

NATIONAL RAILWAY LABOR CONFERENCE

EMPLOYEE BENEFITS DEPARTMENT

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April 5, 2012

**The Railroad Employees National Health & Welfare Plan
National Railway Carriers/United Transportation Union Health & Welfare Plan
Railroad Employees National Dental Plan
Railroad Employees National Vision Plan**

SEVEN-DAY RULE

Circular No. 504-88-2
Circular No. 843-17
Circular No. 636-35-2
Circular No. 825-14

TO: MEMBER ROADS AND ALL OTHER PARTICIPATING RAILROADS

This Circular revises and updates information contained in multiple-numbered Circulars 504-88 dated March 11, 1997, and 504-88-1 dated July 23, 1999, concerning coverage earned from rendering the Requisite Amount of Compensated Service under the above-referenced Plans (the "Plans") pursuant to certain collectively bargained agreements that include the provision hereafter referred to as the "*Seven-Day Rule*." These are agreements between carriers represented by the National Carriers' Conference Committee and the Brotherhood of Maintenance of Way Employees Division of the Rail Conference of the International Brotherhood of Teamsters (BMWED), the Transportation Communications International Union (TCU) (including Brotherhood Railway Carmen Division), the United Transportation Union (UTU) (including Yardmasters), the Brotherhood of Locomotive Engineers and Trainmen - A Division of the Rail Conference of the International Brotherhood of Teamsters (BLET), and the Brotherhood of Railroad Signalmen (BRS). Carriers may also have local agreements with certain unions, such as with the American Train Dispatchers Association (ATDA), which subject their members to the *Seven-Day Rule*.

Anything in earlier Circulars related to this matter that is inconsistent with the information and directions set forth below is superseded.

Because of the complexity resulting from the various exceptions included in the side letters to the agreements, many carriers have requested guidelines to aid in administration of the Seven-Day Rule. To this end, the NRLC's Labor Relations Department developed Attachment 2. For each of the affected labor organizations, there

are two flow charts: one that assists in determining whether an employee has satisfied the Seven-Day Rule and a second one that walks you through the process of counting Qualifying Days. (This attachment does not contemplate the administration of local agreements with certain unions, which subjects their members to the Seven-Day Rule.) Additionally, a chart of approved work status and termination codes has been provided in Attachment 3 to assist you with the guidance provided below. If, after using these charts, you have questions or problems, please contact me.

Satisfaction of the Seven-Day Rule results in the employee being a Qualified Employee, sometimes also referred to as a Payment Employee. Please bear in mind that an employee who satisfies the conditions specified in the Plans' provisions regarding "Compensation Maintenance Agreements" is a Qualified Employee just as if he or she had satisfied the Seven-Day Rule.

We have also received several questions and can provide guidance as shown on Attachment 1.

The contents of this Circular will be discussed in detail at the April 2012 Benefits Seminar. If you have questions, please email them to us in advance.

David B. Marcus

ATTACHMENT 1

Question #1

If an employee subject to the *Seven-Day Rule* has less than seven (7) *Qualifying Days* in a given *Work History Month*, how should that information be reported to UnitedHealthcare?

Answer #1

The employee should be reported with a work status code of "0" if he/she had earned no *Qualifying Days* in a given *Work History Month*, or with a work status code of "3" if he/she had earned more than one but less than seven (7) *Qualifying Days* in a given *Work History Month*, and the *Opportunity Rule* does not apply. In addition if at the end of the *Work History Month* the employee was not furloughed, suspended, dismissed, resigned, disabled, deceased, retired, moved from a union to management position, or was on military or personal leave, he/she should be reported with a termination code of "15." Otherwise, the employee should be reported with the appropriate termination code. (E.g. If the employee was furloughed, a termination code of "1" would be used.)

Note: The aforementioned response was compiled from information obtained from the Administrative and Coding Instructions for The Railroad Employees National Health and Welfare Plan, which provide guidance on, among other matters, reporting work history to UnitedHealthcare. The carrier should refer to these instructions for further guidance on such matters.

Question #2

If during the given *Work History Month* an employee subject to the *Seven-Day Rule* rendered *Compensated Service*, but failed to satisfy the *Seven-Day Rule*, is the carrier obligated to make a contribution to the Plans for him/her during the current month (the related *Payment Month*)?

Answer #2

No. Carriers must make Plan contributions during a given month (the *Payment Month*) for each employee who rendered the "*Requisite Amount of Compensated Service*" during the immediately prior month (the related *Work History Month*). If the employee is subject to the *Seven-Day Rule*, the *Requisite Amount of Compensated Service* means *Compensated Service* rendered on at least seven (7) days during that *Work History Month*.

Note: The aforementioned response was compiled from information obtained from the Administrative and Coding Instructions, which provides guidance on, among other matters, making contributions to the Plans. The carrier should refer to these instructions for further guidance on such matters.

Question #3

Following question 2, if that employee is a hospital association carrier employee, is the employing carrier required to pay to the hospital association to which he/she belongs the hospital association dues offset for him/her for the related *Payment Month*?

Answer #3

No.

Question #4

If an employee subject to the *Seven-Day Rule* renders *Compensated Service* on the 1st and 2nd day of the month and is then furloughed, is the employee deemed to have met the *Seven-Day Rule*, since he/she did not have the opportunity to work all available assignments?

