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Sick Leave – An Employer Guide

Due to misconceptions regarding sick leave, the following information below is provided.

Sick leave applies when an employee is genuinely unable to perform their duties because of their own sickness or injury. Paid sick leave is not a general entitlement to time off for all medical or personal matters; it applies only where the employee is medically incapacitated or otherwise legally entitled to sick leave.

It distinguishes sick leave from situations that do not automatically qualify, such as collecting medication, attending routine follow-up appointments while still fit to work, caring for a sick child, personal errands, or choosing not to report for duty. These situations may fall under another leave category depending on company policy and applicable law.

The guide clarifies the sick leave entitlement under the **Basic Conditions of Employment Act (BCEA)**. During the first six months of employment, employees generally earn one day's paid sick leave for every 26 days worked. After six months, sick leave is calculated over a 36-month cycle, usually equal to the number of days the employee would work in six weeks.

It also explains the "eight-week medical certificate rule." This rule does not determine the amount of sick leave available; instead, it determines when an employer may require medical proof. Under section 23 of the BCEA, an employer need not pay sick leave if an employee is absent for more than two consecutive days, or more than twice within an eight-week period, and fails to provide appropriate medical proof when required.

Employees must still follow reasonable company procedures when reporting sick. A genuine illness does not remove the obligation to notify the employer according to policy. However, the guide stresses that illness and misconduct should be treated separately: an employee may be genuinely sick but still breach reporting procedures.

Where proof is required, the purpose of a medical certificate is to confirm that the employee was medically unfit for work and to identify the relevant period of incapacity. A clinic attendance letter or appointment confirmation does not necessarily prove incapacity. Employers should check whether documentation is properly completed, dated, identifies the practitioner, and can be reasonably verified.

The guide recognises online and telemedicine consultations as potentially valid. Employers should not reject certificates simply because the consultation was remote, provided the practitioner was appropriately registered and able to make a proper clinical assessment. Verification may be reasonable where there are legitimate concerns, but employers should avoid demanding unnecessary confidential medical information.

Backdated medical certificates are not automatically invalid. Employers should consider the circumstances, including when the illness started, when the employee notified the employer, why treatment was delayed, whether the practitioner assessed the employee, and whether the certificate clearly covers the relevant period.

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If an employee fails to provide required medical proof, the employer may withhold payment for the sick leave where permitted by the BCEA. However, this does not automatically prove that the employee was not sick. Any disciplinary issue should be assessed separately, especially if later medical evidence is produced.

Medical certificates should be issued by appropriately registered healthcare practitioners acting within their professional scope. Employers should not make clinical findings themselves but may verify authenticity, registration, and validity where reasonable concerns exist.

The guide also addresses traditional health practitioners. Documentation from a registered traditional health practitioner may be acceptable proof where it complies with the applicable legal framework. Employers should not reject such documentation solely because it originates from a traditional healer, and should consider cultural obligations sensitively. The cited **Kievits Kroon / Mmoledi** case reinforces that employers must consider cultural and traditional beliefs and investigate the circumstances rather than automatically rejecting traditional-healer documentation.

Section 13 then explains that where there are reasonable concerns about a sick note's authenticity or accuracy, the employer may take reasonable steps to validate it with the issuing practitioner or institution, subject to privacy, confidentiality, and legal requirements. Concerns may include alterations, inconsistent dates, unclear practitioner details, questionable registration, or failure to establish incapacity. Employers should avoid assuming fraud without evidence and should allow the employee to explain discrepancies before considering discipline.

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Every workplace situation is unique and should be considered on its own facts and merits. The content of this article must be assessed within the context of the applicable legislation, sectoral determinations, bargaining council agreements, and all relevant circumstances before any decision is made or action taken. Readers are strongly encouraged to obtain professional advice tailored to their specific circumstances.

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