

# Company action in temporary disability procedures throughout the first three hundred and sixty-five days of their duration period (RD 625/2014)

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## I. MEDICAL LEAVE FROM WORK, CONFIRMATION OF LEAVE AND FITNESS FOR WORK

1. The new RD 625/2014, of 18 July, regulating certain aspects of the management and oversight of temporary disability procedures in the first three hundred and sixty-five days of their duration period replaces the previous RD 575/97, of 18 April, and amends other rules on management and oversight of this contingency.

Apart from other aspects of coordination in the management of temporary disability between national health services, Social Security managerial bodies and mutual societies for work-related injuries and illness, there are some issues that affect the steps a company must take with regard to temporary disabilities. It should be noted that this rule **shall come into force on the first day of the second month following its publication** in the Official Journal of Spain (BOE, its acronym in Spanish) on 21 July.

2. The **medical leave from work statement** in temporary disability procedures, whatever the classification of contingency giving rise to the same, shall be made in the relevant note issued by the national health service doctor who has examined the affected worker.

Conversely, if the leave derives from a work-related injury or illness and the worker is (i) in the employment of a company

member of a Social Security mutual society for work-related injuries and illness or (ii) a self-employed person covered by a mutual society for the management of temporary disability benefits deriving from the same contingencies, the leave from work, confirmation (of leave) and fit for work notes shall be issued by the medical services of the relevant mutual society. The national health service or the mutual society shall electronically forward to the National Social Security Institute (INSS, its acronym in Spanish) the worker's personal data and the particulars of the leave note.

3. The **leave and confirmation notes** shall extend in time in accordance with the duration period the doctor issuing the notes has thought appropriate. There are, for this purpose, four procedure groups:

- a) in procedures with an estimated duration of **less than five calendar days**, the medical practitioner shall issue the leave from work and fit for work notes simultaneously. The medical practitioner, depending on the worker's expected recovery, shall record in the note the "fit for work" date, which may be the same as that of leave or any of the following three calendar days. However, the worker may request that a medical examination be conducted on the date fixed as the "fit for work" date and the medical practitioner may issue a confirmation of leave note if he or she believes that the worker has not recovered his or her ability to work.

- b) in procedures with an estimated duration of **five to thirty calendar days**, the medical practitioner shall issue the leave from work note recording on the same the medical check-up date, which may not exceed by more than seven calendar days the initial leave date. The fit for work note or, if the disability persists, the confirmation of leave note, shall be issued on the check-up date. After this first confirmation note, subsequent ones, where necessary, may not be issued more than fourteen calendar days apart from each other.
  - c) in procedures with an estimated duration of **thirty-one to sixty calendar days**, the medical practitioner shall issue the leave from work note recording on the same the medical check-up date, which may not exceed by more than seven calendar days the initial leave date. The fit for work note or, if the disability persists, the confirmation of leave note, shall be issued on the check-up date. After this first confirmation note, subsequent ones, where necessary, may not be issued more than twenty-eight calendar days apart from each other.
  - d) in procedures with an estimated duration of **more than sixty calendar days**, the medical practitioner shall issue the leave from work note recording on the same the medical check-up date, which may not exceed by more than fourteen calendar days the initial leave date. The fit for work note or, if the disability persists, the confirmation of leave note, shall be issued on the check-up date. After this first confirmation note, subsequent ones, where necessary, may not be issued more than thirty-five calendar days apart from each other.
4. The medical practitioner will issue the **fit for work note** when he or she believes that the worker has regained his ability to work, thereby putting an end to the worker's temporary disability as of the day following issue of the note. Without prejudice to the

continued provision of health care by the national service, this medical fitness for work makes it obligatory for the worker to return to his job the same day that it is effective.

In temporary disability procedures resulting from common contingencies covered by a mutual society, such society may put forward reasoned proposals for medical fitness for work. The public health service practitioners must decide whether to confirm the medical leave from work or to concur with the proposal through the issue of the appropriate fit for work note. If the leave is confirmed, the diagnosis, medical treatment given, grounds of disagreement and medical care and checks deemed necessary must be recorded. When the fitness for work proposed by a mutual society is not resolved and notified within five days (eleven days during the first six months of implementation of this rule, ex 2<sup>nd</sup> transitory provision thereof), the mutual society may request the fitness for work from the INSS, which must reach a decision within four days of receipt (eight days during the first six months of implementation of this rule, ex 2<sup>nd</sup> transitory provision thereof).

The national health service or mutual society doctor, when issuing the last confirmation note before conclusion of the three hundred and sixty-five calendar days period, shall notify the person concerned at the medical examination that, once said period has elapsed, oversight of the procedure will pass on to the INSS. Once the period has reached its end, confirmation notes will no longer be issued and the INSS shall be informed, immediately or at the latest on the next working day, on the conclusion of the three hundred and sixty-five calendar days of temporary disability.

When the INSS has issued the medical fit for work note through the medical inspectors attached to such entities, during the one hundred and eighty calendar days following the date on which it was issued these entities will be the only ones with authority, through their own doctors, to issue a new medical leave from work for the same or similar condition.

## II. COMPANY OBLIGATIONS IN RESPECT OF MEDICAL LEAVE FROM WORK, CONFIRMATION OF LEAVE AND FITNESS FOR WORK

1. The medical practitioner issuing the medical leave from work, confirmation (of leave) and fit for work notes shall give the worker two copies of the same, one for the person concerned and another for the company. Within **three days** from the day of issue of the medical leave and confirmation notes, **the worker will provide the company with its copy**. However, if the contract of employment ends during the medical leave period, the worker is required to submit to the managerial body or mutual society, as appropriate, within the same three-day period set in the case of the company, the copies of the confirmation notes. Within **twenty-four hours** of issue, the medical **fit for work** note for the company will be given by the worker to the same or, in the event of termination of contract, to the managerial body or mutual society. The national health service or, where appropriate, the mutual society, will electronically submit the medical leave from work, confirmation and fit for work notes to the INSS, immediately or at the latest the first working day following issue.

If the worker who has been summoned for examination by the managerial body does not show up on the scheduled date, any **benefits will be temporarily suspended** from the date following that appointed for the examination, informing the worker that he or she has a period of ten working days from the date of non-appearance to justify

such absence. If the appointment was made by the mutual society, it falls to said society to order the temporary suspension of benefits. The managerial body or the mutual society shall give electronic notice of the suspension to the company and the Spanish Social Security Agency (TGSS, its acronym in Spanish).

2. **Companies are required to submit to the INSS**, immediately or in any event within three working days from receipt of the note submitted by the worker, through the Electronic Submission of Data (RED, its acronym in Spanish) system, the **medical leave from work, confirmation and fit for work notes** handed over by the workers, filled with the data concerning the company. A breach of this obligation may constitute, as the case may be, an infringement punishable under art. 21(6) (minor infringements). A failure to submit the medical notes to the INSS may result in the Ministry of Employment and Social Security, in response to a proposal from the managerial body or mutual society, suspending the company's statutory collaboration in the delegated payment of temporary disability benefits.

If the employer has made to the worker delegated temporary disability benefit payments without deducting them from the assessments for Social Security contribution payments, said employer may apply to the INSS or mutual society, depending on which entity is responsible for management of the benefits, for a **refund of the amounts paid to the worker for this reason and not deducted**.

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