

United States Attorneys
Lapse in Appropriations Guidance
Employee Pay & Benefits - Consolidated Frequently Asked Questions (FAQs)
As of January 9, 2019
(New or Revised FAQs are Highlighted)

Employee Pay

- 1. Will pay accrue to an excepted employee who performs work during a furlough?** The Government is required to pay an excepted employee who performs work during the lapse according to the normal rules governing pay. However, the timing of when an excepted employee is paid may be impacted, and he or she may not be paid until an appropriations act or a continuing resolution is enacted. *(Source: DOJ FAQ)*
- 2. Will employees furloughed due to a lapse in appropriations be paid for the time they are on furlough?** Employees on furlough during a lapse in appropriations will only be retroactively paid if there is an Act of Congress authorizing such payments. *(Source: DOJ FAQ)*

Employee Assistance

- 3. How do USAO/EOUSA employees access Employee Assistance Program (EAP) services during the lapse on appropriations?** Employees should use the 24 hour toll free number to contact EAP: **888-271-0381**. Due to the lapse in appropriations, EAP services will be limited, however the toll free number will be monitored. *(Source: Supplemental FAQ)*

Thrift Savings Plan (TSP) Loans


- 4. How does the TSP address Government shutdowns for those who already have a TSP loan?** The TSP allows for the suspension of loan payments when you go into nonpay status to prevent your loan from going into default. Normally, we require documentation from your agency or service. However, the TSP **does not need documentation of your furlough at this time** (i.e., Form TSP-41). If your loan payments were up to date prior to the furlough, missing one or two payments **will not cause your loan to be in default**.

You can check the status of your loan by logging into My Account, selecting “TSP Loans,” and then selecting “Are my payments up to date?” Or you can call the ThriftLine at 1-877-968-3778 and speak to a Participant Service Representative.

As long as retroactive pay is approved, all missed loan payments will be submitted and posted to your loan. We will provide more information as the furlough continues or as events change.

(Source: TSP [Bulletin](#))

- 5. Can I take a TSP loan while I am furloughed?** If the furlough is expected to last 30 days or less—yes. If the furlough will last more than 30 days—no. When you sign your TSP *Loan Agreement*, you promise to repay your loan and authorize the TSP to deduct your loan payments from your pay. The first payment is due on or before the 60th day following the loan issue date (5 Code of Federal Regulations (CFR) § 1655.14(c)). If you reasonably believe your furlough will last 30 days or less, you can truthfully sign the *Loan Agreement* because you reasonably believe that your loan payments will start within the required period and that you will be able to repay



your loan. However, as discussed below, should the furlough exceed 30 days, you run the risk of defaulting on your loan and having a taxable distribution declared. *(Source: TSP FAQ)*

Unemployment Compensation

- 6. Are employees entitled to unemployment compensation during a lapse in appropriations?** It is possible that employees may become eligible for unemployment compensation during a lapse in appropriations. However, State unemployment compensation requirements differ. The law of the State in which an employee's official duty station in Federal civilian service is located will be the State law that determines eligibility for unemployment insurance benefits.

In general, furloughed employees should be eligible as long as all other state eligibility factors are met. Employees should submit questions to the appropriate State (or District of Columbia) employment services office. The U.S. Office of Personnel Management has provided additional information (to include a Fact Sheet) on their website: [Unemployment Insurance Resources](#). States may require that the employer provide a Standard Form 8 (SF-8) to the employee seeking Unemployment Insurance. An [SF-8 template](#) has been prepared for district use and is located on [EOUSA's Lapse in Appropriations website](#). *(Source: Supplemental FAQ)*

Creditor Letters

- 7. Will DOJ issue letters to creditors on behalf of DOJ employees who are furloughed?** The Department is sympathetic to the financial concerns raised by employees because of the lapse in appropriations, but the Department is not in a position to issue letters to creditors on behalf of DOJ employees who are furloughed. However, OPM has provided a template for employees to use when approaching creditors. It can be accessed here: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance?url=Shutdown-Furlough> *(Source: DOJ FAQ)*


