

15.0 FAMILY AND MEDICAL LEAVE ACT (revised 2/27/2012)

Statements of Policy:

As provided by the 1993 Family and Medical Leave Act (FMLA), all eligible employees are entitled to up to 12 weeks of job-protected leave during any rolling 12 month period for qualifying family and medical reasons.

Qualifying employees may be entitled to 26 weeks of job protected leave during a rolling 12 month period for purposes of caring for a family member who suffered a serious injury or illness while on active Military duty. Such leave shall be treated as a separate and distinct leave period starting on the first day of care-giver leave.

Covered Family and Medical Reasons:

Qualifying reasons include the following:

1. The birth or placement of a child for adoption or foster care; or
2. To care for an immediate family member (spouse, child, or parent) with a serious health condition involving three or more days of incapacity and two or more visits to a health care provider within a 30 day period or,
3. To take medical leave when the employee is unable to work because of a serious health condition. A serious health condition is defined as an illness of a serious or long-term nature resulting in 3 or more days of incapacity and two or more visits to a health care provider within a 30 day period.
4. To manage the affairs of a family member who is on active military duty, subject to certain restrictions provided for within the Family and Medical Leave Act.

Employee Eligibility:

An employee shall be entitled to family leave when he/she meets the following criteria:

1. The employee has worked for at least twelve months for the City. The twelve months need not have been consecutive. (If the employee was on the payroll for part of a week, the City will count the entire week. The City considers 52 weeks to be equal to twelve months).
2. The employee must have worked at least 1,250 hours in the employment of the City during the twelve months immediately preceding commencement of leave.
3. When both spouses are employed by the City, they are jointly entitled to a combined total of 12 weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

Calculation of Leave:

Eligible employees can use up to twelve weeks of leave during any rolling twelve month period. A rolling twelve month period shall be defined as the continuous one year period ending on the day of the absence in question.

Maintenance of Benefits:

An employee shall be entitled to group health insurance coverage on the same basis as if he/she had continued to work at the City. If an employee informs the City that he/she does not intend to return to work at the end of the leave period, the City's obligation to provide health insurance benefits ends on the date the absence begins. At the conclusion of an employee's leave, if the employee chooses not to return to work for reasons other than a continued serious health condition, the City will require the employee to reimburse the City the amount the City contributed towards the employee's health insurance during the leave period.

Job Restoration:

An employee who utilizes FMLA leave under this policy will be restored the same, or an equivalent position, with the same, pay, benefits and other employment terms.

Key Employees:

The City may choose to exempt certain highly compensated, "key" employees from this job restoration requirement and not return them to the same or similar position at the completion of FMLA leave. Employees who may be exempted will be informed of this status when they request leave. If the City deems it necessary to deny job restoration for a key employee on FMLA leave, the City will inform the employee of its intention and will offer the employee the opportunity to return to work immediately.

Use of Paid and Unpaid Leave:

Employees are required to use all available paid leave as part of the 12 weeks of FMLA leave. If FMLA leave is an otherwise eligible use of sick leave, under the City's sick leave policies, sick leave will be deducted first, then vacation time, then personal leave, then comp time. If all available paid leave is used for an FMLA event, the balance of the FMLA leave shall be unpaid.

Benefit Accruals:

Employees on unpaid FMLA leave shall not accrue sick leave, vacation and retirement time

Intermittent Leave and Reduced Work Schedules:

Employees may also use FMLA leave intermittently or as part of a reduced work week. If the need to use leave is foreseeable, then the employee is responsible to schedule the treatment in a manner that does not unduly disrupt the City's operations. The City may transfer an employee, using intermittent FMLA leave, to a different job with equivalent pay and benefits if another position would better accommodate the intermittent

schedule.

Procedure for Requesting Leave: Employees requesting leave must complete a FMLA Leave Request form available from the Human Resource Department. When possible, employees must give the City 30 days notice prior to commencement of FMLA leave. If 30 days notice is not possible, an employee is required to give as much notice as practical. Employees must also furnish the Human Resource Department with a completed Department of Labor form WH 380 prior to commencement of leave or as soon as practical thereafter. Form WH 380 must be completed in its entirety and signed by a qualified practitioner (see below for list of qualified practitioners).

Re-certification:

The City may, at its option, require re-certification at intervals of not less than 30 days. Employees have 15 days to comply with a request for certification or re-certification.

Qualified Providers

Qualified health care providers include: doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, and chiropractors, nurse practitioners and nurse-midwives authorized to practice under State law and performing within the scope of their practice under State law; and Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts.

Verification of Chronic and Serious Health Condition

Subject to provisions of the ACT, the City Human Resource Department reserves the right to contact medical providers for purposes of independently verifying the existence of a chronic and serious medical condition.

Disputes:

In a case where the City disputes a medical determination, the City may obtain a second opinion. The City will pay for an evaluation from a second practitioner (other than the City Doctor). If there is a conflict between the original certification and the second opinion, the City may require the opinion of a third doctor. The City and the employee will jointly select the third doctor, and the City will pay for the opinion. The third opinion will be considered final.