

Wood County Board of Developmental Disabilities

PROCEDURE

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02-05-94 (BUEE)
Person Responsible: Human Resources Coordinator

Subject: Family and Medical Leave
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Approvals/Date: Brent C. Bae 5/29/24 Superintendent, WCBDD Date
Julie Sprague 5/29/24 Department Director/Coordinator Date

The following definitions will apply:
12-Month Period - Calendar year (January - December).
Covered Service Member - for the purposes of caregiver leave;
A. a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness;
B. a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
Eligible Employee - An employee who has been employed for at least 12 months by the Board with respect to whom leave is requested; and for at least 1,250 hours of service with such employer during the previous 12-month period.
Equivalent Job - Same of similar position, without loss of pay, benefit or seniority.
Family Member - The spouse. The biological parent, stepparent of an employee or individual who stood in the place of a parent (loco parentis) to an employee. A biological, adopted, foster or stepchild, a legal ward, or a person standing in place of a child who is under the age of 18 years of age or older and incapable of self-care because of a mental or physical disability.
Health Care Provider - Doctors of medicine or osteopathy; Clinical social workers authorized to practice; Any health care provider recognized by the employer or the employer's group health plan benefits manager; Podiatrists; Dentists; Clinical Psychologists; Optometrists; Chiropractors (for manipulation of spine to correct subluxation); Nurse Practitioners; Nurse Midwives; Christian Science Practitioners who are listed with the First Church of Christ; and Scientist in Boston, Massachusetts.
Intermittent - Leave that is not taken all at one time and must be re-certified every 45 days and only in connection with an absence by the employee. Any recertification requested by the employer shall be at the employee's expense unless the employer provides otherwise. No second or third opinion on recertification may be required. Title 29: Labor Part 825
Military Caregiver Leave - leave to care for family members who were injured on active duty in the military for up to five years after their separation from military service. Caregiver leave has been extended to situations where the covered service member suffered from a preexisting serious injury or illness that was aggravated by his/her active-duty service in the military.
Ohio Military Family Medical Leave Act (MFMLA)
Effective July 2, 2010, requires employers to grant leave for 10 days or 80 hours whichever is less, unpaid, to employees who are family members of uniformed service members.
Paid Leave - Accrued vacation, sick leave, comp time, or personal time available to the employee.
Qualifying Exigency Leave (Military Leave Entitlement) - Short-notice deployment; Military events and related activities; Childcare and school activities; Financial and legal arrangements; Counseling; Rest and recuperation; Post-deployment activities; and Additional activities not encompassed in the other categories, but agreed to by the employer and employee.
Reduced Leave Schedule - A leave schedule that reduces the usual number of hours per workweek, or hours per workday, of any employee.
Serious Health Condition - For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:
(1) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or
(2) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
(i) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
(B) Treatment by a health care provider on at least one occasion which results in a regimen of

continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(iv) 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. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral 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 three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for the purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes 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, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave. (c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met. (d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave. (e) Absences attributable to incapacity under paragraphs (a)(2) (ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Spouse – The individual with whom an employee entered into a legal marriage as defined or recognized under state law in which the marriage took place. This includes same-sex couples and common-law spouses, regardless of where they currently live.

1. Qualifying event – In order for family and medical leave to be made available, a "qualified event" must occur during or after:

- A. The birth and/or first year * care of the employee's child. Employees giving birth – Sick leave not to exceed 6 weeks. Additional time may be granted with doctor's certification for medical related conditions. Other available leave can be used to cover the remainder of leave. Postnatal care of the employee's spouse or newborn child not to exceed five days of sick leave. Additional time may be granted with doctor's certification for medical related conditions. Other available leave can be used to cover the remainder of leave.
- B. The placement of a child with the employee for adoption or foster care – Sick leave cannot be used in the placement of a healthy child. Other available leave can be used to cover the leave.
- C. A serious health condition of any employee's spouse, child, or parent.
- D. A serious health condition that makes the employee unable to perform the functions of their position.
- E. A "qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty, or has been notified of an impending call or order to covered active duty in a foreign country.
- F. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member or veteran who is undergoing medical treatment, recuperation or therapy from a serious illness or injury sustained in the line of duty on covered active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member or veteran.

