

1 [Administrative Code - Catastrophic Illness Programs]

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3 **Ordinance amending the Administrative Code to authorize the Department of Public**
4 **Health to designate another City department to carry out various functions in the**
5 **administration of the Catastrophic Illness Program for City employees and the**
6 **Catastrophic Illness Program for family members of City employees.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

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

15 Section 1. The Administrative Code is hereby amended by revising Sections 16.9-29A
16 and 16.9-29B, to read as follows:

17 **SEC. 16.9-29A. T. J. ANTHONY EMPLOYEE CATASTROPHIC ILLNESS**
18 **PROGRAM – TRANSFER OF SICK LEAVE AND VACATION CREDITS TO INDIVIDUAL**
19 **CATASTROPHICALLY ILL EMPLOYEES OR TO A POOL OF CATASTROPHICALLY ILL**
20 **EMPLOYEES.**

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

(b) **Establishment of Pool; Administration and Rule-Making Authority.** There is
hereby established a pool into which employees may donate sick leave and/or vacation

1 credits to benefit catastrophically-ill employees. The Controller shall have authority to
2 administer the CIP program, including the authority to make and enforce rules not inconsistent
3 with this Section, with consultation from the Director of Health *or his or her designee*.

4 (c) **Definitions.**

5 (1) A “catastrophic illness” shall mean a life-threatening illness or injury, as
6 determined by the Department of Public Health *or its designee*.

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

12 (d) **Eligibility of Employees To Participate in CIP.** Any employee of the City and
13 County of San Francisco may participate in the CIP if the employee meets all of the following
14 conditions:

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

17 (2) The employee is catastrophically ill;

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

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

1 Any employee who is receiving or is qualified to receive short or long term disability benefits
2 from a short or long term disability program for which the City pays in whole, directly or
3 indirectly, may not participate in the CIP program until and unless the employee's disability
4 benefits terminate. Any employee who, while or after participating in the CIP program,
5 retroactively receives or is qualified to receive short or long term disability benefits from a
6 short or long term disability program for which the City pays in whole, directly or indirectly,
7 must reimburse the City for the CIP payments received during the period which the short or
8 long term disability program applies. Failure to do so will result in the City's placing a lien for
9 the unreimbursed amount on the employee's future wages and benefits (not including
10 workers' compensation or retirement-). This paragraph does not apply to employees who are
11 active participants in the CIP as of April 29, 2002 ~~the effective date of this Amendment~~ and have
12 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 or its designee, together with supporting medical
16 documentation. The Department of Public Health or its designee shall produce and maintain
17 sufficient quantities of the prescribed 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 or its designee determines that an
6 employee is not catastrophically ill, the employee shall have a right to appeal the decision
7 through an administrative appeal process to be established by the Health Commission, which
8 shall include the right to a review by the Director of Health and, finally, a hearing before the
9 Health Commission. The Department of Public Health or its designee shall provide the
10 employee with a written letter setting forth the reasons for denial and the procedure for filing
11 an administrative appeal. The Health Commission shall promulgate and post the
12 administrative appeal rules ~~within 60 days of the effective date of this ordinance~~. The
13 administrative appeal process in its entirety shall not exceed 60 days. An employee whose
14 application has been disapproved is not obligated to exhaust the administrative appeals
15 process before reapplying. Instead, the employee may reapply after observing a 30-day
16 waiting period from the date of the initial denial.

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

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

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

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

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

3 (g) **Eligibility to Transfer Sick Leave and/or Vacation Credits.** Any employee of the
4 City and County of San Francisco who is eligible to accumulate and use vacation credits and
5 sick leave may transfer sick leave and/or vacation credits to the CIP pool or to an individual
6 CIP employee, subject to the following conditions:

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

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

10 (3) All transfers are irrevocable.

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

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

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

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

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

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

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

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

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

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

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

19 (j) **Confidentiality.**

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

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

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

3 (4) Violation of the provisions of this subsection (j) 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 exchange, 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 (k) shall be grounds for
15 termination of participation in the CIP and for disciplinary action.

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

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

24 (n) **Limitation.** In undertaking the adoption and enforcement of this ordinance, the
25 City and County of San Francisco is assuming an undertaking only to promote the general

1 welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for
2 breach of which it is liable in money damages to any person who claims that such breach
3 proximately caused injury.
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5 **SEC. 16.9-29B. PROGRAM FOR EMPLOYEES WITH CATASTROPHICALLY ILL**
6 **FAMILY MEMBERS – TRANSFER OF VACATION CREDITS TO INDIVIDUAL**
7 **EMPLOYEES WITH A CATASTROPHICALLY ILL FAMILY MEMBER.**

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

14 (b) **Administration and Rule-Making Authority.** The Controller shall have authority
15 to administer the CIP-FM program, including the authority to make and enforce rules not
16 inconsistent with this Section, with consultation from the Director of Health *or his or her*
17 *designee*.

18 (c) **Definitions.**

19 (1) A catastrophic illness shall mean a life-threatening illness or injury, as
20 determined by the Department of Public Health *or its designee*.

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

24 (d) **Eligibility of Employee To Participate in CIP-FM Program.** In order to
25 participate in the CIP-FM, an employee must meet all of the following conditions:

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

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

7 (1) An employee must complete a prescribed application form and return it to
8 the Department of Public Health or its designee, together with supporting medical
9 documentation. The Department of Public Health or its designee shall produce and maintain
10 sufficient quantities of the prescribed application for employee access and distribution.