Answer #4

No, because coverage is extended by reason of furlough regardless of the *Seven-Day Rule*. The employee will be covered while furloughed, but only through the 4th month following the last month in which the employee had a *Qualifying Day*. The employee should be reported to UnitedHealthcare with a work status code of "3" and a termination code of "1". No carrier or employee contribution will be due.

Note: Certain aspects of the aforementioned response were compiled from information obtained from the Administrative and Coding Instructions, which provides guidance on, among other matters, reporting work history to UnitedHealthcare. The carrier should refer to these instructions for further guidance on such matters.

Question #5

An employee is subject to the *Seven-Day Rule* and is recalled from furlough on April 26th to a regular assignment that works Monday through Friday. The employee works on each of his assigned work days for that week (i.e., April 26th through April 30th). The employee did not have any other *Qualifying Days* during that month. Has the employee satisfied the *Seven-Day Rule* during April?

Answer #5

Yes. If an employee returns to work from furlough during a month when there is no opportunity to render *Compensated Service* on at least seven (7) calendar days during that month, he/she will be deemed to have satisfied the *Seven-Day Rule*, provided that such employee is available or actually works every available work opportunity during that month.

Question #6

Same facts as in Question No. 5 except the employee does not work on one of his assigned work days. Has the employee satisfied the *Seven-Day Rule*?

Answer #6

Even though the employee did not actually work on the assigned work day, the answer depends upon whether that day was a *Qualifying Day* for him/her. (For example, he/she may have received vacation pay or some other pay for that day that is considered a "Qualified Day" by the carrier.) If so, the answer is Yes. Otherwise, the answer is No.

Question #7

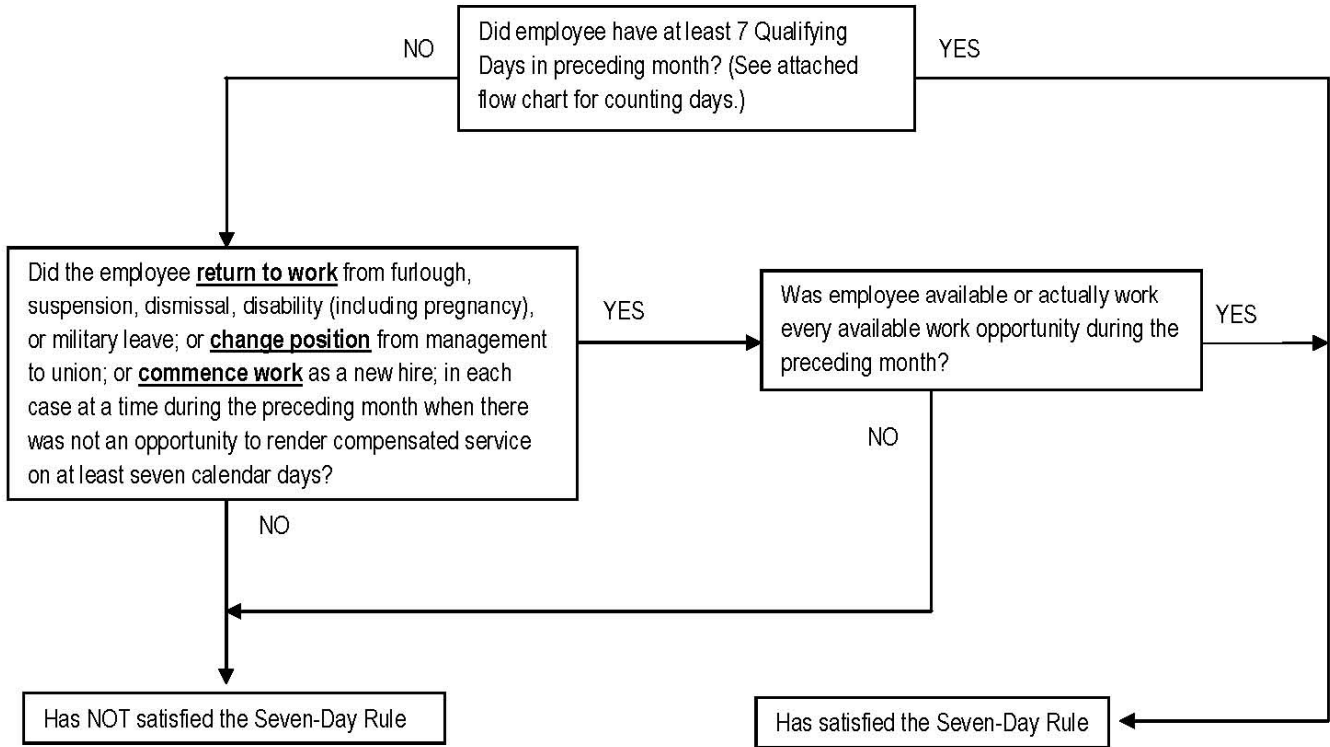
Does the term "Local Officials" affiliated with the BLET or UTU include local presidents, secretaries, treasurers and legislative representatives who may also be required to lose time from their assignments due to union obligation?

