

## 865 Return to Duty After Absence for Medical Reasons

### 865.1 Certification Required: All Bargaining Unit Employees and Those Nonbargaining Unit Employees Returning From Non-FMLA Absences

**Discussion:** *Letter Carriers require certification.*

Return-to-work clearance may be required for absences due to an illness, injury, outpatient medical procedure (surgical), or hospitalization when management has a reasonable belief, based upon reliable and objective information, that

**Discussion:** *return-to-work-clearance is no longer required. The Rehabilitation Act of 2005 changed that requirement. USPS then changed ELM 865 and inserted "may be required" and took out the 21 days requirement for a return-to-work-clearance. So, a letter carrier cannot be kept from their job pending return-to-work-clearance.*

- a. The employee may not be able to perform the essential functions of his/her position, or
- b. The employee may pose a direct threat to the health or safety of him/herself or others due to that medical condition.

**Discussion:** *The automatic requirement for the return-to-work-clearance is gone and in order for management to make a determination to require a return-to-work-clearance and the carrier is not violating (a & b) tests above. Management must have a "reasonable belief" (rational) and be "based upon reliable and objective information" (trustworthy) as outlined below. Covered by MRS at M-01487.*

In making this determination, management must consider the essential functions of the employee's job, the nature of the medical condition or procedure involved, guidance from the occupational health nurse administrator, occupational health nurse, and/or the Postal Service's physician regarding the condition or procedure involved, and any other reliable and objective information to make an individualized assessment whether there is a reason to require the return-to-work documentation.

**Discussion:** *To make an individualized assessment to require the return to work documentation a manager must have guidance from an occupational health nurse administrator/occupational health nurse "and/or" a Postal Service physician. So, a letter carrier cannot be kept from their job pending return-to-work-clearance. Covered by MRS at M-01547.*

In cases of occupational illness or injury, the employee will be returned to work upon certification from the treating physician, and the medical report will be reviewed by a medical officer or contract physician as soon as possible thereafter.

**Discussion:** *In a nut shell the letter carrier cannot be kept from their job a pending return-to-work-clearance.*

## 865.2 Intermittent or Reduced Schedule Leave Under FMLA

In the case of bargaining unit employees using intermittent or reduced schedule leave for a condition covered under the FMLA, the occupational health nurse administrator, occupational health nurse, and/or the Postal Service's physician shall decide under what circumstances employees must submit return-to-work documentation for subsequent absences for that condition. Only the Postal Service's physician can make the final authorization for requiring return-to-work clearance after subsequent absences.

*Discussion:* Under this section only the occupational health administrator/nurse “and/or” USPS doctor may determine which letter carrier covered under FMLA is required to submit a *return-to-work-clearance*.

## 865.3 Nonbargaining Unit Employees Returning After FMLA Absence

To return to work from an FMLA-covered absence because of their own incapacitation, nonbargaining unit employees must provide certification from their health care provider that they are able to perform the essential functions of their positions with or without limitations (see [410](#)).

*Discussion:* *Of no concern to carriers under this section.*

## 865.4 Documentation Required

All medical certifications must be detailed medical documentation and not simply a statement that an employee may return to work. There must be sufficient information to make a determination that the employee can perform the essential functions of his/her job, and do so without posing a hazard to self or others. In addition, the documentation must note whether there are any medical restrictions or limitations on the employee's ability to perform his/her job, and any symptoms that could create a job hazard for the employee or other employees. The occupational health nurse administrator, occupational health nurse, or the Postal Service's physician evaluates the medical report and, when required, assists placing employees in jobs where they can perform effectively and safely.

*Discussion:* *Medical certification does not have to be given to management. The medical certification should be turned in to the occupational health administrator/nurse “and/or” USPS doctor. Then the occupational health administrator/nurse “and/or” USPS doctor evaluates the medical report (not management). When required the USPS medical assists in placing carriers in jobs.*

## 865.5 Assignments

Installation heads may temporarily assign any employee returning to duty to a modified work assignment during the employee's rehabilitation/recovery period consistent with operational needs and obligations under any applicable collective bargaining agreement or federal law.

*Discussion:* *Under this section please note the word “may” in temporarily assigning carriers. This section also is modified by collective bargaining agreement or federal law.*

## 865.6 Fitness for Duty Examinations

If, after review of the documentation required in [865.4](#), the Postal Service's physician questions whether an employee can perform the essential functions of his/her position, or whether he/she poses a direct threat to the health or safety of him/herself or others, the physician may require the employee to undergo a fitness-for-duty examination.

*Discussion:* *Under this section only a USPS doctor “may” require a fitness-for-duty examination.*

**Discussion:** eRMS the postal software used to call in sick has a feature where management may flag a carrier “deems desirable” for a carrier to provide documentation (Covered in ELM 513.361). This action is contrary to the context of the Federal Rehabilitation Act. The “deems desirable” feature is currently under discussion at the National level.

At our level it may be a grievance as put forth by JCAM at page 2-1. Stewards should require USPS

1) to identify the specific supervisor or manager who made the decision to require medical certification.

2) to show all of the objective evidence that it relied on in making the to require medical certification.

3) was the carrier on restrictive leave?

4) if the “for the protection of the interests of the Postal service” statement is used then it is paramount to ask what “Postal interest is being violated?”

**Discussion:** Information for this article may be found at [www.nalc421.com](http://www.nalc421.com) under menu LINKS>STEWARDS HELP>STEWARDS LINKS  
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