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

16 (3) In order for the employee to continue to participate in the program, an
17 employee may from time to time be required to supply further documentation, or the family
18 member may be required to submit to specified examination, as is necessary in the opinion of
19 the Department of Public Health or its designee; provided, however, that such requests shall
20 not be made for the purpose of harassment.

21 (4) If the Department of Public Health or its designee determines that an
22 employee's family member is ~~determined~~ not ~~to be~~ catastrophically ill, the employee shall have
23 a right to appeal the decision through an administrative appeal process to be established by
24 the Health Commission, which shall include the right to a review by the Director of Health and,
25 finally, a hearing before the Health Commission. The Department of Public Health or its

1 designee shall provide the employee with written notice setting forth the reasons for denial and
2 the procedure for filing an administrative appeal. The Health Commission shall promulgate
3 and post the administrative appeal rules ~~within 60 days from the effective date of this ordinance.~~
4 The administrative appeal process in its entirety shall not exceed 60 days. An employee
5 whose application has been disapproved is not obligated to exhaust the administrative
6 appeals process before reapplying. Instead, the employee may reapply after observing a 30-
7 day waiting period from the date of the initial denial.

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

9 (1) The Department of Public Health or its designee shall assign an exclusive
10 number to each employee deemed eligible to participate in the CIP-FM.

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

14 (3) The list may include the amount of vacation credits already transferred or
15 on reserve to each employee, ~~and~~

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

19 (g) **Eligibility to Transfer Vacation Credits to Individual CIP-FM Employees.** Any
20 employee of the City and County of San Francisco who is eligible to accumulate and use
21 vacation credits may transfer vacation credits to an individual CIP-FM employee, subject to
22 the following conditions:

23 (1) Transfers must be in units of eight hours;

24 (2) All transfers are irrevocable;

1 (3) The transferring employee may transfer hours to the CIP-FM only once per
2 pay period;

3 (4) The transferring employee may transfer a maximum of 80 hours per pay
4 period;

5 (5) The transferring employee may transfer a maximum of 480 hours per fiscal
6 year to the CIP-FM program; and

7 (6) Neither a transferring employee nor a recipient may be in violation of
8 Subsection (k).

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

10 (1) All hours transferred shall be credited as sick leave for the CIP-FM
11 employee. As they are used, they shall be treated as use of the employee's own sick leave for
12 all purposes, including for continued accrual of vacation credits, sick leave, and retirement
13 service; service for pay increments; and eligibility for holiday pay.

14 (2) At the beginning of each pay period, a CIP-FM employee must use all sick
15 leave and vacation credits accrued during the previous pay period before using any
16 transferred hours.

17 (3) A CIP-FM employee may use transferred credits in a pay period to the
18 extent that when combined with other compensation from the City and County and all other
19 benefits from public sources, the total does not exceed the pay for 100 percent of the
20 employee's regularly scheduled hours for such pay period (excluding regularly scheduled
21 overtime and premium pay). A CIP-FM employee may be required to provide financial records
22 to prove compliance with this subsection. Failure to provide such records is grounds for
23 exclusion from the CIP-FM and disciplinary action.

24 (i) **Redistribution of Transferred Hours Upon Termination of Participation in CIP-**
25 **FM.** If a CIP-FM employee dies, retires, resigns, or otherwise ends participation in the CIP-FM

1 before having used all hours transferred pursuant to this provision, all unused hours in excess
2 of 64 shall be redistributed to other CIP-FM employees.

3 **(j) Confidentiality.**

4 (1) All medical records submitted pursuant to this statute ~~are to~~ shall be kept
5 confidential by the Department of Public Health or its designee;

6 (2) Until the Department of Public Health or its designee has rendered its opinion
7 pursuant to Subsection (d) that an employee's family member is catastrophically ill, the fact of
8 an employee's application ~~is to~~ shall be kept confidential by the parties processing the
9 application and not shared with the employee's department head.

10 (3) The names of employees donating hours pursuant to this provision ~~are to~~
11 shall remain confidential.

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

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

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

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

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

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

1 (l) **Notices.** The Civil Service Commission shall develop notices with relevant
2 information about the CIP-FM. These notices shall be distributed to all appointing officers who
3 shall then post them in public places where other notices advising employees of rights and
4 benefits are posted.

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


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11 Section 2. **Effective Date.** This ordinance shall become effective 30 days after
12 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
14 of Supervisors overrides the Mayor's veto of the ordinance.

15
16 Section 3. **Scope of Ordinance.** In enacting this ordinance, the Board of Supervisors
17 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
18 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
19 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
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1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

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4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By:


7 JON GIVNER
8 Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

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

File Number: 140909

Date Passed: November 25, 2014

Ordinance amending the Administrative Code to authorize the Department of Public Health to designate another City department to carry out various functions in the administration of the Catastrophic Illness Program for City employees and the Catastrophic Illness Program for family members of City employees.

November 06, 2014 Rules Committee - RECOMMENDED

November 18, 2014 Board of Supervisors - PASSED ON FIRST READING

Ayes: 10 - Avalos, Breed, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

Excused: 1 - Campos

November 25, 2014 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Avalos, Breed, Campos, Chiu, Farrell, Kim, Mar, Tang, Wiener and Yee

Excused: 1 - Cohen

File No. 140909

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 11/25/2014 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor
Date Approved