Outside Employment

- 8. May employees seek and accept a non-federal job during the shutdown?** It depends. See the answers to the questions below for the outside activities/outside employment that are prohibited or that require Component Head approval. However, because employees will not have access to their ethics officials or be able to obtain prior approval for the outside activity during a shutdown, they must evaluate the activity closely. If there is a risk that the outside activity/employment would not be approved, the employee should refrain from participating during the shutdown. *(Source: DOJ FAQ)*
- 9. What outside activities/employment are permissible without prior approval?** Generally, no prior approval is required for certain outside employment such as sales positions at a retail store or food service positions at restaurants. Positions such as these likely will not conflict with an employee's duties at DOJ. *(Source: DOJ FAQ)*
- 10. Must employees seek review and approval of outside activities/employment that they began during the shutdown?** Yes. Upon their return to work, employees must contact their ethics officials and seek a review and any necessary approvals for their outside activities/employment. *(Source: DOJ FAQ)*




Benefits Coverage

- 11. Will an employee continue to be covered under the Federal Employees Health Benefits (FEHB) program during a shutdown furlough if the agency is unable to make its premium payments on time?** Yes. The employee's FEHB coverage will continue even if an agency does not make the premium payments on time. Since the employee will be in a non-pay status, the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status. *(Source: OPM Furlough Guidance)*
- 12. What happens if agency employees responsible for processing paper SF-2809 FEHB Open Season enrollment requests are furloughed?** Agencies will have to determine whether those employees may continue to process the enrollment requests if a lapse in appropriations occurs. If agencies conclude that they cannot, pending enrollment requests will not be processed until those employees return to pay status. *(Source: OPM Furlough Guidance)*
- 13. What happens if an individual makes an FEHB Open Season enrollment change but the agency did not process the request before the furlough?** The individual should continue to use the old health plan until he or she returns to pay status and the enrollment in the new health plan is processed. Since the employee will be in a non-pay status, the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status. *(Source: OPM Furlough Guidance)*
- 14. If an employee submitted a new application or a change to his/her health insurance plan (e.g., because of a Qualifying Life Event) and the paperwork was not processed by the agency because of a shutdown furlough, how would the employee seek services or coverage?** New enrollments or changes in enrollment due to a Qualifying Life Event do not take effect until the employee has been back in pay status for any part of the prior pay period. *(Source: OPM Furlough Guidance)*
- 15. Would a lapse in appropriations alter the effective date of an FEHB Open Season enrollment if an enrollment request was fully processed by an agency and submitted to the health plan prior to the lapse?** No. The effective date would still be the first day of the first full pay period in January. *(Source: OPM Furlough Guidance)*
- 16. If a furlough delays processing of FEHB Open Season enrollment changes, will the enrollment be retroactive?** Yes. Per FEHB regulations, all Open Season enrollments and enrollment changes are effective on the first day of the first full pay period in January. *(Source: OPM Furlough Guidance)*
- 17. If an individual's health plan is terminating participation in the FEHB Program at the end of the current benefit year, and an Open Season enrollment change has not been processed, what should the individual do in January?** If the individual needs services urgently, he or she should incur the expenses and file a claim with the new plan once the enrollment change has been processed. *(Source: OPM Furlough Guidance)*
- 18. How will someone know whether his or her FEHB enrollment request was fully processed and sent to the new health plan?** If the individual receives an ID card, the enrollment in the new plan is effective. If an ID card is not received, the enrollment has not been processed. *(Source: OPM Furlough Guidance)*

