# Family and Medical Leave Act

K.A.R.1-9-27

Under the Family and Medical Leave Act (FMLA) eligible employees are entitled up to 12 weeks of leave (employees must use any vacation and sick leave that they have available, then any time remaining of the 12 weeks will be unpaid leave) in a rolling 12-month period for the following reasons:

- for the birth and care of the newborn child, or placement with the employee of a child for adoption or foster care
- to care for an immediate family member, that is, a spouse, child, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform any of one (or more) of his or her essential job duties.

## Notice

### Military Family Leave

On January 28, President Bush signed into law the National Defense Authorization Act for FY 2008 (NDAA), Public Law 100-181. Section 585(a) of the NDAA amended the FMLA to provide eligible employees working for covered employers two important new leave rights related to military service:

1. **Qualifying Exigency Leave**. Eligible employees are entitled to up to 12 weeks of leave in a rolling 12-month period because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. Qualifying exigency leave counts against employee's regular 12-week total.
2. **Military Caregiver Leave**. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember.

Additional information on the amendments and a version of Title I of the FMLA with the new statutory language incorporated are available on the FMLA amendments Website.

An employee's healthcare benefits may be continued during leave and the employee will be reinstated to his or her former position or an equivalent position at the end of the leave. Contact Human Resources at 293-1802 for more information or for clarification on FMLA policies and procedures.

## Eligibility

An employee is eligible for leave if they have been employed:

- for at least 12 non-consecutive months by a covered employer
- for at least 1,250 hours of service during the 12 month period before leave is requested; and
- at a worksite with at least 50 or more employees who work within 75 surface miles of their assigned worksite.

## Process

Employees should notify their supervisors and Human Resources when Family Medical Leave is anticipated. Complete an FMLA Request Form and submit to Human Resources. Employees may be asked to provide medical certification.

## Definitions Under FMLA

**Parent:** A parent may be a biological or adoptive parent. An individual who has day-to-day responsibilities to care for and financially support a child is also considered a parent. For example, a grandmother who raised her grandson would be considered a parent under FMLA, even if she has no formal guardianship or similar papers. A parent-in-law is not considered a parent under the FMLA.

**Spouse:** A spouse is a husband or wife recognized under state law for purposes of marriage in the state in which the employee resides.

**Child:** A child is a biological, adopted, or foster child, a stepchild, a legal ward, or child of a person who has day-to-day responsibilities to care for and financially support a child under the age of 18, or over the age of 18 who is incapable of self-care because of a physical or mental disability.

**Next of Kin**: Next of kin is the nearest blood relative other than spouse, parent, or child.

**Serious Health Condition:** a serious health condition is: 1) an illness, injury, impairment, or physical or mental condition that requires care in a healthcare facility; OR 2) continuous treatment by a healthcare provider, such as one of the following: 1) a period of incapacity of more than three consecutive Full calendar with treatment 2 or more times w/in 30 days of first day of incapacity: 1st treatment in person w/in 7 days of incapacity; HCP decides if 2nd visit is necessary or; 2) continuing treatment or supervision by a healthcare provider for a chronic serious health condition; or 3) any period of incapacity due to pregnancy or for prenatal care.

**Continuing Treatment:** Continuing treatment requires two or more treatments by a health-care provider, or continuing supervision by a health-care provider of a long-term condition.

**Medical Certification**: Medical certification may include the following information: 1) an explanation of the part of the definition of "serious health condition" that applies to the patient's condition and the medical facts supporting the certification; 2) date of onset and probable duration, including duration of incapacity; 3) whether an intermittent or reduced leave schedule will be necessary, and the duration of such schedule; 4) in the case of an employee's own serious health condition, the health-care provider's statement of the employee's inability to perform his or her essential job functions; and 5) in the case of leave to care for a family member with a serious health condition, a statement by the health-care provider of the care the patient needs, a statement by the employee of the care the employee will provide, and a time estimate of the period of care.

## For more information

Contact Tracy Clarke in Human Resources, ext. 3-1802.