Understanding Your Disability Leave Rights

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A Guide to Section 72 for Public Sector Workers & the H+H Disability Process

This month's Legal Corner explains your rights if your Agency or NYC Health+Hospitals (H+H) questions whether you are medically able to perform your job.

City employees are covered by Civil Service Law Section 72. H+H employees follow a similar process under H+H Personnel Rules. While the procedures differ, your core rights are the same:

- You must receive written notice
- You must be told why there is a medical concern
- You have the right to respond and challenge the claim
- You are entitled to a hearing before an independent decision-maker
- You may return to work if found medically fit

This is not discipline. It is a fitness-for-duty process.

What Triggers the Process

An employer may begin this process if it believes you cannot safely or effectively perform your job due to a non-work-related medical condition. The decision must be based on specific facts or documented behavior, not assumptions or stigma.

There are two possible tracks used by both City agencies and H+H.

- The first is the Ordinary Process (No Emergency) used when there is concern, but no immediate danger. You must receive written notice explaining the issue and be scheduled for a medical exam arranged through DCAS if you are a City employee or by a PRB-appointed physician if you work for H+H. In either case, you remain working until a determination is made.
- The second track is Emergency Process used when the employer believes keeping you at work is unsafe or disruptive. You may be placed on immediate leave but may use accrued time. You still receive written notice, get a medical exam, and have the right to challenge the leave.

After the medical exam, you must receive the medical determination (fit or unfit), the proposed leave start date (if any), all documents relied upon, and instructions on how to object the decision.

Your Right to a Hearing

You have 10 working days to request a hearing. Once you object, you, Local 1180, and your doctor receive all medical records. In non-emergency cases, you cannot be placed on leave until a decision is issued.

The Hearing

Hearings for City employees are held at the Office of Administrative Trials and Hearings (OATH), while hearings for H+H employees are held through the Personnel Review Board (PRB). At either hearing, you have the right to union or legal representation, present witnesses and medical evidence, and submit your own doctor's report. Your employer must prove you cannot perform your job due to a disability.

Why Your Own Doctor Matters

Medical evidence from your own doctor, especially in the same specialty, can challenge your employer's findings, show you are fit for duty or that your condition is temporary or treatable, may recommend reasonable accommodations, or establish a Workers' Compensation issue instead of ordinary disability, among others.

Decisions & Outcomes

A final decision is issued shortly after the hearing. If you are found fit, you must be returned to work with restored pay and leave. If you are found to be unfit, you may use accrued leave, followed by up to 18 weeks of free health coverage (SOLAC). You may request re-evaluation within one year. If you are found to be fit at that time, your employer must reinstate you to your work position.

The Appeal

City employees may appeal to the Civil Service Commission and then court, while H+H employees appeal directly to court.

Your Union is Here for You

These cases can be stressful, but you are not alone. Local 1180 will help guide you through every step and protect your rights. If you receive any notice about a medical exam or disability leave, contact us right away. Please remember:

- Protect Yourself
- Attend all exams
- Bring your own medical documentation
- Contact your union immediately
- Keep copies of everything
- Raise accommodation requests early