

**United States Marshals Service**  
**Shutdown Furlough Frequently Asked Questions**  
**December 2018**

**What is a shutdown furlough and why is it necessary?**

In the event that funds are not available through an appropriations law or continuing resolution, a “shutdown” furlough occurs. A shutdown furlough is necessary when an agency no longer has the necessary funds to operate and must shut down those activities which are not excepted pursuant to the Antideficiency Act (31 U.S.C. 1341-1342).

**Who are ‘Excepted’ employees and how will I know if I am excepted?**

There are five categories within the Antideficiency Act that permit continuation of some government functions during a shutdown:

1. Functions funded by a source that has not lapsed, such as permanent indefinite appropriations and carryover of no-year funds appropriated in a prior year;
2. Functions for which there is an express authority to continue during an appropriations lapse;
3. Functions for which authority to continue during an appropriations lapse arises by necessary implication;
4. Functions related to the discharge of the President’s constitutional duties and powers; and
5. Functions related to “emergencies involving the safety of human life or the protection of property,; i.e. where there is a reasonable likelihood that the safety of human life or the protection of property would be compromised, in some significant degree, by delay in the performance of the function in question.

Only employees deemed by their management to fit into one of these five categories will be ‘Excepted’ from furlough.

**How will I know when to come back to work?**

You should access <http://www.opm.gov> or listen to public broadcasts and when you learn that a continuing resolution or an appropriation has been enacted, you will be expected to report to work on your next regular duty day.

**May an employee, excepted or non-excepted, take leave during a shutdown furlough?**

No. There is no paid leave during a shutdown for furloughed employees. All leave for furloughed individuals, both excepted and non-excepted, is cancelled. If an excepted employee must be on leave during the shutdown, that leave is coded as furlough and may not be compensated when the appropriation is signed.

**Are Presidential Employees subject to the furlough?**

Presidential appointees who are not covered by the leave system in 5 U.S.C. chapter 63 are not “excepted” as discussed above. However, they are not subject to furlough because their salary is an obligation incurred by the year, without consideration of hours of duty required, so they cannot be placed in a nonduty, nonpay status.)

**What if I have training scheduled during the shutdown furlough?**

Employees who are furloughed and are scheduled for training during a shutdown furlough must be placed in a furlough status and ordered not to attend the scheduled training.

**May an employee volunteer to do his or her job on a non-pay basis during a shutdown furlough?**

No. Unless otherwise authorized by law, an agency may not accept the voluntary services of an employee. (See 31 U.S.C. 1342.) Excepted employees should not perform ANY USMS work-related activities while in furlough status and should not be using USMS provided equipment (i.e. phones, laptops, ipads, etc) either.

**May employees take other jobs while on furlough?**

While on furlough, an individual remains an employee of the Federal Government. Therefore, executive branch-wide standards of ethical conduct and rules regarding outside employment continue to apply when an individual is furloughed. In addition, there are specific statutes which prohibit certain outside activities, and agency-specific supplemental rules that require prior approval of, and sometimes prohibit, outside employment. Therefore, before engaging in outside employment, employees should review these regulations and then consult their agency ethics official to learn if there are any agency-specific supplemental rules governing the employee.

**Will employees be paid at the end of the furlough?**

Congress will determine whether furloughed employees receive pay for the furlough period.

**If I am 'excepted', can I still work telework?**

Subject to supervisory approval, excepted employees may telework in accordance with USMS policy.

**Will employees receive a paycheck for hours worked PRIOR to the shutdown?**

Under Office of Management and Budget (OMB) guidance issued in 1980 (below), employees will receive this paycheck. Although the payroll for the last pay period before the lapse will be processed potentially during a period of furlough, the minimum number of payroll staff necessary for this process will be excepted from furlough for the minimum time required to issue the checks, including checks for the last pay period before the lapse.

**Will excepted employees be paid for performing work during a shutdown furlough? If so, when will excepted employees receive such payments?**

Agencies will incur obligations to pay for services performed by excepted employees during a lapse in appropriations, and those employees will be paid after Congress passes and the President signs a new appropriation or continuing resolution.

