

POLICY NUMBER:

APM- 3- 08

DATE:

9/16/15

ISSUED BY:

Daniel J Alfonso
City Manager/Designee

Daniel J Alfonso
SIGNATURE

**CITY OF
MIAMI**



**ADMINISTRATIVE
POLICY**

REVISIONS

**REVISED
SECTION**

Created
Revised

**DATE OF
REVISION**

2/7/2008
9/15/2015

SUBJECT:

Family and Medical Leave

Purpose

To establish a procedure for the review and approval of the use of leave pursuant to the provisions of the Family Medical Leave Act of 1993 (FMLA). This policy is consistent with the federal act and shall be interpreted accordingly. Effective this date, this Administrative Policy supersedes all previous directives relating to this subject.

**Policy
Statement**

It is the policy of the City of Miami, to comply with the Family and Medical Leave Act (FMLA) of 1993 which entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

Definitions:

- A. "12-Month Period" - means a 12-month period measured backward from the date an employee's first FMLA leave began.
- B. "Serious Health Condition" - means an illness, injury, impairment, or physical or mental condition that involves: (1) inpatient care in a hospital, hospice, or residential medical care facility; or (2) continuing treatment by a health care provider.
- C. "Continuing Treatment" - means anyone or more of the following:
 - 1. A period of incapacity of more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition;
 - 2. Any period of incapacity due to pregnancy, or for prenatal care;
 - 3. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;
 - 4. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective;

- 5. Any period of absence to receive multiple treatments by a health care provider or by a provider of health care services.
- D. "Immediate Family Member" - means the spouse, son, daughter, parent and/or grandparent.
- E. "Spouse" - means a husband, wife, or domestic partner as defined or recognized under State of Florida law for purposes of marriage. Domestic partners are recognized pursuant to Miami-Dade County Code Section 11A-72 and City of Miami APM 1-09.
- F. "Child"- means a biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing in loco parentis, who is: (1) under 18 years of age; or (2) 18 years of age or older and incapable of self-care because of a mental or physical disability.
- G. "Parent" - means the biological, adoptive, step, or foster parent or any other individual (excluding in-laws) of an employee or an individual who stood in loco parentis¹ to an employee when the employee was a son or daughter.
- H. "Grandparent" - means any grandparent of an employee for whom the employee has assumed primary financial responsibility.
- I. "Next of kin of a Covered Service member" – the nearest blood relative other than the covered service member’s immediate family member.

Eligibility

- A. **FULL TIME EMPLOYEES**
This policy is applicable to full time employees who have been employed for at least 12 months and have worked at least 1,250 hours during the previous 12-month period before the date the absence begins.
- B. **PART-TIME/TEMPORARY EMPLOYEES**
This policy is applicable to part-time/temporary employees who have been employed for at least 12 months and have worked at least 1,250 hours during the previous 12-month period.
- C. **IMMEDIATE FAMILY MEMBER ON ACTIVE DUTY LEAVE OR CALLED TO ACTIVE DUTY STATUS**
Eligible employees with an immediate family member on active duty leave or called to active duty status can qualify for up to ninety (90) calendar days of leave in a 12-month period.
- D. **IMMEDIATE FAMILY MEMBER OR NEXT OF KIN SERIOUS ILLNESS OR INJURY FROM ACTIVE DUTY**
Eligible employees with an immediate family member or next of kin recovering from a serious illness or injury sustained in the line of active duty can qualify for up to 26 weeks of leave in a 12-month period.

Reasons for Leave

The reason for leave must be for one or more of the following:

- A. The birth of a son or daughter of the employee and in order to care for such son or daughter.
- B. The placement of a son or daughter with the employee for adoption or foster care.

¹Loco Parentis – day-to-day responsibilities to care for and financially support.

- C. A serious health condition that makes the employee unable to perform the functions of the position of such employee.
- D. To care for an immediate family member with a serious health condition.
- E. A qualifying exigency, as stipulated in the FMLA, of an employee's immediate family member on active duty or called to active duty status.
- F. To care for an employee's immediate family member or next of kin with a serious illness or injury sustained in the line of active duty.