Answer #7

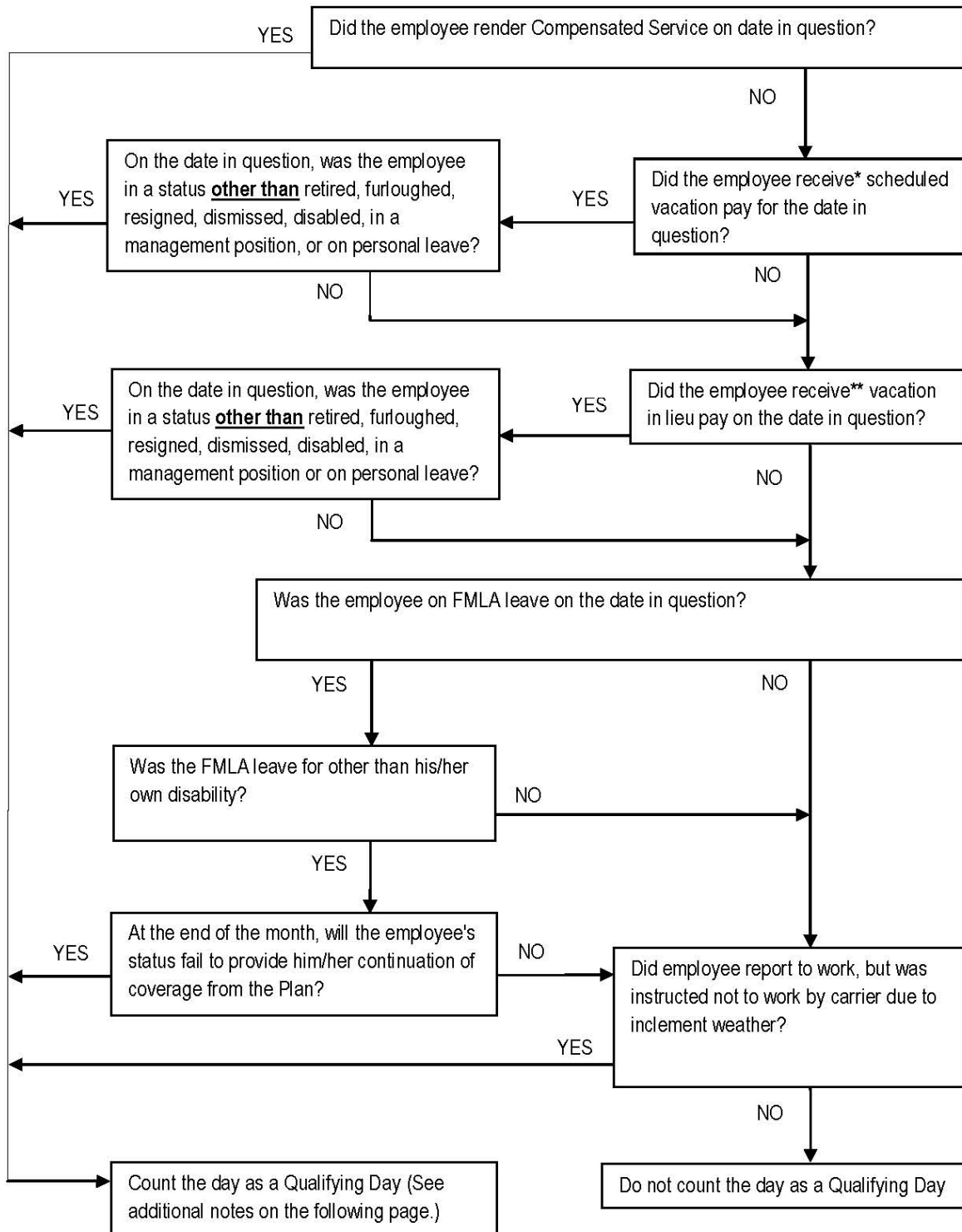
No, the exclusion from the *Seven-Day Rule* for Local Officials affiliated with the BLET and UTU is limited to working General Chairmen, Local Chairmen, and state legislative directors.

ATTACHMENT 2

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES (BMWE)
FLOW CHART – SATISFYING THE SEVEN DAY RULE



BMW COUNTING DAYS FLOW CHART



* For purposes of this chart, compensation for scheduled vacation is deemed to be received the day in which the scheduled vacation was taken.

** For purposes of this chart, payments in lieu of vacation are deemed to be received the month in which they are actually paid. Each day included in the vacation in lieu payment should be counted as a Qualified Day.

