



POLICY:	<u>Family Medical Leave Act – FMLA</u>	DEPARTMENT:	<u>All</u>
APPROVED:	<u>Robert W Stevenson</u>	REVIEWED / REVISED:	<u>11/6/15</u>

Description:

Family and Medical Leave

The Family Medical Leave Act (FMLA) provides employees with up to 12 workweeks of paid leave (provided employee has accrued paid leave time), or unpaid leave for certain family and medical reasons, within a 12-month period. In the case of Military Caregiver Leave (described below), the maximum period of leave time available is 26 weeks. The FMLA seeks to accomplish these purposes in a manner that accommodates the legitimate interests of employers, and minimizes the potential for employment discrimination on the basis of gender, while promoting equal employment opportunity for men and woman.

FMLA applies to all the following: employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year, public agencies, including state, local and Federal employers, and local education agencies.

Guidelines:

1. Definitions

- a. Eligible Employee: An employee who has been employed for at least 12 months and who has worked at least 1,250 hours during the twelve months immediately preceding the period of anticipated FMLA leave.
- b. Son or Daughter: the biological, adopted, or foster child, a stepchild, legal ward, or a child of a person standing in loco parentis. These terms will be broadly construed to ensure that an employee who actually has day-to-day responsibility for caring for a child is entitled to leave, even if the employee does not have a biological or legal relationship to that child. The terms include not only children under the age of 18, but also children above that age who are incapable of self-care because of mental or physical disability.
- c. Serious Health Conditions: An illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider.
- d. Qualifying Exigency: (Determined by the Secretary of Labor) Arising out of the fact a spouse, son, daughter, or parent of the employee is on active duty in the Armed Forces in support of a contingency operation or has been notified of a call or order to covered active duty.

2. Conditions for Which Family or Medical Leave May Be Granted

- a. An eligible employee is entitled to twelve designated workweeks of FMLA leave during any rolling twelve-month period for four reasons:
 - 1. Birth or placement for adoption or foster care of a child.
 - 2. Serious health condition of a spouse, child, or parent (serious health conditions include illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider).
 - 3. Employee's own serious health condition.
 - 4. Qualifying Exigency leave (based on a qualifying exigency for the employee's spouse, son, daughter, or parent).
- b. An eligible employee is entitled to up to a maximum of 26 weeks of FMLA leave for Military Caregiver Leave (defined below).
- c. Leave may be taken for birth or placement of a child only within twelve months of that birth or placement.

- d. For the birth or adoption of a child, leave may be taken on an intermittent or reduced basis only upon the approval of the supervisor.
- e. For leave for a serious health condition of the employee or a family member, leave may be taken intermittently or on a reduced basis if the health care provider certifies that leave on an intermittent or reduced schedule basis is necessary.

NOTE: If the employee's need for intermittent leave is foreseeable based upon planned medical treatment, the employee may be required to transfer temporarily to an alternative position, with equivalent pay and benefits, that better accommodates recurring periods of leave than the employee's regular position.

- f. "Military Caregiver Leave": This type of leave is for an employee's care of a service member, when up to 26 workweeks of leave is permitted. This type of leave is available when the employee is the spouse, son, daughter, parent, or next of kin of a person who is a covered military service member or veteran recovering from a serious illness or injury; this includes care for a current member of the Armed Forces, including a member of the National Guard or Reserves who is undergoing medical treatment, recuperation, or therapy, or who is otherwise in outpatient status or otherwise on the temporary disability retired list for a serious injury or illness incurred in the line of duty, or a covered veteran undergoing medical treatment, recuperation or therapy for a serious injury or illness. A "covered veteran" is someone who was a member of the Armed Forces (including a member of the National Guard or Reserves) who was discharged or released under conditions other than dishonorable discharge during the 5 year period prior to the date the employee desires to begin FMLA leave to care for the covered veteran.
- g. Employees are required to use available paid leaves (including vacation and sick leave, if applicable), as determined by their amount of leave available and the reasons for the need to use the leave, for any part or all of the twelve-week/or twenty-six week leave. If the employee has sufficient paid leave available to cover the twelve-week leave requirement, the employee is not entitled to an additional twelve-week/twenty-six week unpaid leave period. EXCEPTION: If the employee is receiving pay from any source (for example, worker's compensation benefits or short-term disability pay), while on FMLA leave, the employee is not required to use available sick or vacation pay, but may make up the difference between the pay received from the other source and his regular full pay with sick/vacation pay if the HBPW and the employee both agree to this arrangement, and only if this is allowed by applicable law and by the plan under which the employee is otherwise receiving pay.
- h. In the case of leave for birth or placement of a child, the employee must provide thirty days advance notice before the date the leave would begin. If the employee is unable to provide thirty days' notice, he or she must provide such notice as is practicable.
- i. In the case of leave for a serious medical condition, if the leave is foreseeable based upon planned medical treatment, employees are required to make a reasonable effort to schedule treatment so as not to disrupt unduly the operations of their department, and employees are required to provide thirty days advance notice or such notice as is practicable if the treatment is in less than 30 days. In the event of an unforeseeable leave, employees are required to submit medical certification within 15 days of leave.
- j. In the case of which the necessity for leave is due to an Active Duty Call if the event is foreseeable, whether because the spouse, son, daughter, or parent of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice as is reasonable and practicable.
- k. In instances where the Hannibal Board of Public Works (HBPW) employs spouses and leave is taken for care of a newly arrived child or a sick parent, their aggregate leave is limited to twelve weeks or twenty-six for Military Caregiver Leave. If the leave is requested because of the illness of a child or of the spouse, each spouse is entitled to twelve weeks of leave.
- l. Procedure to Request Leave: a written or oral request for leave must be submitted to the supervisor at least thirty days (except as noted above) in advance of the intended period of leave. The required FMLA forms (Request for Leave, Certification of Health Care Provider, Return to Work Medical Certification, and a copy of the covered military active duty

certification of a contingency operation) may be obtained through the Human Resources Department and must contain the following information:

1. Date on which the serious health condition began; or a primary health care provider's statement that the employee is needed to care for spouse, parent, or child (along with an estimate of the time required), or a statement from a primary health care provider that the employee is unable to perform his or her function; AND
 2. In the case of intermittent leave, the dates and durations of treatments to be given; AND
 3. If for a serious health condition including a service member, the probable duration of the condition, and Medical Certification provided by the primary health care provider; AND
 4. For Active Duty Call certification shall be provided with orders.
- m. Second opinions: The HBPW, at its expense, may require that a second Medical Certification opinion be obtained. In the event that the second opinion is in conflict with the first, at the HBPW expense, a third opinion may be required. The third opinion is binding.
- n. Re-certification: The HBPW requires a medical release to return to work-certification upon an employee's return to full time/light duty.
- o. Employment and Benefits Protection: An employee who completes a period of leave will return to either the same position or to another position equivalent in pay, benefits, and other terms and conditions of employment. Employer-provided health benefits continue during the period of leave. The HBPW may recover health coverage premiums paid for an employee who fails to return from leave, except if the reason for non-return to work is the continuation, recurrence, onset of a serious health condition, or for other reasons beyond the employee's control.

All Employees using over three (3) days leave for the above conditions, will have leave applied to their 12-weeks/ 26-week FMLA.

All Employees are required to comply with the HBPW policy and Federal Laws and guidelines. Should any employee not comply with the guidelines set forth in any of the BPW policies, they will be subject to disciplinary action.

Originated / Revised History

Originated – 12/15/04

Revision 1 – 10/08/09

Revision 2 – Beverly Watson – 12/12/12

Revision 3 – Beverly Watson – 11/06/15