*Notice for Essential (Suspension Activity Support) Non-SES Employee*

**To:** [Name of Excepted Non-SES Employee]

**Subject:** Retention and Conditional Furlough Decision Notice During Lapse of Appropriations (5 CFR Part 752)

1. The purpose of this letter is to notify you that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*VA organization*) is temporarily retaining you for duty as an essential employee to assist in the orderly suspension of VA operations affected by the furlough that is effective \_\_\_\_\_\_\_\_\_\_\_\_\_ *(enter month, day, and year)*. The Department of Veterans Affairs (VA) does not expect this furlough to exceed 30 calendar days (22 workdays), or *\_\_\_\_\_\_\_\_\_\_\_\_\_ (enter month, day, and year)*.
2. The reason for this furlough is that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*VA organization*) does not have funding through either a continuing Federal Government budget resolution or a Fiscal Year (FY) 2022 appropriation. Thus, VA may incur no further financial obligations except for those related to the orderly suspension of affected VA operations or performance of excepted activities as defined in the Office of Management and Budget (OMB) Circular No. A-11, dated June 2019, and OMB Memorandum M-18-05 dated January 19, 2018. Because the Veterans Health Administration (VHA) has received its FY 2022 appropriation, the furlough does not apply to VHA facilities or VHA employees except for those engaged in some VHA Research and Development activities whose funding expires. The furlough also does not apply to VA employees who are performing one of the excepted activities defined in the OMB circular and memorandum or to employees like you during the period/s that you must handle the orderly suspension of affected VA operations.
3. Because you will be engaged in the orderly suspension of affected VA operations, VA must retain you for part or all of 1 or more workdays, of which your supervisor will notify you. Though VA values the work that you perform, after you complete your duties on the assigned workdays assisting in the suspension of affected VA operations, VA must also then place you on furlough in a non-pay, nonduty status. You should access VA website ([www.va.gov](http://www.va.gov/)), Office of Personnel Management’s website ([www.OPM.gov](http://www.OPM.gov)) and monitor public news broadcasts for notice that either a continuing Federal Government budget resolution or an FY 2022 appropriation for all of the Department of Veterans Affairs has taken effect. Once either of those events occurs, VA recalls you to return to work on your next regular duty day.
4. In accordance with 5. U.S.C. 1342, it is unlawful to accept voluntary services for the United States, or employ personal services not authorized by law if you are performing a nonexcepted or unfunded activity. An officer and employee of VA and the United States Government who “knowingly and willfully” violates this law shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office and shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.
5. Because a sudden emergency requiring curtailment of VA activities has caused this furlough action, no advance notification is possible. Thus, the customary 30-day advance notice period and opportunity to answer will not occur, in accordance with the provisions of 5 CFR 752.404(d)(2).
6. When not performing duties to assist in the suspension of affected VA operations, you will be on furlough and may not serve as an unpaid volunteer to perform your duties but must remain away from your workplace unless and until recalled. The furlough also causes cancellation of any paid leave (annual, sick, court, etc.) previously approved or planned for use during the furlough period.
7. This furlough will have no effect on your entitlement to health and life insurance. Nor will the furlough change your service computation date.
8. Employees who have completed a probationary or trial period or 1 year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the Merit Systems Protection Board (MSPB). Employees in the excepted service who have Veterans’ preference may appeal to the MSPB if they have completed 1 year of current continuous service in the same or similar positions as the ones they now hold. Employees in the excepted service who do not have Veterans’ preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to the MSPB if they have completed 2 years of current continuous service in the same or similar positions in an Executive department or agency under other than a temporary appointment limited to 2 years or less. Employees have a right to representation in this matter and may choose an attorney or other person to represent them.
9. If you have the right of appeal to MSPB and wish to so appeal this action, you must file the appeal within 30 calendar days of the effective date of your furlough. To obtain a copy of the MSPB regulations and appeal form and the address of the MSPB Regional Office having jurisdiction, notify (*VA contact and telephone number*).
10. Bargaining unit employees may grieve this action in accordance with the applicable negotiated agreement (*provide citation to negotiated agreement*) or may appeal to MSPB in accordance with the procedures outlined above, but not both. To obtain information on filing a grievance under the negotiated grievance procedure, contact (*name of exclusive union representative*).
11. Attached is the SF-8, Notice to Federal Employee about Unemployment Insurance. Additional information about unemployment insurance is available at: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Unemployment-Insurance-Resources>

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding agency funding becomes available. If you have questions, contact [*contact name, phone number, and email address*]

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Deciding Official Date

I acknowledge receipt of this decision and notice to furlough.

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Employee's Signature Date

Attachment: SF-8