Use of Leave

The Family Medical Leave Act entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are allowed to take leave not to exceed ninety (90) calendar days during a 12-month period for family and medical leave as described herein in the Reasons for Leave Section.

Paid Leave Requirement

Employees with leave balance must utilize all leave time prior to the employee taking unpaid leave as follows:

A. BIRTH OR ADOPTION OF A CHILD

All vacation and earned personal leave must be depleted prior to the employee taking unpaid leave. The employee is not required to deplete sick or compensatory leave time in this instance.

B. SERIOUS HEALTH CONDITION

All sick, vacation and earned personal leave must be depleted prior to the employee taking unpaid leave. The employee is not required to deplete compensatory leave time in this instance.

Foreseeable Leave

An employee is required to give 30 days advance notice in the event of a foreseeable leave. A "FMLA Request" form should be completed by the employee and returned to the Department of Human Resources for processing.

Unforeseeable Leave

In unexpected or unforeseeable situations due to unexpected incapacity or hospitalization, the employee must provide verbal notification as is practical. The Department Director or designee shall complete the "FMLA Request" form on the employee's behalf and forward to the Department of Human Resources for processing.

**Employment
and Benefits
Protection****A. JOB PROTECTION**

1. The employee who takes leave shall be entitled to return from such leave (a) to be restored to the position held when the leave commenced; or (b) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.
2. The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.
3. If the employee is unable to return to work and perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employer's obligations may be governed by the Americans with Disabilities Act.

B. LIFE INSURANCE

An employee granted a leave under this policy will continue to be covered under their life insurance plan under the same conditions as coverage would have been provided if they had been continuously employed during the leave period.

C. GROUP HEALTH COVERAGE

1. Under the City's Group Health Care Program, as administered by the Department of Risk Management, employees contribute towards the cost of health care coverage through biweekly payroll deductions made on a pre-tax basis. While on FMLA the city will continue to maintain group health coverage for the employee.
2. Payment of premiums or an agreement to repay the premiums owed while on FMLA leave is required by the City and shall be coordinated between the employee and the Department of Risk Management.
3. In the event of a cancellation of coverage or should the employee choose not to continue health coverage during FMLA leave, coverage will be reinstated upon the employee's return to work with no preexisting limitations or waiting period. Any medical bills incurred while on FMLA leave without health coverage in effect will not be paid for through the City's Health Care Program.

D. OTHER BENEFITS

1. An employee is not entitled to seniority or benefit accrual during periods of unpaid leave but will not lose any benefits accrued prior to FMLA leave.
2. Maintenance of other insurance policies which are not part of the employer's group health plan are the sole responsibility of the employee. The employee should make necessary arrangements for payment of premiums during periods of unpaid FMLA leave.

**Required
Forms/Process**

A. REQUEST FOR LEAVE

The "FMLA Request" form is completed by the employee, and submitted to the Human Resources Department Director (or designee) for approval.

B. MEDICAL CERTIFICATION

1. For leaves taken because of the employee's or a family member's serious health condition, the employee must submit a "Medical Certification" form completed by their physician and return the certification to the Department of Human Resources /Labor Relations Division. Medical certification must be provided by the employee within 15 days from the date the leave was requested. However, the Labor Relations Division must be notified immediately of any reason(s) that the form cannot be submitted within the allotted time frame.
 2. If the City has reason to doubt the validity of a medical certification, the City shall require the employee to obtain a second and/or third opinion (at the City's expense). The third opinion, if required, shall be final and binding.
 3. For a serious health condition of an employee under continuing supervision of a health care provider, the City may request recertification no more often than every 30 days and only in connection with an absence by the employee.
 4. Employees shall obtain a medical clearance from the Department of Human Resources before being allowed to return to work.
 5. All documentation related to the employee's or family member's medical condition will be held in strict confidence.
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