

Sick leave and travel status

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Subject:
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PUBLIC EMPLOYEES--MAY NOT BE REIMBURSED FOR PER DIEM WHEN ON SICK LEAVE WHILE ON TRAVEL STATUS

To: Doyle Conner, Commissioner of Agriculture, Tallahassee

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QUESTION:

Is it permissible for a department to allow an employee to take sick leave for personal illness while on travel status away from his official headquarters and to continue to receive travel allowance?

SUMMARY:

There is no statutory authority to reimburse a state employee for per diem when on sick leave because of illness occurring while on travel status away from his official headquarters.

Your question is answered in the negative.

Under the express terms of s. 112.061(3)(b), F. S., reimbursable expenses of travelers

"... shall be limited to those expenses *necessarily incurred by them in the performance of a public purpose authorized by law* to be performed by the agency and must be within the limitations prescribed by this section." (Emphasis supplied.)

Section 112.061(12)(b), F. S., requires the traveler to sign a travel voucher certifying, among other things, to the truth and correctness of his claim for travel expenses, and that the travel expenses "were actually incurred by the traveler as *necessary in the performance of official duties*." (Emphasis supplied.)

Although one can certainly sympathize with the position a state employee is placed in when he becomes ill while away from his official headquarters on official business, there is no statutory authority to reimburse the employee for per diem while on sick leave because of illness occurring while on travel status away from his official headquarters.

In the absence of such statutory authority, public funds may not legally be expended for such purposes. See AGO 071-28, 073-414, *Florida Development Comm. v. Dickinson*, 229 So.2d 6 (1

D.C.A. Fla., 1969), *cert. denied*, 237 So.2d 530 (Fla. 1970), and *cf.* AGO's 074-305 and 075-120.