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- 19. What happens to an individual not currently covered under the FEHB who elected to enroll during Open Season if the enrollment has not been processed and will not be processed until after the furlough? Does this individual still have coverage with the elected plan? If so, when?** Yes. Such an individual would have coverage beginning on the first day of the first full pay period in January. Expenses incurred will be reimbursed by the plan once the enrollment has been processed. We suggest that such individuals ensure they use the plan's providers to get the maximum benefits. For fee-for-service plans, check the health plan's website for a list of in-network providers. *(Source: OPM Furlough Guidance)*
- 20. What happens to an employee's Federal Employees' Group Life Insurance (FEGLI) Program coverage if furloughed?** Coverage continues for 12 consecutive months in a nonpay status without cost to the employee or to the agency. Neither the employee nor the agency incurs a debt during this period of nonpay. *(Source: OPM Furlough Guidance)*
- 21. Will the effective date of my FSAFEDS enrollment be affected?** No. *(Source: OPM Furlough Guidance)*
- 22. What happens to an employee's Federal Long Term Care Insurance Program (FLTCIP) coverage if furloughed?** Payroll deductions will cease for any employee that does not receive pay. Coverage will continue so long as premiums are paid. If Long Term Care Partners does not receive payment for three consecutive pay periods, they will begin to direct bill the enrollee. The enrollee should pay premiums directly billed to him/her on a timely basis to ensure continuation of coverage. *(Source: OPM Furlough Guidance)*
- 23. What happens to an employee's Federal Employees Dental and Vision Insurance Program (FEDVIP) coverage if furloughed?** Payroll deductions will cease for any employee that does not receive pay. *(Source: OPM Furlough Guidance)*
- 24. Will the effective date of my FEDVIP Open Season enrollment be affected?** No. *(Source: OPM Furlough Guidance)*
- 25. How is Continuation of Pay (COP) under the Federal Employees' Compensation Act affected by a Government shutdown?** The Department of Labor's Office of Workers' Compensation Programs which administers the Federal Employees' Compensation Act (FECA) advises that, in the event of a Government shutdown, an employee who is disabled due to his or her injury is to be maintained in COP status during the shutdown unless the agency does not have monies available to pay the salary of that employee. If the agency does not have monies to pay salary during the shutdown but the agency's budget is subsequently restored in such a way as to allow for retroactive payment of salary during the shutdown period, the employee should receive COP for any period of disability that occurs within the shutdown. In the event an agency is legally unable to pay COP to an employee because of a lapse in appropriations, the employee may file a claim for regular FECA wage loss compensation for that period. *(Source: OPM Furlough Guidance)*

Discounts

- 26. May employees accept a discount offered by a bank or other commercial organization?** Generally, yes, IF the discount is offered to ALL federal employees regardless of pay or agency. (For example, a local deli is offering free sandwiches to all federal government employees for the first 2 days of the shutdown). Employees also may accept a discount offered to the public. (For



example, a local pizza delivery shop offers large pizzas for \$7 every Monday). A discount offered to all federal employees or to the public is not limited to \$20 per occurrence or \$50 per year.

(Source: DOJ FAQ)

27. May employees present their government identification badge to receive a permissible discount offered to all federal employees? Yes. Employees may show their government ID to prove they are eligible for an existing discount. However, employees may not use their government ID to solicit or encourage a gift or special treatment – this is a misuse of position.

(Source: DOJ FAQ)

28. May employees accept a gift either that is from a prohibited source or that is offered because of their federal position, if the gift is valued at \$20 or less? It depends. Although the letter of the gift rules may permit receipt of this gift, the spirit of the rules requires prudence when applying them. If receipt of a gift from an outside source would raise a concern about an employee's impartiality, it would be wise not to accept it. (For example, during the shutdown, Microsoft offers an upgrade to its suite of programming products to DOJ IT technicians for their personal computers; it is valued at \$19.99. A number of DOJ IT technicians are evaluating programming needs under a pending IT contract; Microsoft is one of the bidders under the pending contract. To avoid any appearance of a conflict of interest, the IT technicians working on the pending contract should decline Microsoft's offer). *(Source: DOJ FAQ)*

Miscellaneous

- **Justice Federal Credit Union Loans:** the Justice Federal Credit Union (JFCU) has announced that it will offer current and potential members special assistance furlough loans. JFCU members, and non-members interested in becoming members, should contact the credit union directly to learn more about eligibility and qualifications. The website is: <https://www.jfcu.org>. *(Source: Supplemental FAQ)*