

Family and Medical Leave Policy (FMLA)

A. Eligibility

To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

- 1) The employee must have worked for the employer for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate stints of employment will be counted, provided that a break-in-service does not exceed 7 years. Separate stints of employment will be counted for breaks in service of 7 years or longer if the break in service is due to National Guard or Reserve military obligation or written agreement reflecting an employer's intention to rehire the employee after the break-in-service.
- 2) The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence.

B. Types of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- 1) *The birth of a child and in order to care for that child: Pregnancy leave is characterized by physical disability because of childbirth or a pregnancy related condition. Birth leave may be a combination of parental leave and pregnancy leave. Parental leave is time off work for employees who are physically able to return to work but choose to stay home and care for newborn children.*
- 2) *The placement of a child for adoption or foster care and to care for the newly placed child.*
- 3) *To care for a spouse, child or parent with a serious health condition.*
- 4) *The serious health condition (**described below**) of the employee.*

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position. A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider or condition involving any of the following:

- a chronic or long-term health condition is an employee who is incapacitated for more than three consecutive full calendar days must show that he/she is receiving continuing treatment from a health care provider in order to satisfy the definition of a serious health condition. In order to satisfy the "continuing treatment" requirement, an employee:
 1. Must visit a health care provider two times within 30 days of the first day of incapacity, unless extenuating circumstances prevent a follow-up visit;
 2. Must see a health care provider within seven days of the first day of incapacity
 3. With a chronic serious health condition, must visit a health care provider at least twice a year.
- any period of incapacity due to pregnancy or for prenatal care;
- a chronic condition which requires periodic visits for treatment by a health care provider, continues over an extended period of time and may cause a periodic rather than a continuing period of incapacity;
- a period of incapacity which is permanent or long term due to a condition for which treatment may not be effective (the employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider); or
- any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than 3 consecutive calendar days in the absence of medical intervention or treatment;

Employees with questions about what illnesses are covered under this FMLA policy or under the company's sick leave policy are encouraged to consult with the Area HR Administrator.

5) *A qualifying exigency arising out of the fact that your spouse, son daughter or parents on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.*

Qualifying exigency for FMLA leave may fall within these categories: (1) Short notice deployment (up to 7 days leave); (2) Military events and related activities; (3) Childcare and school activities; (4) Financial and legal arrangements; (5) Counseling; (6) Rest and recuperation (up to 5 days leave per event); (7) Post-deployment activities; and (8) Additional activities not encompassed in the other categories, but agreed to by the employer and employee.

Employees requesting this type of FMLA leave must provide proof of the qualifying family member's call-up or active military service before leave is granted.

6) *To care for a covered service member who is your spouse, son daughter, parent or next of kin with a serious injury or illness incurred in the line of duty on active duty (up to 26 weeks of leave in a single 12 month period).*

This leave may extend to up to 26 weeks in a 12-month period for an employee whose spouse, son, daughter, parent or next-of-kin is injured or recovering from an injury suffered while on active military duty and who is unable to perform the duties of the service member's office, grade, rank or rating. Next-of-kin is defined as the closest blood relative of the injured or recovering service member.

Employees requesting this type of FMLA leave must provide certification of the family member or next-of-kin's injury, recovery or need for care. This certification is not tied to a serious health condition as for other types of FMLA leave. This is the only type of FMLA leave that may extend an employee's leave entitlement beyond 12 weeks to 26 weeks. Other types of FMLA leave are included with this type of leave totaling the 26 weeks.

C. Maximum Period for Leave

In General: An eligible employee can take up to 12 weeks (or up to 26 weeks of leave to care for an injured or ill service member) under this policy during any 12-month period measured on a rolling basis.

Intermittent Leave or a Reduced Work Schedule: The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 work weeks (or 26 work weeks to care for an injured or ill service member over a 12-month period).

Intermittent leave or reduced working hour arrangements may be provided for family care leaves or medical leaves when required as part of a medically necessary course of conduct, provided adequate medical certification of such need is obtained. Intermittent leave or reduced working hours for birth, child placement or other non-health related reasons is at the discretion of the company. The company reserves the right to transfer temporarily an employee to an alternative position with equivalent pay and benefits to accommodate scheduled intermittent leaves. Employees using intermittent leave must comply with the company's normal call-in procedures for absences absent extenuating circumstances.

Two Employee Households: If a husband and wife both work for the company and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for the company and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.

D. Procedure for Requesting Leave for 1) the birth of a child or in order to care for that child; 2) the placement of a child for adoption or foster care and to care for the newly placed child; 3) to care for a spouse, child or parent with a serious health condition; or 4) the serious health condition of the employee

All employees requesting this type of FMLA leave must provide notice with an explanation of the reason(s) for the needed leave to their immediate supervisor with at least 30 days notice for foreseeable leave including planned medical treatment for a serious injury or illness of a covered service member unless not practicable. Use form 380-E for Certification of Health Care Provider for Employee's Serious Health Condition. Use form 380-F for Certification of Family Member's Serious Health Condition.

For employees on intermittent or recurring leave for the same incident, this notice will be provided every six months.

If an employee fails to provide 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date the employer receives notice. While on leave, employees are requested to report periodically to the company regarding the status of the medical condition and their intent to return to work.

The company will provide individual notice of rights and responsibilities to each employee requesting leave within 5 business days.