(BMW – Continued)

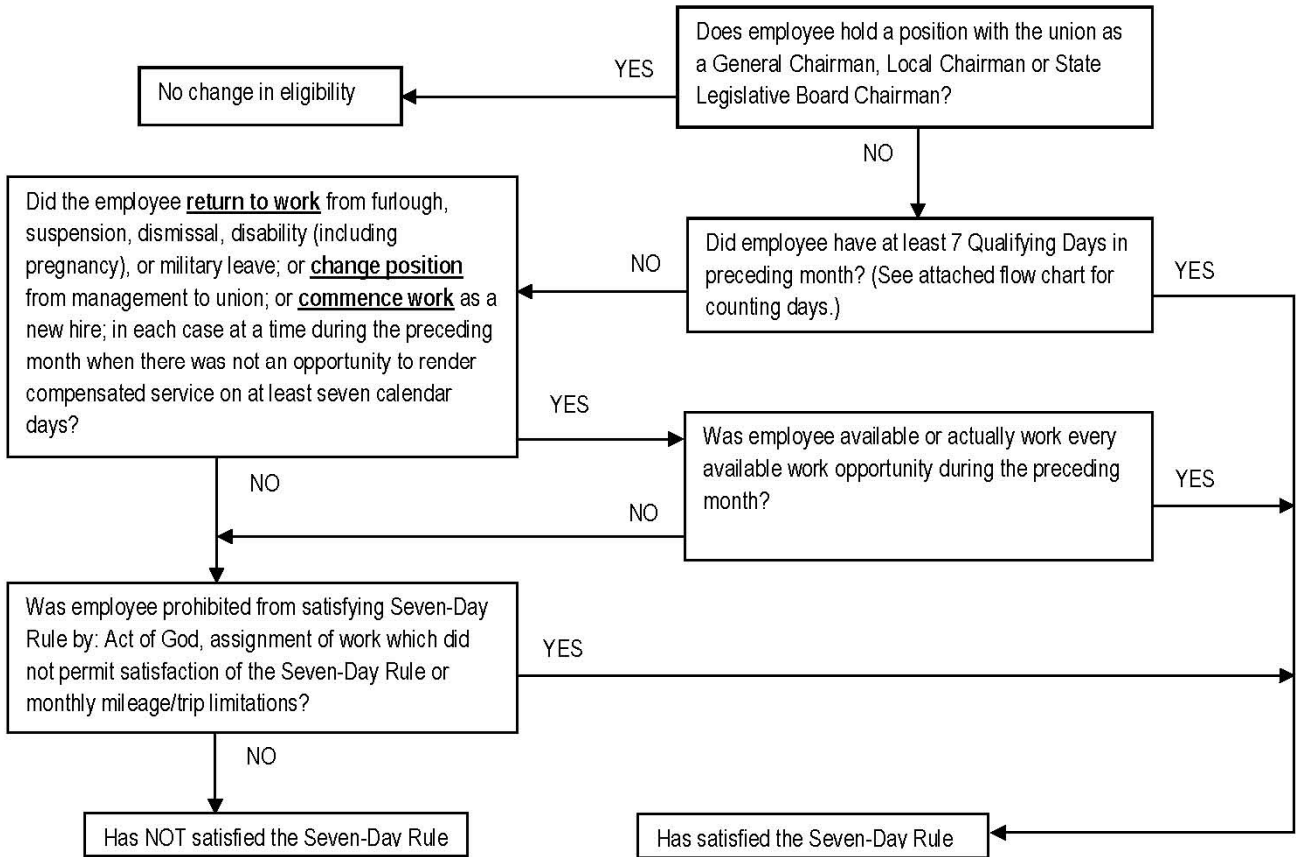
Important Notes to the Counting Days Flow Chart

- 1) Count 2 Qualifying Days if assignment (including overtime) carried over to a second date and continued into the employee's regularly scheduled work hours on the second date.
- 2) Count 2 Qualifying Days if assignment (including overtime) carried over to a second date which was employee's rest day and continued into the hours of what would have been the employee's work day.

