

Family and Medical Leave

Policy. In accordance with the Family and Medical Leave Act of 1993 ("FMLA"), EMPLOYER will provide eligible employees with a family or medical leave for up to twelve (12) work weeks in any "rolling" 12-month period, measured backward from the date an employee uses any FMLA leave. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances as specified in this policy. If an employee is not eligible for a 12-week FMLA leave, an eight (8) week maternity or adoption leave may be granted in accordance with Massachusetts state law, or a medical leave may be granted in appropriate circumstances to an employee as a reasonable accommodation for a disability. In addition, eligible employees may take up to twenty-six (26) weeks of FMLA leave in a single twelve-month period to care for a relative who incurs a serious injury or illness in the course of active military duty as set forth below.

Eligibility. To be eligible for FMLA leave, an employee must be employed by EMPLOYER for at least 12 months or 52 weeks (not necessarily consecutive) and have worked at least 1,250 hours during the previous 12 month period. For employees, who are not eligible for FMLA, EMPLOYER will provide maternity and adoption leaves in accordance with Massachusetts law and medical leaves as a reasonable accommodation.

Types of Leave Covered. FMLA leave may be taken for one or more of the following reasons:

- for the birth or placement of a child for adoption or foster care;
- to care for a spouse, child, or parent with a serious health condition;
- to take a medical leave when the employee is unable to perform the functions of his/her position because of a serious health condition;
- to care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember; or
- due to a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.

Serious Health Condition. A "serious health condition" is an illness, injury, impairment, or physical or mental condition affecting the employee's or family member's health to the extent

that inpatient care is required in a hospital, hospice, or residential medical care facility, or a condition that requires continuing treatment by a health care provider. It includes a serious and long-term illness which results in recurrent or lengthy absences for treatment or recovery.

A serious health condition involving "continuing treatment" by a health care provider includes: (1) a period of incapacity of more than three (3) consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition; (2) any period of incapacity due to pregnancy or prenatal care; (3) any period of incapacity or treatment due to a chronic serious health condition (e.g, diabetes, asthma, epilepsy); and (4) a period of incapacity which is permanent or long-term and for which treatment may not be effective (e.g., Alzheimer's disease).

A serious health condition also includes, although is not limited to, most cancers, strokes, appendicitis, pneumonia, heart attacks, heart conditions requiring bypass or valve operations, back conditions requiring extensive therapy or surgical procedures, severe arthritis, pneumonia, severe nervous disorders, miscarriages, complications or illnesses related to pregnancy, childbirth and recovery from childbirth. Substance abuse may qualify as a serious health condition if certain conditions are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider, not for the use of the substance itself or for an employee's self-referral to any treatment program.

The following usually would not be considered serious health conditions: common cold, flu, earaches, upset stomach, minor ulcers, non-migraine headaches, routine dental and orthodontic problems, and periodontal disease. FMLA does not cover voluntary or cosmetic treatments (such as most treatments for orthodontia or acne) which are not medically necessary, unless inpatient hospital care is required.

For any condition which does not require inpatient care, the employee or family member must be receiving continuing treatment by or supervision from a health care provider. Generally, a health condition which, if left untreated, would result in a period of incapacity requiring absence of more than three (3) calendar days from work, school, or other regular daily activities would be considered a serious health condition. However, a regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

Employees with questions about whether a particular situation qualifies as a serious health condition should consult with Human Resources.

Leaves Requested Because of Serious Health Condition

To receive FMLA leave because of an employee's own serious health condition or to care for a spouse, child or parent with a serious health condition, employees should give the following notices and/or certifications:

- A 30-day advance notice of the need to take FMLA leave is required when the need is foreseeable. If the need for a leave is not foreseeable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, then the employee must give as much notice as is possible under the particular circumstances involved.
- Notice is given when the employee submits a written request for a leave to his/her supervisor, with a copy to Human Resources. If written notice is not possible because the need for the leave was not foreseeable, oral notification should be given immediately to an employee's supervisor and followed up in writing as soon as possible thereafter.
- Satisfactory medical certification must be submitted with the leave request or at least within 15 days of the request for the leave. The certification must support the need for leave due to a serious health condition affecting the employee or the employee's spouse, child or parent, and include the date the serious health condition began, its anticipated duration, diagnosis, and a brief statement of treatment, along with a statement of the employee's intent to return to work.
- EMPLOYER may communicate with the employee's health care provider for authentication or clarification of the contents of the medical certification document.
- If the request for leave is for a medical leave because of the employee's own serious health condition, the required medical certification must also include a statement that the employee is unable to perform the essential functions of the employee's position and should note any type of activities the employee can perform.
- If the request for leave is to care for a seriously ill family member, the certification must include a statement that the patient requires assistance and that the employee's presence would be beneficial or desirable.
- Periodic reports may be required during FMLA leave regarding the employee's status, anticipated duration of leave, and intent to return to work. Medical certification is required to cover all periods of absence while on leave.
- Medical documentation will be required certifying the employee's ability to return to work from a leave because of the employee's serious health condition.

