SPECIAL LEAVE BENEFIT FOR WOMEN EMPLOYEES

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Department of Labor and Employment
SEC. 18. Special Leave Benefits for Women. - A woman employee having rendered continuous aggregate employment service of at least six (6) months for the last twelve (12) months shall be entitled to a special leave benefit of two (2) months with full pay based on her gross compensation following surgery caused by gynecological disorders.

- Signed into law by PGMA : August 14, 2009
- Published at PDI & Malaya : August 31, 2009
- Took effect on : September 15, 2009
Definition of terms

“Gynecological disorders” - those that would require surgical procedures such as, but not limited to, dilatation and curettage and those involving female reproductive organs such as the vagina, cervix, uterus, fallopian tubes, ovaries, breast, adnexa and pelvic floor, as certified by a competent physician.

“Gynecological surgeries” - also include hysterectomy, ovariectomy, and mastectomy.
“Gross monthly compensation” - the monthly basic pay plus mandatory allowances fixed by the regional wage boards.

“Two (2) months” - 60 calendar days pursuant to Article 13 of the New Civil Code.
Definition of terms

“At least six (6) months continuous aggregate employment service for the last twelve (12) months prior to surgery” - the woman employee should have been with the company for 12 months, prior to surgery. An aggregate service of at least 6 months within the said 12-month period is sufficient to entitle her to avail of the special leave benefit (SLB).
“Competent physician” – a medical doctor preferably specializing in gynecological disorders or is in the position to determine the period of recuperation of the woman employee.
Conditions for Entitlement

- rendered at least 6 months continuous aggregate employment service for the last 12 months prior to surgery
- filed application within reasonable period from the expected date of surgery or as may be provided by company rules or by CBA
- undergone surgery due to gynecological disorders as certified by a competent physician

*DO 112-11 issued on 11 March 2011
Application for Special Leave

- Within reasonable period from the expected date of surgery, or within such period as may be provided by company rules and regulations or by CBA.

- Prior application for leave is not necessary in cases of emergency surgical procedure, provided that employer shall be notified verbally or in writing within a reasonable period and provided further that after the surgery or appropriate recuperating period, the employee shall immediately file her leave application.
Non-commutation of Benefits

- The special leave is non-cumulative and non-convertible to cash unless otherwise provided by CBA
The Special Leave Benefit

- The 2 months special leave is the maximum period of leave with pay that a woman employee may avail of.

- For purposes of determining the period of leave with pay that will be allowed, the certification of a competent physician as to the required period of recuperation shall be controlling.
Frequency of availment

A woman employee can avail of the special leave benefit for every instance of surgery due to gynecological disorder for a maximum total period of 2 months per year.
SLB vs. SSS sickness leave

- DIFFERENT from the SSS sickness benefit

- **SLB is granted by the employer to a woman employee who has undergone surgery due to gynecological disorder in accordance with RA 9710.**

- **The SSS sickness benefit is administered and given by the SSS in accordance with the SSS law or RA1161 as amended by RA 8282.**
an ADDITION to the leave benefits granted under existing laws.

- The grant of the special leave benefit under the law is in recognition of the fact that patients with gynecological disorder needing surgery require a longer period for recovery.
Where the woman employee had undergone surgery due to gynecological disorder during her maternity leave, she is entitled only to the difference between the SLB and maternity leave benefit.
Crediting of existing and similar benefits

- existing or similar benefits under a company policy, practice or CBA shall be considered as compliance, unless it provides otherwise

- for lesser benefits, the company shall grant the difference

- “similar or equal benefits” refers to leave benefits which are of the same nature and purpose as that of the SLB.
Mode of payment

- shall not report for work for the duration of the leave but will still receive her salary covering said period.
- The employer may allow the employee to receive her pay for the period covered by the approved leave before or during the surgery.
- The computation of her “pay” shall be based on her prevailing salary at the time of the surgery.
Retroactive application

- The woman employee whose leave period for surgery and recuperation due to gynecological disorders after the effectivity RA 9710 on 15 September 2009 and before the promulgation of DO 112-11 on 6 April 2011, was deducted against her sick or vacation leave credits shall be entitled to the restoration of said leave credits and/or payment of appropriate compensation or salary at the time of surgery, as the case may be.
Monitoring of compliance

- The DOLE-Regional Office is responsible for monitoring compliance.

- It shall submit a separate quarterly monitoring report to the Bureau of Working Conditions (BWC), copy furnished the Tripartite Industrial Peace Council (TIPC), for purposes of evaluation.
Republic Act No. 10151

An Act Allowing the Employment of Night Workers, thereby Repealing Articles 130 and 131 of PD 442, as amended otherwise known as the Labor Code of the Philippines
Effect of RA 10151 on the Labor Code

- Repealed Articles 130 and 131 of the Labor Code
- No need to determine whether a particular industry or scenario of the general rule or the exception on employment of women.
- Women are now allowed to perform night work
Definition of ‘Night Worker’

- any employed person whose work covers the period from 10 pm to 6 am the following morning provided that the worker performs no less than 7 consecutive hours of work
Coverage

- All persons, who shall be employed or permitted or suffered to work at night except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation
Health Assessment prior to night work

- Upon their request, the workers shall have the right to undergo a health assessment **without charge** and to receive advice on how to reduce or avoid health problems associated with work:
  1. Before taking up an assignment as a night worker
  2. At regular intervals during such an assignment
  3. If they experience health problems during such assignment

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Transfer of workers

- **When transfer to similar job practicable.** Night workers certified as unfit for night work, due to health reasons, shall be transferred, whenever practicable, to a similar job for which they are fit to work.

- **When transfer not practicable.** If such transfer to a similar job is not practicable, these workers shall be granted the same benefits as other workers who are unable to work, or to secure employment during such period.
Transfer of workers

- **Temporary unfitness.** A night worker certified as temporarily unfit for night work shall be given the same protection against dismissal or notice of dismissal as other workers who are prevented from working for reasons of health.
Women as Night Workers

Measures shall be taken to ensure that an alternative to night work is available to women workers who would otherwise be called upon to perform such work:

1. Before and after childbirth, for a period of at least sixteen (16) weeks, which shall be divided between the time before and after childbirth;

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Pregnant women and nursing mothers may be allowed to work at night only if a competent physician, other than the company physician, shall certify their fitness to render night work, and specify, in the case of pregnant employees, the period of the pregnancy that they can safely work.
Alternative measures to night work for Women

- transfer to day work where this is possible;
- the provision of social security benefits; or
- an extension of maternity leave.
Schedule of Night Work

- Employer shall consult the recognized workers’ representatives or union in the establishment on the details of night work schedules.

- In establishments employing night workers, consultation shall take place regularly and appropriate changes of work schedule shall be agreed upon before it is implemented.
Mandatory Facilities

- Suitable first aid and emergency facilities
- OSH Standards
- Lactation station (RA 10028)
- Separate toilet for men & women
- Facility for eating with potable drinking water
- Facilities for transportation and/or properly ventilated temporary sleeping or resting quarters
Penalties

- FINE of not less than Thirty Thousand Pesos (PhP30,000) nor more than Fifty Thousand Pesos (PhP50,000); or
- IMPRISONMENT of not less than six (6) months; or
- BOTH, at the discretion of the court.

If the offense is committed by a corporation, trust, firm, partnership or association, or other entity, the penalty shall be imposed upon the guilty officer or officers of such corporation, trust, firm, partnership or association, or entity.
THANK YOU!
For more information, visit or contact:

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