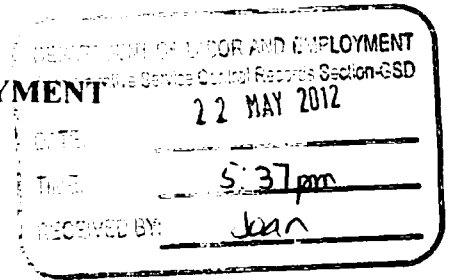


Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Intramuros, Manila



DEPARTMENT ORDER NO. 112-A
Series of 2012

**AMENDING THE GUIDELINES ON THE IMPLEMENTATION OF THE SPECIAL
LEAVE BENEFIT FOR WOMEN EMPLOYEES IN THE PRIVATE SECTOR**

Section 1. Pursuant to Section 21(B) of the Implementing Rules and Regulations of Republic Act 9710, otherwise known as the "Magna Carta of Women", the provisions of Department Order No. 112, Series of 2011, are hereby amended as follows:

Section 1, paragraph (a) is hereby amended to read as:

Section 1. Definition of terms. – x x x

(a) "*Special leave benefit for women*" means a female employee's leave entitlement of two (2) months with full pay from her employer based on her gross monthly compensation following surgery caused by gynecological disorders, provided that she has rendered continuous aggregate employment service of at least six (6) months for the last 12 months.

Additional sub-paragraphs are hereby added to Section 1, as follows:

(c) "*Gross monthly compensation*" means the monthly basic pay plus mandatory allowances fixed by the regional wage boards.

(d) "*Two (2) months*" means sixty (60) calendar days pursuant to Article 13 of the New Civil Code.

(e) "*At least six (6) months continuous aggregate employment service for the last twelve (12) months prior to surgery*" means that the woman employee should have been with the company for twelve (12) months, prior to surgery. An aggregate service of at least six (6) months within the said 12-

month period is sufficient to entitle her to avail of the special leave benefit (SLB).

(f) "Employment service" includes absences with pay such as use of other mandated leaves, company granted leaves and maternity leave.

(g) "Competent physician" means a medical doctor preferably specializing in gynecological disorders or is in the position to determine the period of recuperation of the woman employee.

A new provision is hereby introduced as Section 4, to read as:

Section 4. The special leave benefit. – The two (2) months special leave is the maximum period of leave with pay that a woman employee may avail of under RA 9710.

For purposes of determining the period of leave with pay that will be allowed to a woman employee, the certification of a competent physician as to the required period of recuperation shall be controlling.

Section 4 of the previous Guidelines is hereby re-numbered as Section 5, to read as:

Section 5. Availment. – The special leave shall be granted to the qualified employee after she has undergone surgery.

New provisions are hereby added to the Guidelines and subsequent Sections are re-numbered accordingly as follows:

Section 6. Frequency of availment. – A woman employee can avail of the special leave benefit for every instance of surgery due to gynecological disorder for a maximum total period of two (2) months per year.

Section 7. Special leave benefit vis-à-vis SSS sickness benefit. – The special leave benefit is different from the SSS sickness benefit. The former is granted by the employer in accordance with RA 9710, as implemented under this Rules.

It is granted to a woman employee who has undergone surgery due to gynecological disorder. The SSS sickness benefit, on the other hand, is administered and given by the SSS in accordance with the SSS law or RA1161 as amended by RA 8282.

Section 8. Special leave benefit vis-à-vis existing statutory leaves. – The special leave benefit cannot be taken from existing statutory leaves (i.e. 5-day Service Incentive Leave, Leave for victims of VAWC, Parental Leave for Solo Parents). The grant of the special leave benefit under the law is in recognition of the fact that patients with gynecological disorder needing surgery require a longer period for recovery. The benefit is considered an addition to the leave benefits granted under existing laws and should be added on top of said statutory leave entitlements.

If the special leave benefit has already been exhausted, the company leave and other mandated leave benefits may be availed of by the woman employee.

Section 9. Special leave benefit vis-à-vis maternity leave benefit. – Where the woman employee had undergone surgery due to gynecological disorder during her maternity leave, she is entitled only to the difference between the SLB and maternity leave benefit.

Section 10. Crediting of existing or similar benefits. – If there are existing or similar benefits under a company policy, practice or collective bargaining agreement (CBA) providing similar or equal benefits to what is mandated by law, the same shall be considered as compliance, unless the company policy, practice or CBA provides otherwise.

In the event the company policy, practice or CBA provides lesser benefits, the company shall grant the difference.

More liberal existing or similar benefits cannot be withdrawn or reduced by reason of the mandate of RA 9710.

The term "similar or equal benefits" refers to leave benefits which are of the same nature and purpose as that of the SLB.

Section 11. Mode of payment. – The special leave benefit is a leave privilege. The woman employee shall not report for work for the duration of the leave but she will still receive her salary covering said period. The employer, in its discretion, may allow said employee to receive her pay for the period covered by the approved leave before or during the surgery. The computation of her "pay" shall be based on her prevailing salary at the time of the surgery.

Section 12. Non-commutation of the benefit. – The special leave shall be non-cumulative and non-convertible to cash unless otherwise provided by a collective bargaining agreement (CBA).

Section 13. Retroactive application. – The woman employee whose leave period for surgery and recuperation due to gynecological disorders after the effectivity of the Magna Carta of Women (RA No. 9710) on 15 September 2009 and before the promulgation of its Guidelines (DO 112-11) on April 6, 2011, was deducted against her sick or vacation leave credits shall be entitled to the restoration of said leave credits and/or payment of appropriate compensation or salary at the time of surgery, as the case may be.

Section 14. Monitoring of compliance. – The DOLE-Regional Office shall be responsible for monitoring compliance as provided herein and related rules and issuances. It shall submit a separate quarterly monitoring report to the Bureau of Working Conditions (BWC), copy furnished the Tripartite Industrial Peace Council (TIPC), for purposes of evaluation.

Section 2. Repealing Clause. – All rules, regulations, circulars and administrative orders inconsistent herewith are repealed or modified accordingly.

Section 3. Effectivity. – This Guidelines shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Manila, Philippines, 22 MAY, 2012.


ROSALINDA DIMAPILIS BALDOZ
Secretary