When medically necessary, employees may take FMLA leave on an intermittent basis, or by reducing their normal weekly or daily work schedule to care for a sick spouse, child or parent, or because the employee is seriously ill and unable to work. To be eligible for an intermittent or reduced schedule leave, the employee must give thirty (30) days notice, if the leave is foreseeable, and the medical certification must include dates and the duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule.

Further, the employee must discuss with his/her supervisor the scheduling of such leave to minimize disruption to EMPLOYER's operations, and EMPLOYER may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

EMPLOYER has the right to ask for a second opinion if it has reason to doubt the certification. EMPLOYER will pay for the employee to get a certification from a second doctor, which EMPLOYER will select. Further, if necessary to resolve a conflict between the original certification and the second opinion, EMPLOYER will require the opinion of a third doctor. EMPLOYER and the employee will jointly select the third doctor, and EMPLOYER will pay for the opinion. The third opinion will be considered final.

Leaves Requested for Birth, Adoption, or Foster Care Placement of a Child

Following successful completion of the introductory period, EMPLOYER provides an unpaid leave of absence for regular employees for the purpose of childbirth or for placement of a child for adoption or foster care. The length of a leave depends on your length of service, as follows:

After Completion of the Introductory Period: Maximum leave of eight (8) weeks for childbirth or adoption of a child under the age of 18 or 23 years, if physically or mentally disabled.

After First Year of Employment: For eligible employees, maximum leave of twelve (12) weeks for childbirth, or placement for adoption or foster care for a child under 18 years, or older if incapable of self-care because of a mental or physical disability. This leave must be concluded within 12-months of the birth or placement.

Any leave taken for childbirth or placement of a child for adoption or foster care will be deducted from an eligible employee's maximum of 12 weeks FMLA leave in a 12-month period.

A husband and wife both employed by EMPLOYER are entitled to a combined total of 12 work weeks of FMLA leave for the birth or placement of a child for adoption or foster care and to care for a parent (but not a parent-in-law) who has a serious health condition. Each employee may use any remaining leave for other qualifying FMLA purposes.

To receive FMLA leave because of a birth, adoption, or placement of a child in foster care, employees should give the following notices and/or certifications:

- At least two weeks advance notice of the need to take a leave and request therefor is required when the need is foreseeable. However, employees are encouraged to provide the team leader with as much notice as is possible under the particular circumstances involved.
- The notice must include the employee's intention to return to work following the leave, and appropriate documentation from a physician for childbirth, or other

appropriate entity for adoption or foster care placement should accompany the notice and request for leave.

· Notice is given when the employee submits a written request for a leave with appropriate documentation to his/her Department Head, with a copy to the Business Office.

While on an approved maternity leave due to childbirth, an employee may be required to use any earned, but unused, sick or vacation days during the period of the maternity leave when the employee is physically unable to work. MASSACHUSETTS REGULATIONS PROHIBIT EMPLOYERS FROM REQUIRING THE USE OF ACCRUED DAYS OFF DURING THE 8 WEEK PERIOD PROVIDED BY MASSACHUSETTS LAW FOR MATERNITY LEAVE FOR THE PURPOSE OF GIVING BIRTH TO OR ADOPTING A CHILD.

A leave for birth or placement for adoption or foster care must conclude within 12 months of the birth or placement. Such a leave must be taken all at once.

Upon return from a maternity/adoption/foster care leave at the conclusion of an eight (8) week or twelve (12) week leave, the employee will be reinstated to his/her previous, or a similar position with the same status, pay and length of service credit, wherever applicable, as of the date of the leave, unless there has been a layoff or other changes in operating conditions affecting employment during the period of such leave.

