

# USERRA BRIEF

## RIGHTS AND BENEFITS UPON ENTERING TOUR OF MILITARY DUTY

When you enter a tour of military duty, you may be entitled to certain rights and benefits under the Federal law, specifically, 38 U.S.C. 2024. Detailed information is contained in 5 CFR Part 353 of the Federal Personnel Manual and related National Guard supplements and the Uniformed Services Employment and Reemployment Rights Act of 1994 (PL 103-353).

### NOTIFICATION

You are required to provide advance verbal or written notice to your supervisor of your intention to serve on military duty. If you enter a Title 10 or Title 32 active duty tour, you will be in leave without pay (LWOP) status, unless you request separation. If you request separation, you will be treated as if you are on a military leave of absence and will receive the same return rights and benefits as those in LWOP status. You must also initiate a SF-52 Form (Request for Personnel Action) if you are requesting separation or LWOP in excess of 30 days.

### REEMPLOYMENT RIGHTS

Under the Uniformed Services Employment and Reemployment Rights Act of 1994, you are entitled to retain reemployment rights to your technician position with the Missouri National Guard for a total of five cumulative years of active duty. Some exceptions to the five year limit include active duty (other than for training) in time of war or national emergency (voluntary or involuntary), active duty (other than for training) in support of operational missions activated under 10 U.S.C. 673b (12304) (voluntary or involuntary) and certain critical missions and requirements (voluntary or involuntary). If you reemploy under the provisions of the Uniformed Services Employment and Reemployment Rights Act, you are generally entitled to be treated as if you had never left for purposes of seniority, status and pay as well as other rights and benefits determined by seniority (i.e. credit for trial period completion, within-grade increases, cost of living increases, leave category SCD).

### APPLICATION FOR REEMPLOYMENT

You must return to technician status within the following time periods after discharge from your military service.

<u>Length of Military Service</u>	<u>Time Limit</u>
More than 180 days	Within 90 days
More than 30, but less than 181 days	Within 14 days
Less than 31 days	First Full Regular Work Day

Applications for reemployment must be made in writing to the Missouri National Guard Human Resources Office.

Failure to report to work within the above designated time frames does not automatically forfeit your right to reemployment. Instead, you will “be subject to conduct rules, established policy and general practices of this agency pertaining to explanations and discipline with respect to absence from work.” Adverse action will be taken against you if you indicate an intention to return to duty, but do not.

### **POSITION HELD UPON REEMPLOYMENT**

The position you will be returned to after military service depends on the length of that service. If the period was less than 91 days, you must be placed in the position for which you qualify and would have attained if not for the interruption by military service. After military service of more than 90 days, you will be placed in the above type of position or one of like seniority, status and pay. If a service connected disability prevents you from qualifying for a position you would have obtained had you remained in the workforce or one of like status, seniority and pay, this agency may place you in a position that is closest to the status, seniority and pay of the position you would have obtained.

### **LEAVE USE**

When you enter your tour, you are entitled to use annual leave and any remaining balance of military or compensatory leave. Eligible full-time employees accrue 15 calendar days of military leave each fiscal year and may have up to 30 calendar days of military leave for use during any one fiscal year. Permanent and indefinite technicians on LWOP-MIL, while serving on continuous Title 10 or Title 32 active duty, may also use the 15 days of military leave which accrues at the beginning of each fiscal year (October 1) without return to technician status. The technician must initiate the use of all leave during military absence with a copy of military orders and a Standard Form 71, Request for Leave or Approved Absence. The effective date of LWOP is the next workday after your paid leave ends. You will not continue to earn annual or sick leave while in LWOP status.

Under Public Law 104-106, you are also entitled to an additional 44 days of military leave if you elect to serve on active duty without pay in non-combat support operations OCONUS under Title 10 12301 (b) or (d) (other than active duty during a war or national emergency declared by the President or Congress). If separated, the effective date of your separation as a technician will be the close of business on the last day of your paid leave status. Details regarding the charging of these various types of leave may be obtained from the Employee Relations Section of the HRO or your local payroll office. You must submit your request for any paid leave usage to your timekeeper on Standard Form 71.