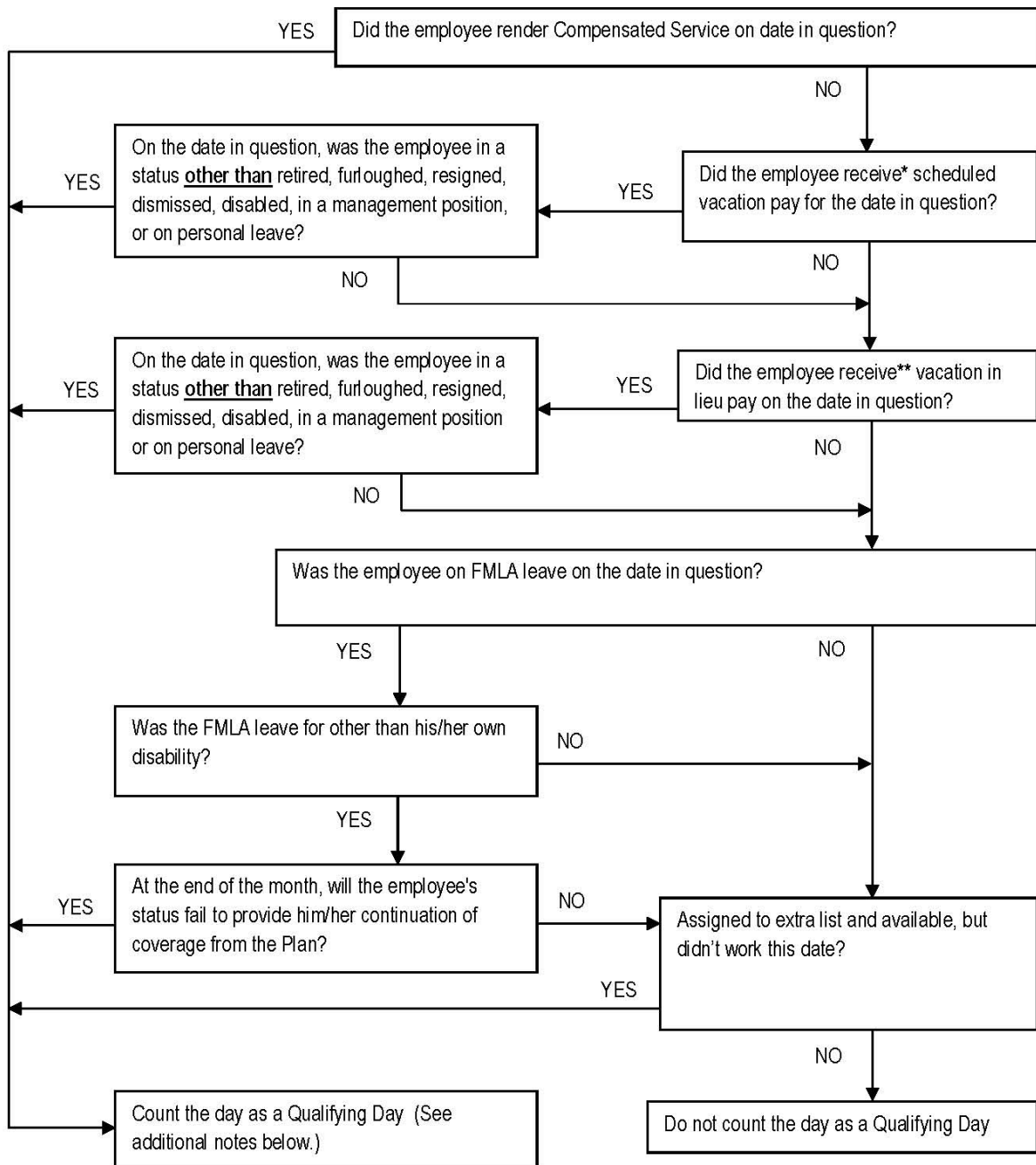
Example: Regular assignment M - F, 7 am - 3 pm; Friday assignment with overtime carried over to Saturday and ended at 8:00 am; Count 1 day for Friday and 1 day for Saturday

- 3) Where the employee's assignment consisted of more than 8 hours, count 1 and a fraction Qualifying Days for each day worked, reported for work but did not perform service due to inclement weather, or for which vacation compensation was received; i.e., an assignment of 10 hours should be counted as 1.25 Qualifying Days.
- 4) Except as provided in (1), (2), and (3) above, count only 1 Qualifying Day per assignment (including overtime), even if that assignment carried over to a second date.
- 5) Count 1 Qualifying Day for work on an assigned rest day.

**UNITED TRANSPORTATION UNION
& BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN (UTU & BLET)
FLOW CHART – SATISFYING THE SEVEN DAY RULE**



UTU & BLET COUNTING DAYS FLOW CHART



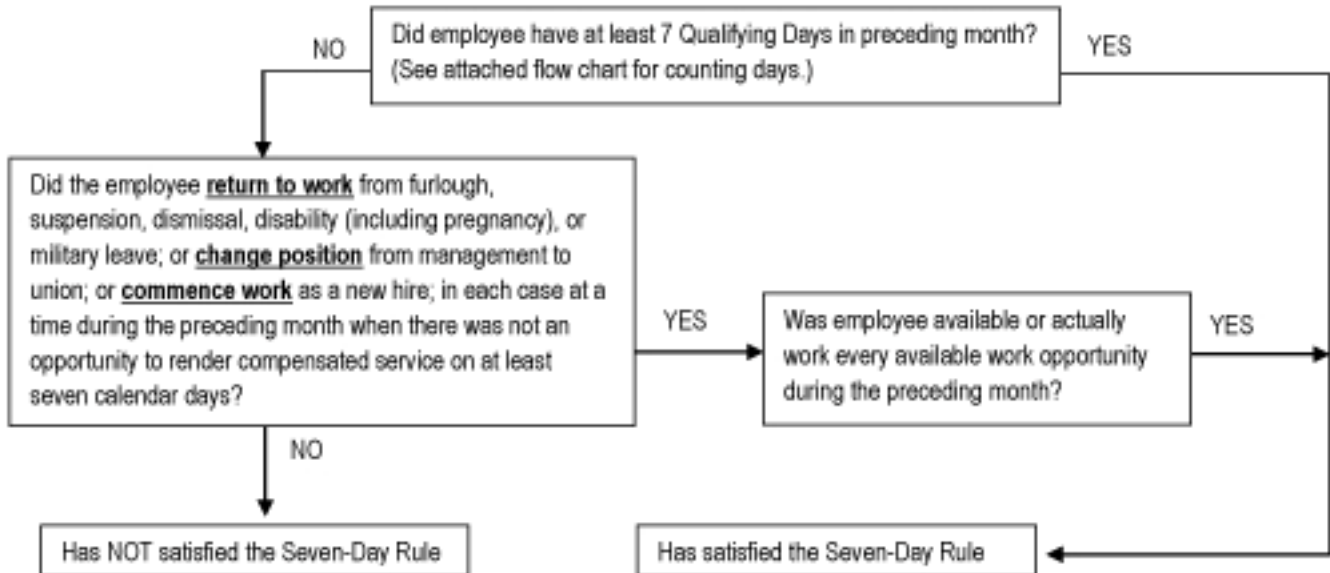
* For purposes of this chart, compensation for scheduled vacation is deemed to be received the day in which the scheduled vacation was taken.