The qualified employee shall give the Board at least (30) days notice of the date family or medical leave is to begin when possible. In the case of adoption or an unexpected birth or placement, the employee shall provide as much notice as possible.

* NOTE: Entitlement for childcare ends after the child reaches age (1) year or twelve months after the date of adoption or foster placement. The childcare entitlement applies to stepparents and persons acting in "loco parentis" as well as to biological and adoptive

parents.
2. All requests for leave will be initiated by the employee completing the Request for Leave form. As well as the appropriate Department of Labor certification form. It is the supervisor's responsibility to contact Human Resources who will make determination if said leave qualifies under FMLA.
3. Employees must apply for and utilize all available paid leave (see definition) prior to being eligible for unpaid family or medical leave. A total of twelve (12) weeks of paid and unpaid leave is allowed during the twelve (12) month period.
4. The eligible employee must provide a completed leave of absence request notice to the Human Resources Department, Form 03-ALL-ALL-0189 and certified information from their health care provider for any serious health condition on the appropriate DOL physician certification form. At its costs the Board may require the employee to obtain a second opinion with a physician of their choice before granting a leave under the provisions of FMLA.
5. It is the employee's responsibility to ensure the Board has the most current and updated medical information to avoid a lapse in excused absence creating an absent without leave status.
6. BEFORE A LEAVE IS GRANTED - Leave under qualifying event shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee requests intermittent leave or leave on a reduced leave schedule, the Board may require the employee to transfer temporarily to an available alternate position. Upon return to work from such leave, the employee shall be returned to his former position, or an equivalent position.
7. Upon return to work the eligible employee shall provide the Board-certified information from the health care provider of the employee of his/her ability to return to work utilizing the Fit For Duty Form 03-ALL-ALL-0082. The Board may, at its expense, request a second opinion from a health care provider. Immediately upon return to work.
8. Eligible employees who take family or medical leave under this provision are entitled to the continuation of health care benefits during the period of family or medical leave not to exceed a cumulative of twelve (12) weeks of paid and unpaid leave in a twelve (12) month period. The Board will continue to pay the Board's share of the health insurance premium for up to twelve (12) weeks. The employee may elect benefit coverage with COBRA after twelve (12) weeks. The Board is entitled to recover the premium paid for maintaining health insurance coverage for the employee should the employee fail to return after the family or medical leave has expired, unless the employee's leave is extended due to a continuation, recurrence, or onset of the medical condition.
9. RESTRICTIONS – Classified employees on leave do not accrue Civil Service time/seniority during the time of family or medical leave unless they are on an approved paid leave of absence. If both parents are employed by the County and qualifying during a period for family or medical leave, the <u>combined</u> amount of leave for both parents for birth, adoption, foster placement or family illness shall be limited to twelve (12) weeks <u>unless</u> the leave is for personal illness or for care of a sick child or spouse in which case, both employees of the County would be eligible for twelve (12) weeks each.
10. The Family and Medical Leave Act guarantees that an employee who takes FMLA leave can return to either the position held before the leave or a similar position upon return from leave, unless the employee would have been terminated in the absence of FMLA leave due to layoff, job abolishment or insufficient funds.
<u>Ohio Military Family Medical Leave Act (MFMLA)</u>
1. Effective July 2, 2010, requires employers to grant leave for 10 days or 80 hours whichever is less, unpaid, to employees who are family members of uniformed service members.
2. Employee may take federal leave for 12 weeks and still qualify for state leave.
3. Qualified leave under MFMLA may be used once per calendar year.
4. The employee is required to give at least 14 days notice prior to taking leave for call to active duty.
5. The employee is required to give at least 2 days notice prior to taking leave for injury, wound or hospitalization of the service member.
6. The employee is not required to give notice if the injury, wound, or hospitalization is critical or life threatening.
7. The employer may require the employee to provide certification from the appropriate military authority to verify the criteria.

References: Family and Medical Leave Act of 1993
Ohio Military Family Medical Leave Act (MFMLA) of 2010

Forms: 03-ALL-ALL-0082
03-ALL-ALL-0189
DOL form WH 380-E
DOL form WH 380-F
DOL form WH 384
DOL form WH 385

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