## **ANNUAL LEAVE PAYMENT**

Accrued annual leave may be retained in your account until you return to technician status or, if requested, may be paid to you in a lump sum payment. This provision applies whether or not you are placed in LWOP or separate.

## **SICK LEAVE PAYMENT**

Any sick leave balance will be re-credited to your account upon reemployment.

## **RETIREMENT**

If you are placed in LWOP status while performing active military duty, you will continue to be covered by the retirement law, i.e., CSRS or FERS. Death and disability benefits under the civilian retirement rules would apply if you continue in LWOP. Title 10 military service is creditable for CSRS and FERS retirement, but a deposit for post-1956 service may be required to receive credit for eligibility and computation of retirement benefits. Post-1956 military service cannot be credited under FERS unless a deposit is made. Upon restoration to your civilian position, you may make a deposit for this military service. From January 1999 through December 1999, the deposit would equal the lesser of 1) 7.25% (or 3.25% for FERS) of the military basic pay or 2) 7.25% (or 1.05% for FERS) of the civilian pay. If the military deposit is paid before the interest accrual date (within three years of returning to a retirement covered civilian position), no interest is charged on the military deposit. Title 32 active duty National Guard service (other than when ordered to active duty in the service of the United States) is creditable for retirement under CSRS or FERS, subject to the same Title 10 military deposit rules, only when the service meets all of the following conditions:

- It must interrupt civilian service creditable under CSRS or FERS, as appropriate.
- It must be followed by reemployment in accordance with Chapter 43 of Title 38 that occurs on or after August 1, 1990.
- It must be full-time and not inactive duty.
- It must be performed by a member of the Army or Air National Guard of the United States in the member's status as a member of the National Guard of a state or territory, the Commonwealth of Puerto Rico or the District of Columbia.
- It must be under Section 315, 502, 503, 504 or 505 of Title 32.
- Individual must be entitled to pay from the U.S. or have waived pay from the U.S. for the service.

## **ACTIVE DUTY RETIREMENT**

Military members who will accumulate 7300 active duty points may qualify for a regular military retirement. A member who has accumulated 7300 active duty points and is qualified for a regular (active duty) retirement may not receive a non-regular (reserve) retirement. This service cannot be counted towards a civil service and military retirement simultaneously. The member must then waive receipt of pay for one of the retirements.

## **RETIREMENT REFUNDS**

Under certain circumstances, you may withdraw your retirement contributions. Please contact the Employee Relations Section of the Human Resources Office for specific information. Under FERS rules, contributions may not be redeposited to reclaim service covered by the refund.

## **FEGLI**

If you separate or are placed in LWOP to perform active duty military service, you will continue to be covered by Federal Employees' Group Life Insurance (FEGLI) up to 12 months (both basic and optional coverage, excluding the accidental death and dismemberment clause). At the end of one year, your coverage is terminated with a 31-day temporary extension of coverage for conversion to a nongroup policy. Your FEGLI coverage will be reinstated upon your return to technician status.

## **HEALTH INSURANCE**

If your military service is for less than 31 days, there is no change in your health benefits coverage. Whether you separate or are placed in LWOP, you may continue to be covered by your Federal Employees Health Benefits for up to 18 months, unless you elect in writing to have your enrollment terminated. If you choose to continue your enrollment, you will be responsible for paying the employee share of the premium for the first 12 months and 102% of total premium (employee and government portion plus 2% administrative charge) for the final six months of continued coverage. You may pay currently (arrangements may be made with your local payroll office) or incur a debt to be paid upon your return. Note: You may cancel your enrollment at any time by notifying the HRO, but a cancellation is considered a break in coverage. Termination of enrollment to enter military service is not considered a break.

At the end of the 18-month period, you are entitled to a 31-day extension of coverage, during which time you may convert to a non-group policy. Your health benefits coverage will be reinstated on the day you return to duty.