** For purposes of this chart, payments in lieu of vacation are deemed to be received the month in which they are actually paid. Each day included in the vacation in lieu payment should be counted as a Qualifying Day.

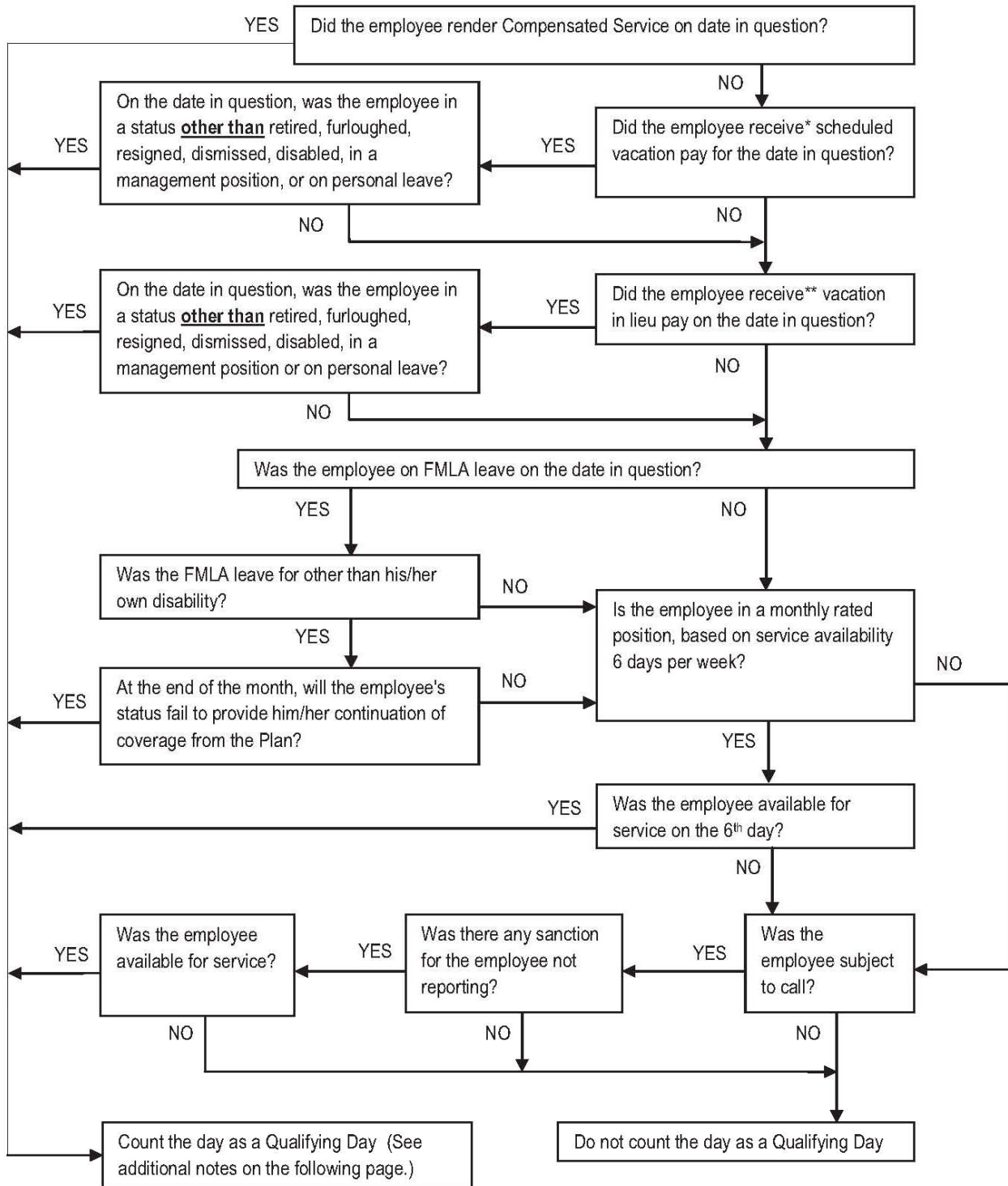
Important Notes for the Counting Days Flow Chart

- 1) Count only 1 Qualifying Day, regardless of the number of starts.

**BROTHERHOOD OF RAILROAD SIGNALMEN (BRS)
FLOW CHART – SATISFYING THE SEVEN DAY RULE**



BRS COUNTING DAYS FLOW CHART



* For purposes of this chart, compensation for scheduled vacation is deemed to be received the day in which the scheduled vacation was taken.

