

# For Employers

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Below is an excerpt from the NDMS policy on issues regarding temporary employment of team members under the federal government:

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (P.L. 107-188, 6/12/2002) formally establishes the National Disaster Medical System (NDMS), recognizing the important role already played by the NDMS in the Federal government's response to all types of emergencies and disasters. The Act also addresses a number of critical personnel issues within the NDMS, including liability protections, employment rights, and compensation for work injuries.

Section 102 of the Act amends the Public Health Service Act by adding a section 2811. The new PHS Act section 2811(e) follows. In subsection (e) below, note paragraph (3) and particularly subparagraph (A).

## (e) CERTAIN EMPLOYMENT ISSUES REGARDING INTERMITTENT APPOINTMENTS-

(1) INTERMITTENT DISASTER-RESPONSE APPOINTEE- For purposes of this subsection, the term `intermittent disaster-response appointee' means an individual appointed by the Secretary under subsection (d).

(2) COMPENSATION FOR WORK INJURIES- An intermittent disaster-response appointee shall, while acting in the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions, and an injury sustained by such an individual shall be deemed `in the performance of duty', for purposes of chapter 81 of title 5, United States Code, pertaining to compensation for work injuries. With respect to the participation of individuals appointed under subsection (d) in training programs authorized by the Assistant Secretary for Public Health Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B), injuries sustained by such an individual, while acting within the scope of such participation, also shall be deemed `in the performance of duty' for purposes of chapter 81 of title 5, United States Code (regardless of whether the individuals receive compensation for such participation). In the event of an injury to such an intermittent disaster-response appointee, the Secretary of Labor shall be responsible for making determinations as to whether the claimant is entitled to compensation or other benefits in accordance with chapter 81 of title 5, United States Code.

## (3) EMPLOYMENT AND REEMPLOYMENT RIGHTS-

(A) IN GENERAL- Service as an intermittent disaster-response appointee when the Secretary activates the National Disaster Medical System or when the individual participates in a training program authorized by the Assistant Secretary for Public Health Emergency Preparedness or a

comparable official of any Federal agency specified in subsection (b)(2)(B) shall be deemed 'service in the uniformed services' for purposes of chapter 43 of title 38, United States Code, pertaining to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in chapter 43 of title 38, United States Code.

(B) NOTICE OF ABSENCE FROM POSITION OF EMPLOYMENT- Preclusion of giving notice of service by necessity of Service as an intermittent disaster-response appointee when the Secretary activates the National Disaster Medical System shall be deemed preclusion by 'military necessity' for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Secretary, in consultation with the Secretary of Defense, and shall not be subject to judicial review.

(4) LIMITATION- An intermittent disaster-response appointee shall not be deemed an employee of the Department of Health and Human Services for purposes other than those specifically set forth in this section.

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