## **TSP**

No contributions can be made to the TSP while on LWOP or separated from your technician position. However, if re-employed (returned to pay status) in your technician position from a Title 10 or Title 32 tour, retroactive contributions and TSP elections may be made to cover that period of service, subject to statutory maximums. Such catch-up payments must come from pay and combined with regular TSP contributions cannot exceed the 401K annual limit established by the IRS. The IRS has stated they will not waive the limit. Retroactive contributions may be made over a period of time at least two times and as much as four times the length of your absence. FERS employees receive the 1% agency contribution whether or not you make the retroactive employee contributions. The period of your absence will count for vesting purposes. If you are interested in making retroactive contributions, you must apply, in writing, to the HRO within one year of your return to technician employment. If you have a current TSP loan, you must notify the HRO. The HRO will then advise the TSP service office of the

length of your approved LWOP status and the reason for missed loan payments. When you return to a technician pay status, you will need to verify that your loan payments have resumed.

### **JOB APPLICATIONS**

If you wish to be considered for vacant technician positions while you are on a tour of active duty, you must:

- Make application as indicated on the technician vacancy announcement. Advertised position will be posted on the Human Resources web site ([www.moguard.com/hr](http://www.moguard.com/hr)).
- Be within period of eligibility for restoration to a Federal technician position.

### **PERSONNEL FILES**

Your official personnel file, employee performance file and supervisor's record folder will be retained by this agency until the expiration of your reemployment rights.

Point of contact in the Human Resources Office is Ms. Gayla Propst, (573) 638-9892 or DSN 555-9892.

# CHECKLIST FOR EMPLOYEES ENTERING EXTENDED MILITARY ACTIVE DUTY (30 Days or More)

I want to be: (Please initial your election/acknowledgement.)

\_\_\_\_\_ Placed on LWOP, beginning \_\_\_\_\_.

\_\_\_\_\_ Separated, effective \_\_\_\_\_.

## Military Leave

\_\_\_\_\_ I have a balance of annual leave that I would like to be paid in a lump sum.

\_\_\_\_\_ I want to leave my annual leave to my credit.

\_\_\_\_\_ I have military leave that I want to use. Number of days: \_\_\_\_\_

## Health Benefits

\_\_\_\_\_ I want to terminate my FEHB effective \_\_\_\_\_.

\_\_\_\_\_ I want to continue my FEHB. I understand that I can cancel at any time, but it will be considered a break in coverage for retirement purposes.

\_\_\_\_\_ I will contact my payroll office to pay for my FEHB on a continuing basis during my absence.

\_\_\_\_\_ I want to incur a debt to be paid upon my return.

(I understand that if I continue my FEHB after the first 12 months, I will pay 102% of the cost and it must be paid currently.)

## Term Life/Disability Insurance

\_\_\_\_\_ I understand that my FEGLI coverage will continue for 12 months with no cost to me.

\_\_\_\_\_ I am enrolled in either the ReliaStar (NGAUS) or American Life and Casualty (VULCAN) technician life insurance programs. I understand I will need to make arrangements for premium payments to be made during my absence through my local payroll office.

## Retirement

\_\_\_\_\_ I understand that if I am placed on LWOP, death and disability benefits continue under my retirement system.

\_\_\_\_\_ I understand that the military service is potentially creditable service, but I must make a deposit for that service to avoid "Catch-62" (CSRS hired prior to 10-01-82). Military deposit for CSRS hired after 09-30-82 and all FERS employees is mandatory for retirement eligibility and annuity benefits.

## Thrift Savings Plan

If you are restored to your technician position, you may make retroactive contributions and elections.

\_\_\_\_\_ I understand that I will need to contact my payroll office to make retroactive TSP contributions and elections.

\_\_\_\_\_ I do not have a current TSP loan.

\_\_\_\_\_ I currently have a TSP loan. Please notify the TSP service office of my LWOP status. When I return to a technician pay and duty status, I will verify that my loan payments have resumed.

### Allotments/Garnishments

\_\_\_\_\_ I understand that during my non-pay status I will be responsible for keeping current any allotments/garnishments that were deducted from my pay. It is also my responsibility to notify payees of my status.

Receipt Acknowledged:

\_\_\_\_\_

Name

\_\_\_\_\_

Date