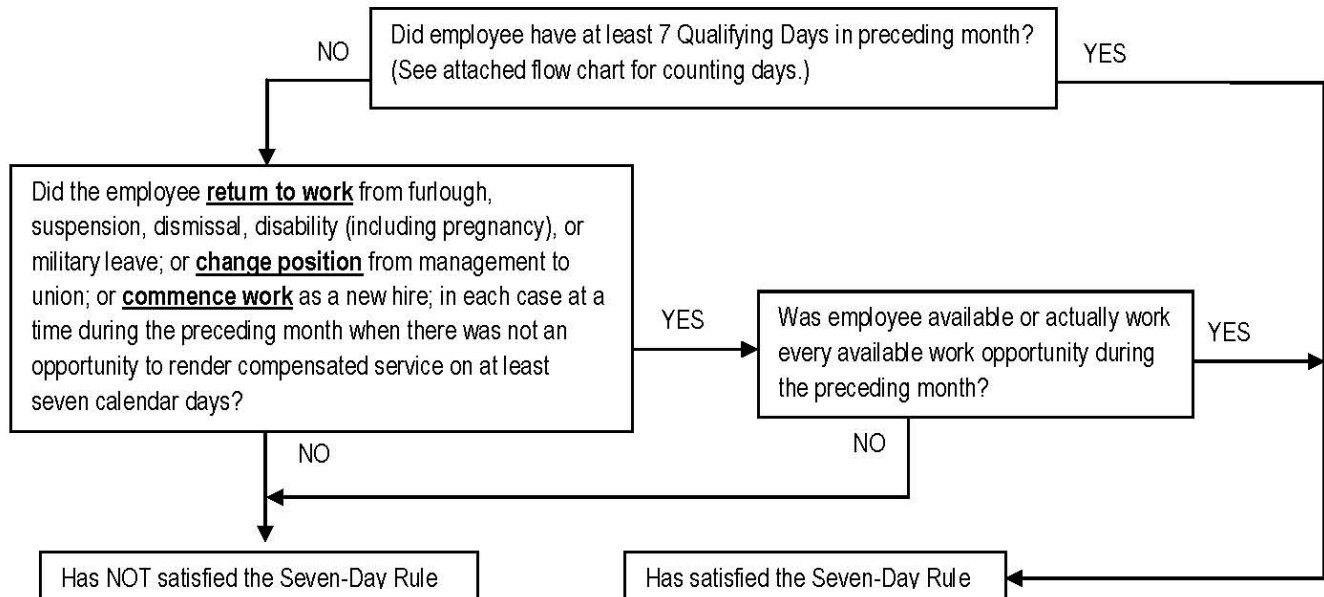
** For purposes of this chart, payments in lieu of vacation are deemed to be received the month in which they are actually paid. Each day included in the vacation in lieu payment should be counted as a Qualified Day.

(BRS – Continued)

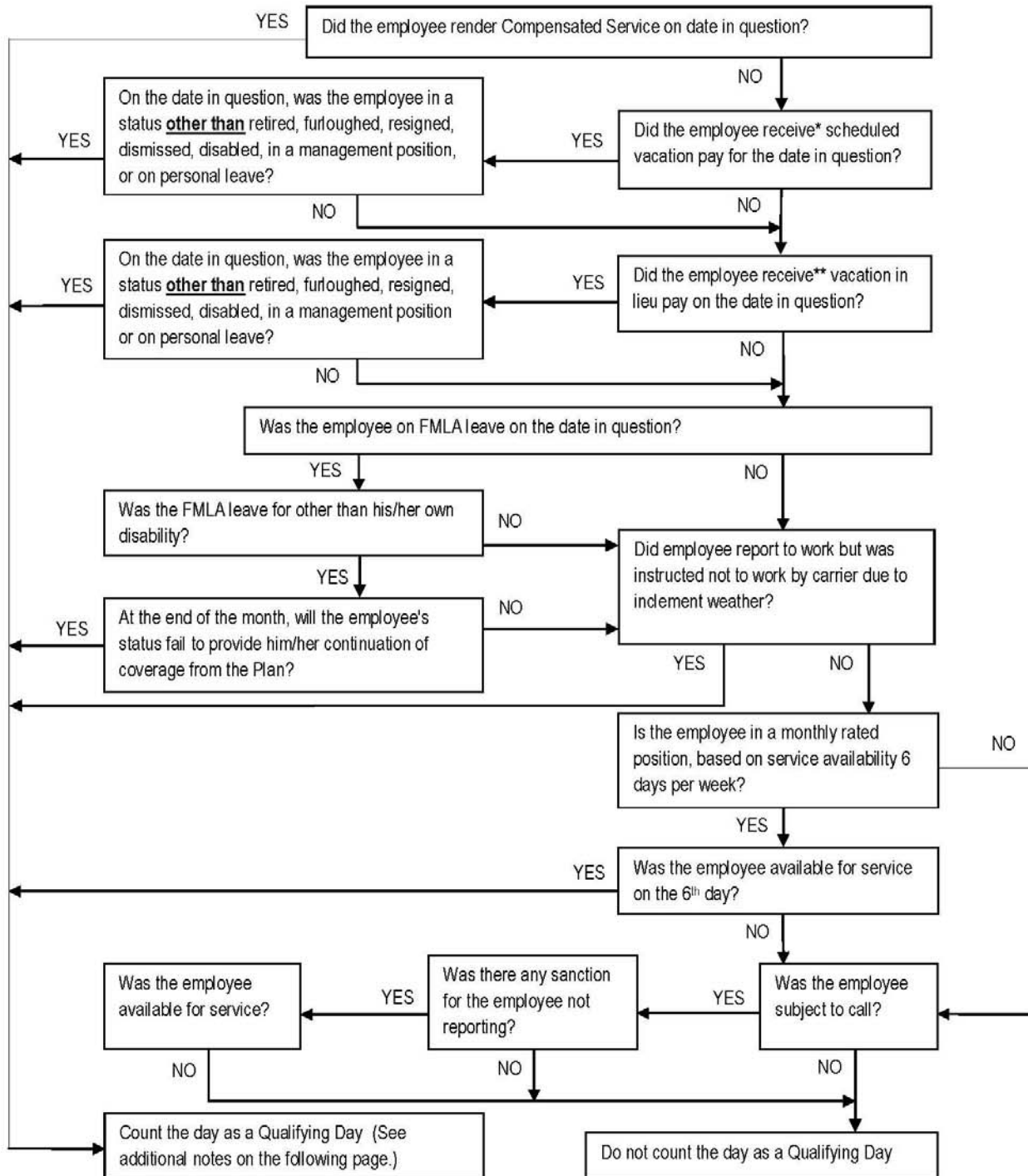
Important Notes for the Counting Days Flow Chart

