

Reference No: E109/237/74; **Date:** 18/11/91

Circular 3/1991 Conf.- Clearance of candidates for promotion or establishment: sick absences and health considerations

A Chara

1. Difficulties have arisen recently in certain cases where the sick leave record of an officer is being considered in connection with promotion or access to competitions in accordance with the provisions of Circular 34/76. The purpose of this letter is to provide clarification of certain aspects of the procedures to be followed and to standardise practice in certain respects.

Role of the Chief Medical Officer (CMO) in the discounting of periods of sick leave

2. Where an officer's sick leave exceeds the limits provided for in Circular 34/76, it is for the officer's parent Department or the Civil Service Commission, as the case may be, not the CMO, to decide whether certain absences may be discounted on the grounds provided for in paragraph 3.4 of the circular. The role of the CMO in such cases is purely advisory and files should not be referred to him unless a question requiring expert medical opinion arises. Where it does, the question should be put in specific terms when the file is being referred to him. A standard form which should accompany each such reference is attached as Appendix 1.

Proper scrutiny of medical certificates

3. Some of the difficulties referred to in paragraph 1 above have arisen as a result of unsatisfactory patterns of certification for particular illnesses in files referred to the CMO. Departments are reminded that all certificates should be closely scrutinised and, where doubts arise as to the adequacy of a certificate as evidence of an officer's unfitness for work, the CMO's advice should be sought before sick leave is granted (a standard form to accompany the reference of particular certificates to the CMO is attached as Appendix 2). The CMO cannot subsequently query the granting of the sick leave but unsatisfactory certificates can greatly complicate his task in advising Departments in relation to the discounting of periods of sick leave. A note prepared by the CMO to assist Personnel Sections in their examination of certificates is attached as Appendix 3.

Mise le meas
J McGovern
Assistant Secretary

Appendix 1

Chief Medical Officer,

Please find attached the sick leave record of an officer in this Department.

In relation to the absence(s) marked X, please advise whether any of the absences may be discounted on the grounds that they relate to

- (a) minor curative or "repair" operations, or
- (b) non-recurring illnesses (including pregnancy related illnesses), or
- (c) a health problem which you are satisfied has been rectified.

Appendix 2

Chief Medical Officer,

I enclose a medical certificate submitted by an officer of this Department in support of an application for sick leave together with the officer's sick leave record. To assist the Head of the Department in determining whether sick leave should be granted in this case and, if so, whether it should be with or without pay, I would be grateful if you would furnish your opinion as to whether the medical evidence in this case establishes that the officer concerned was suffering from an injury or ailment such as to render him/her unable to attend for work for the period for which sick leave has been sought.

Appendix 3

Scrutiny of Medical Certificates - Note by Chief Medical Officer

The sick leave regulations make it clear that officers are responsible for absenting themselves from work and, in the case of certified sick leave, for producing evidence of their unfitness for work in the form of a medical certificate. It is also clear that a medical certificate does not entitle an officer to sick leave. The purpose of the certificate is to provide evidence, in the form of a professional opinion, of the officer's unfitness for work. Where a doubt arises as to the adequacy of the evidence, the Department may refer the matter to me for an opinion on the question. Where such a reference is made the certificate will be examined on the following basis:

- (a) Any certificate for a person in hospital is automatically accepted.
- (b) Certificates containing a specific diagnosis such as fractures, post operations and those undergoing investigation or on therapy cause few problems. Occasionally, where an absence is more prolonged than is usual for the condition stated, a doctor to doctor report is sought before an opinion is formed.
- (c) Most problems arise from certificates for short term illnesses, particularly those indicating subjective symptoms rather than a diagnosis. These are carefully scrutinised to establish whether they constitute satisfactory medical evidence that the officer concerned was unfit for work due to illness. Before advising that such a certificate does not constitute adequate evidence that the officer concerned was unfit for work, a doctor to doctor report from the doctor who issued the certificate is always sought.

Questions have been raised recently concerning the treatment of certificates submitted in support of claims for sick leave during pregnancy or following maternity leave. Circular 27/81 makes it clear that sick leave may be granted in such circumstances subject to the normal regulations. However, problems have arisen in some cases due to vague and imprecise description of the conditions to which the certificates relate. Many merely state backache, anemia (without a back up blood count), loose pelvic joints, pains in pregnancy, vomiting and so forth. At first sight, many of the conditions described, while clearly associated with pregnancy, do not indicate any complications in pregnancy which would warrant sick leave (it should be noted, for example, that special provision is made in Circular Letter 4/81 to cater for morning sickness). Of course, it is accepted that the severity of such complaints can vary and that the officer concerned may be genuinely unfit for work. This can only be established through a doctor to doctor report and such a report will be sought where such a certificate is referred for advice.