E. Procedure for Requesting Leave for 1) a qualifying exigency for military family leave (covered family member's active duty or call to active duty in the Armed Forces)or 2) to care for an injured or ill covered service member

All employees requesting this type of FMLA leave must provide notice with an explanation of the reason(s) for the needed leave to their immediate supervisor, who will advise the Area HR Administrator. Leave may commence as soon as the individual receives the call-up notice. If the leave is foreseeable, the immediate supervisor may require the employee to provide a written request for leave and reasons(s) with a copy to the Area HR Administrator. Certification of Qualifying Exigency for Military Family Leave must be provided using form WH-384. Certification to care for an injured or ill service member for military leave must be provided using form WH-385.

The company will provide individual notice of rights and responsibilities to each employee requesting leave within 5 business days.

F. Certifications

- An employee requesting medical leave must provide medical certification indicating the serious health condition and other information as requested within 15 days after the employee makes the request for leave. Certification of the serious health condition shall include the date when the condition began, its expected duration, a brief statement of treatment and a statement that the employee cannot perform the essential functions of his/her job. For medical leave for the employee's own medical condition, use Form WH380-E.
- If the leave is to care for a child, parent or spouse, the certification must state that the employee is needed to care for the family member and provide an estimate of the amount of time the employee will be needed to provide care or assistance. For a family member who is seriously ill, use form WH-380F.
- If the employee plans to take intermittent leave or work a reduced schedule, the company may request information about a health care provider's specialization and fax number, an employee or family member's diagnosis, certification from health care provider that intermittent or reduced leave is medically necessary, a statement pertaining to which essential job functions an employee cannot perform, and more detailed information on the anticipated frequency and duration of intermittent and reduced schedule leaves. The certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent leave or working a reduced schedule.
- Recertification may be required periodically supporting the need for continuing treatment

In the event of return of an incomplete medical certification form, the employee has up to seven additional days to provide the completed form. The company may directly contact an employee's health care provider for purposes of clarifying or authenticating information provided on a medical certification from without first obtaining an employee's permission. The company can use a health care provider, HR professional, leave administrator or management official to authenticate information. An employee's direct supervisor is prohibited from contacting an employee's health care provider. Before the company may contact an employee's health care provider for clarification, the employee must be given a chance to rectify any deficiencies with the certification and must obtain the employee's permission as is consistent with HIPPA. In the event that an employee refuses to cure deficiencies in a certification or does not grant the employer permission to speak to the health care provider to obtain clarification, the employee's request for FMLA leave may be denied.

The company has the right to ask for a second opinion if it has reason to doubt the certification. The company will pay for the employee to get a certification from a second doctor, which the company will select. If necessary to resolve a conflict between the original certification and the second opinion, the company will require the opinion of a third doctor. The company and the employee will mutually select the third doctor, and the company will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion. The company may deny FMLA leave to an employee who refuses to release relevant medical records to the

health care provider designated to provide a second/third opinion, if records are requested by the health care provider "in order to render a sufficient and complete opinion."

Fitness for duty Certification: An employee will be required to submit a fitness for duty (FFD) certification prior to reinstatement (following FMLA leave) if he/she has been advised of this requirement in the employer's designation of leave notice.

- The health care provider may be required to verify the employee is able to perform the essential functions of the job, if the employee was advised of this requirement in the Designation Notice.
- For employees on intermittent or reduced leave, an employer may require a FFD certification to return from such an absence as often as once every 30 days if reasonable safety concerns exist regarding employee's ability to perform his/her duties.
- The company reserves the right to delay reinstatement until the employee submits the required FFD recertification.

G. Use of Sick Leave, Disability and Vacation during Family Medical Leave

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation, sick or other paid leave and take the remainder of the 12 weeks as unpaid leave. Sick leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy.

An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and personal leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by the company's sick leave policy) prior to being eligible for unpaid leave

Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA. For example, if an employer provides six weeks of pregnancy disability leave, the six weeks will be designated as FMLA leave and counted toward the employee's 12-week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement.

An employee who is taking leave for the adoption or foster care of a child must use all paid vacation, personal and family leave prior to being eligible for unpaid leave.

H. Benefits during Leave

While an employee is on leave, the company will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

- During the period of leave, participants in the group health insurance plan will continue to receive coverage on the same basis as employees on leave. The company will continue to pay the same portion of the insurance premiums for employees on leave as it pays for active employees. The employee on leave will be responsible for any additional costs such as costs associated with obtaining family/dependent coverage. Payment will either be through payroll deduction, if available, or by personal check as scheduled by the Payroll Department. If this payment is late, the employee's health insurance coverage may be dropped for the duration of the leave.
- If an employee does not return to work after leave due to personal rather than medical reasons, the company will seek reimbursement for all health care premiums paid on behalf of the employee during the leave.
- An employee who does not return to work at the end of the leave will receive information about rights to COBRA continuation of medical insurance coverage at the expiration of the family medical leave.

I. Employee Status after Leave

Employees who return to work within the approved family and medical leave period and who are capable of performing all essential functions of their position will be reinstated to their same position or to an equivalent one in accordance with applicable federal and state laws. If the employee is able to return to work earlier

than anticipated, he/she must provide the company with at least two business days advance notice. The company reserves the right not to reinstate employees who exceed the maximum family and medical leave who would not otherwise be employed at the time reinstatement is requested due to layoff or other reasons, or those highly compensated "key employees" defined as exempt from reinstatement rights under federal law. Key employees are those salaried employees among the highest paid 10% of all the company employees. If reinstatement of a key employee from leave causes substantial and grievous economic injury to the company, the company reserves the right not to reinstate such employees.

The policy is meant to comply with applicable federal and state laws. It is not intended to provide benefits beyond those required by such laws.