- 1) Count 1 Qualifying Day per assignment (including overtime) even if that assignment carries over to a second date.
- 2) Where the regular work day consists of more than 8 hours, count 1 and a fraction Qualifying Days for each day that is worked or vacation compensation is received; i.e., a regular assignment of 10-hours should be counted as 1.25 Qualifying Days.
- 3) Count 1 Qualifying Day for work on an assigned rest day.

**TRANSPORTATION COMMUNICATIONS UNION (TCU – CLERKS AND CARMEN)
FLOW CHART – SATISFYING THE SEVEN DAY RULE**



TCU CLERKS AND CARMEN COUNTING DAYS FLOW CHART



* For purposes of this chart, compensation for scheduled vacation is deemed to be received the day in which the scheduled vacation was taken.

** For purposes of this chart, payments in lieu of vacation are deemed to be received the month in which they are actually paid. Each day included in the vacation in lieu payment should be counted as a Qualified Day.

(TCU CLERKS AND CARMEN – Continued)

Important Notes for the Counting Days Flow Chart

- 1) Count 2 Qualifying Days if assignment (including overtime) carried over to a second date and continued into the employee's regularly scheduled work hours on the second date.
- 2) Count 2 Qualifying Days if assignment (including overtime) carried over to a second date which was employee's rest day and continued into the hours of what would have been the employee's work day.

Example: Regular assignment M - F, 7 am - 3 pm; Friday assignment with overtime carried over to Saturday and ended at 8:00 am; Count 1 day for Friday and 1 day for Saturday

- 3) Where the employee's assignment consisted of more than 8 hours, count 1 and a fraction Qualifying Days for each day worked, reported for work but did not perform service due to inclement weather, or for which vacation compensation was received; i.e., an assignment of 10 hours should be counted as 1.25 Qualifying Days.
- 4) Except as provided in (1), (2), and (3) above, count only 1 Qualifying Day per assignment (including overtime), even if that assignment carried over to a second date.
- 5) Count 1 Qualifying Day for work on an assigned rest day.

ATTACHMENT 3
CHART OF WORK STATUS CODES

Work Status Code	Description
0	Employee failed to render ANY compensated service.
3	Employee rendered some, but not the Requisite Amount of Compensated Service. (Only applies to employees working under a collective bargaining agreement that includes the "Seven-Day Rule")
1	Employee rendered the Requisite Amount of Compensated Service, <u>i.e.</u> , compensated service on seven days where the Seven-Day Rule applies, and any compensated service where the Seven-Day Rule does not apply.
V	Disabled employee who received ANY vacation pay in a month subsequent to the month in which he/she became disabled. Note that vacation pay includes scheduled vacation and payments in lieu of vacation. No payment is required for an employee reported with a work status code "V", but a "V" will be used by UHC as a point from which to extend coverage in accordance with the applicable Plan provisions.
B	Employee failed to render the Requisite Amount of Compensated Service because of an agreement, a statute, or an order of a regulatory agency which obligates you to provide the individual with health care coverage in a given month through the Plan.
U	Employee failed to render the Requisite Amount of Compensated Service by reason of service in the uniformed services, as defined by USERRA, and you have chosen by agreement with the employee to provide him/her with Plan coverage that continues after the period of extended coverage for employees furloughed by reason of service in the uniformed services. (This work status code should only be used once the employee's extension of Plan coverage related to his/her uniformed services furlough has ended.)

CHART OF TERMINATION CODES

Termination Code	Description
01	Furloughed
02	Suspended
03	Dismissed
04	Resigned
05	Disabled
06	Leave of Absence
07	Deceased
08	Retired
11	Don't Know at This Time
15	Failed to Meet the Seven-Day Rule Where Applicable or Failed to Render Any Service Where Not Applicable
20	Union to Management Position
21	Uniformed Services Leave Of Absence – (Railroad Has Provided Additional Coverage)
22	Uniformed Services Furlough