for vacation credits to be
24 transferred pursuant to this Section.

1 (2) No individual shall solicit the receipt of, or accept, the transfer of any
2 vacation credits pursuant to this Section in full or partial exchange, directly or indirectly, for
3 any compensation.

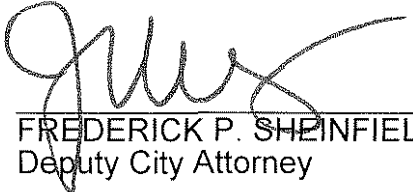
4 (3) No individual shall threaten or in any way attempt to coerce an employee
5 with respect to transfer of vacation credits pursuant to this Section.

6 (4) Violation of the provisions of this subsection shall be grounds for
7 termination of participation in the CIP-FM and for disciplinary action.

8 (I) **Notices.**

9 The Civil Service Commission shall develop notices with relevant information
10 about the CIP-FM. These notices shall be distributed to all appointing officers who shall then
11 post them in public places where other notices advising employees of rights and benefits are
12 posted.

13
14
15
16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18
19 By: 
20 FREDERICK P. SHEINFIELD
21 Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 040194

Date Passed:

Ordinance amending Section 16.9-29A(d) of the San Francisco Administrative Code to authorize employee reimbursement of the Catastrophic Illness Program upon qualification for or receipt of disability benefits and amending Section 16.9-29A(i) of the San Francisco Administrative Code to authorize employee transfer of unused hours to pool if participation in Catastrophic Illness Program expires or is terminated.

April 27, 2004 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Peskin, Sandoval

May 11, 2004 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Alioto-Pier, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Peskin, Sandoval


Excused: 1 - Ammiano

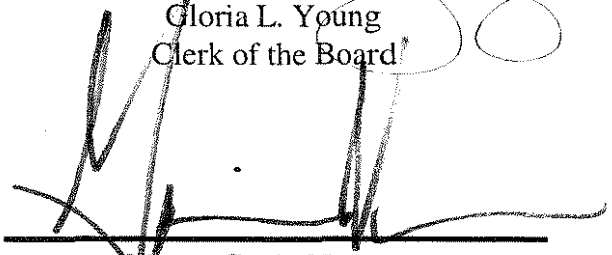
File No. 040194

I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on May 11, 2004 by
the Board of Supervisors of the City and
County of San Francisco.

MAY 20 2004

Date Approved


Gloria L. Young
Clerk of the Board


Mayor Gavin Newsom