Leaves Requested to Care For an Injured or Ill Servicemember

Eligible employees may take up to twenty-six (26) weeks of leave in a single 12-month period to care for a current member of the Armed Forces, including the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status. Leave may also be taken to care for a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces at any time during the period of five (5) years prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

A “serious injury or illness” means an injury or illness incurred by a servicemember in the line of duty on active duty, or aggravated by such service, that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating.

In order to care for a covered servicemember, an eligible employee must be the spouse, child, parent, or next of kin of a covered servicemember.

The “single 12-month period” in which the 26 weeks of leave can be taken begins on the first day the eligible employee takes FMLA leave to care for a covered servicemember and ends 12 months after that date.

Leaves Requested Due to Qualifying Exigencies for Families of Members of the Armed Forces

An eligible employee may take FMLA leave while the employee's spouse, child, or parent is on covered active duty for certain qualifying exigencies.

"Covered active duty" for a member of the regular Armed Forces means deployment in a foreign country and, for a member of the reserves, deployment to a foreign country under a call to active duty under certain federal laws.

Leave may be taken for one of the following "qualifying exigencies" as defined by law:

- Short notice deployment;
- Military events and related activities;
- Childcare and school activities;
- Financial and legal arrangements;
- Counseling;
- Rest & Recuperation (up to fifteen days to spend with a military member who is on short-term, temporary, rest and recuperation leave during the period of deployment);
- Post-Deployment Activities;
- To care for a military member's parent who is incapable of self care when the care is necessitated by the member's covered active duty.

Conditions Applicable to FMLA Leaves

An eligible employee can take up to 12 weeks of leave under this policy during any 12 month period. For leaves that do not involve an injured servicemember, EMPLOYER will measure the twelve month period as a rolling 12 month period measured backward from the date an employee uses any leave under this policy. For leaves involving an injured servicemember, EMPLOYER will measure the single twelve month period beginning on the first day the employee takes the leave and continuing for twelve months thereafter.

Each time the employee takes a leave for one of the reasons covered by the FMLA, EMPLOYER will deduct the leave from the 12 (or 26) weeks available. FMLA leave may include absences for which the employee has received paid sick or other leave, or all or part of absences for conditions which progress into serious health conditions to the extent that the leave meets FMLA requirements.

Substitution of Paid Leave. If the employee has accrued paid leave, the employee must use paid leave first and take the remainder of the twelve (12) weeks as unpaid leave.

While on an approved FMLA leave, an employee must use any earned, but unused, paid time off available, provided the reason for the leave qualifies for the paid time off benefit. For example, when the employee is physically unable to work, sick leave must be used, then available vacation or personal time. If the leave is on account of the placement of a child for adoption or foster care, to care for a spouse, child or parent with a serious health condition or the employee has used all of his/her available earned sick time for his/her own serious health condition, the employee must use vacation or any other paid holiday or personal time available. However, use of paid time, including sick, vacation or personal paid time, may not be used to extend the leave period.

Benefit Continuation. As with any other unpaid leave, employees on authorized unpaid FMLA leaves of absence will not accrue any time-off benefits. However, the period of time for which an employee is on leave will not constitute a break in service.

EMPLOYER's contribution toward group health insurance will be continued during a FMLA leave. If the employee has paid time available, the employee's required contribution toward group health insurance, if any, will continue to be deducted from the employee's pay. However, in the event that the FMLA leave is unpaid, the employee must make timely payment of his/her required contribution prior to the first day of the month for which coverage is extended, but no later than thirty (30) days following the beginning of the month. If payment is more than thirty (30) days late, the employee's health insurance may be dropped for the duration of the leave. In some instances, if an employee fails to return from a FMLA leave, EMPLOYER may recover premiums it paid to maintain health coverage for the employee.

If the employee contributes to a life insurance or disability plan, EMPLOYER will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee must continue to make those payments along with the health care payments. If the employee does not continue these payments, EMPLOYER may discontinue coverage during the leave period, or will recover the payments at the end of the leave period, in a manner consistent with the law.

Restoration to Position. All employees on an FMLA leave will be restored to an equivalent or the same position at the conclusion of an FMLA leave of no greater than twelve (or twenty-six) weeks with the same pay, benefits and other employment terms and conditions. The position will be the same or one which entails substantially equivalent skill, effort, responsibility and authority. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

If an employee returns from a leave of longer than eight (8), twelve (12), or twenty-six (26) weeks, his/her position may not be available. However, EMPLOYER will make an effort to find a comparable position. Failure to return from a leave of absence on the anticipated date of return will constitute a resignation.