*(Note: Presidential appointees who are not covered by the leave system in 5 U.S.C. Chapter 63 are not subject to furlough, but are also barred from receiving pay during a lapse in appropriations. These Presidential appointees will be paid after Congress passes and the President signs a new appropriation or continuing resolution.)*

**Would employees who are detailed or assigned outside the USMS during the furlough be subject to furlough?**

Yes, employees on a detail outside the USMS are subject to the furlough. The USMS will determine the impact on detailed employees based on the unique conditions of each detail.

**Will employees accrue annual or sick leave while on furlough?**

Yes, an employee will accrue annual or sick leave while on furlough until he or she reaches an accumulation of 80 hours of LWOP. Once an employee accumulates a total of 80 hours of non-pay status from the beginning of the leave year (either in one pay period or over the course of several pay periods), the employee will not earn annual or sick leave in the pay period in which that 80 hour accumulation is reached. The employee earns leave in the next succeeding pay periods until he or she again accumulates 80 hours of non-pay time during a pay period. When a part-time employee is in a non-pay status, he or she will accrue less annual and sick leave, since part-time employees earn leave on a pro-rate basis.

**May an employee take paid leave or other forms of paid time off (e.g., annual, sick, court, or military leave, leave for bone marrow or organ donor leave, any compensatory time off earned, or time off awards) instead of taking shutdown furlough time off?**

No. During a shutdown furlough, an employee may not substitute paid leave or other forms of paid time off for any hours or days designated as furlough time off.

**Will an employee continue to be covered under the Federal Employees Health Benefits (FEHB) Program during a shutdown furlough?**

The employee's FEHB coverage will continue if the employee's salary is sufficient to pay the premiums. If the employee's salary becomes insufficient to pay FEHB premiums due to the furlough, the leave without pay/insufficient pay rules apply (<http://www.opm.gov/healthcare-insurance/healthcare/reference-materials/reference/leave-without-pay-status-and-insufficient-pay/>).

If the employee chooses to remain covered, the enrollee's share of the FEHB premium will accumulate and be withheld from pay upon the employee's pay becoming sufficient to cover the premiums.

**Will an employee continue to be covered under the Federal Employees' Group Life Insurance (FGLI) during a shutdown furlough?**

The employee's FGLI coverage continues while in a nonpay status due to furlough for up to 12 months, without cost to the employee or to the USMS. Neither the employee nor the USMS incurs a debt during this period of furlough. However, if the furlough is for only part of a pay period, FGLI premiums are required. If there is any pay in a pay period, FGLI premiums for the whole pay period will be deducted from pay. The premiums are not prorated. If the employee's salary becomes insufficient to pay FGLI premiums due to the furlough, the leave without pay/insufficient pay rules apply <http://www.opm.gov/healthcare-insurance/life-insurance/>

**Will an employee continue to be covered under the Federal Dental and Vision Insurance Program (FEDVIP) during a shutdown furlough?**

Yes. Just as with scheduled LWOP, if BENEFEDS is unable to take the necessary premium deduction from an employee's pay, BENEFEDS collects premium up to twice the biweekly amount from the next full pay period to make up for the missed premium deduction.

**Will an employee continue to be covered under the Federal Long Term Care Insurance Program (FLTCIP) during a shutdown furlough?**

Yes. Eligible claims will continue to be paid. Coverage will terminate if premiums are not paid. If the contractor does not receive premium for two or fewer pay periods, they will adjust future premium deductions, increasing by no more than \$50 per pay period to recover the missed premiums. Three consecutive pay periods of no premium will result in the contractor billing the participant directly. The

employee also has the option to change to direct billing or to payment via electronic funds transfer (EFT). If premiums are not collected or a final bill is not paid within a 30 day grace period, FLTCP will send a termination letter. The employee has 35 days from the date of the letter to pay the premium; otherwise the employee will be dis-enrolled retroactively to the last pay period in which premium was paid.

**What resources are available if a Federal employee needs financial assistance during a furlough period?**

The USMS Employee Assistance Program (EAP) includes financial consultation services. The USMS Employee Assistance Program can be reached at <http://www.FOH4you.com> or at 1-800-222-0364/1-888-262-7848 (TTY).

In addition, employees may want to contact their financial institution or credit union or learn about their options through the Thrift Savings Plan (<http://www.tsp.gov>).