



CATHOLIC DIOCESE OF SAGINAW

FAMILY AND MEDICAL LEAVE OF ABSENCE

1. General Provisions

It is the policy of the Saginaw Diocese and its various parishes and schools (hereinafter collectively referred to as the Employer) to grant up to 12 weeks of family and medical leave during a 12-month period to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). It is also the policy of the Employer to grant up to 12 weeks of leave to an eligible employee for handling qualifying exigencies related to that employee's spouse, son, daughter, or parent who is called into service as a member of the National Guard or Reserves and also to grant up to 26 work weeks of leave to care for a spouse, son, daughter, parent, or next-of-kin who is a member of the armed forces and who is undergoing medical treatment, recuperation, or therapy, or is otherwise in outpatient status or on the temporary disability retired list for a serious injury or illness. The leave may be paid, unpaid or a combination of paid and unpaid, depending upon the circumstances and as specified in this policy.

2. Eligibility

In order to qualify to take a family and medical leave under this policy, the employee must meet all of the following conditions:

- a. The employee must have worked for the Employer for at least 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of the week or if the employee is on leave during the week.
- b. The employee must have worked at least 1,250 hours during the 12-month period immediately preceding the date when the leave would begin.

3. Type of Leaves Covered

In order to qualify as FMLA leave under this policy, the employee must be taking a leave for one of the reasons listed below:

- a. For the birth of a child in order to care for that child;
- b. For the placement of a child for adoption or foster care;

- c. To care for a spouse, son, daughter, parent, or next-of-kin, who is a member of the armed forces (including National Guard or Reserves) and who is undergoing medical treatment, recuperation, or therapy or is in out-patient status or temporarily disabled for a serious injury or illness incurred in the line of duty that renders the individual medically unfit to perform the duties of his or her office, grade, rank, or rating.
- d. To manage the affairs an employee's spouse, son, daughter, or parent who is a member of the National Guard or Reserves and who is called into active duty in support of a contingency operation resulting in one or more "qualifying exigency." A qualifying exigency may stem from any of the following categories: (1) short-notice deployment; (2) military events and related activities; (3) childcare and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; and (8) additional activities not encompassed in the other categories, but agreed to by the employer and employee.
- e. To care for a spouse, child, or parent with a serious health condition; or
- f. The serious health condition of the employee.

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of his or her position. A serious health condition is defined as illness, injury, impairment or physical or mental conditions which also involves one of the following:

- (i) Inpatient care - any overnight stay in the hospital, hospice or residential medical care facility and subsequent incapacity or treatment in connection with the stay. Incapacity is defined as the inability to work, attend school or perform other regular daily activities due to the individual's condition, treatment or recovery therefrom.
- (ii) Incapacity due to pregnancy or prenatal care. For example, a pregnant employee with morning sickness does not need to treat with her doctor in order to qualify for leave.
- (iii) A four-day absence involving treatment (a) if the individual is incapacitated and (b) receiving treatment. This includes an absence for more than 3 consecutive calendar days which (i) involves two or more treatments by or under supervision of a health care provider, or (ii) one visit to a health care provider which results in a regimen of supervised, continuing treatment. Prescription drugs or physical therapy would satisfy this requirement but over-the-counter flu medicine would not. Supervision may also include advice to tell the physician if the condition does not improve.

- (iv) Any period of incapacity due to a chronic serious health condition or treatment of same that does not require treatment by a health care provider. A chronic serious health condition is defined as a condition which:
 - (a) requires periodic visits for treatment by or under the supervision of a health care provider;
 - (b) continues over an extended period of time, and
 - (c) may involve episodic reoccurrences of incapacity.

Examples include asthma, diabetes and epilepsy.

- (v) Long-term or permanent incapacity. For example, Alzheimer's, severe strokes and terminal stages of illness. This requires only supervision by a health care provider and not active treatment.
- (vi) A course of treatment to avoid a four-day incapacity. Examples include, chemotherapy, radiation for cancer, kidney dialysis or physical therapy for severe arthritis.
- (vii) Multiple treatments for restorative surgery after an accident or injury. This covers any period of absence.

A serious health condition does not include:

- (i) The common cold, flu, upset stomach, minor ulcers, headaches (not migraines), routine dental or orthodontic problems and periodontal disease, even if causing absence of more than three days and the employee contacts a physician.
- (ii) Routine exams; physical, dental and eye. However, an exam to determine if a serious health condition exists and evaluation of a serious medical condition are considered covered treatment.
- (iii) Cosmetic treatment and plastic surgery.

The Employer may require an employee to provide a doctor's certification of the serious health condition. The certification process is outlined in Section 8.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the Employer may designate all or some portion of the related leave taken under this policy to the extent that the earlier leave meets the necessary qualifications.

An eligible employee can take up to 12 weeks of leave under this policy (or 26 weeks of leave to care for a member of the armed services) during any 12-month period. The Employer will measure the 12-month period as a rolling 12-month period measured backwards from the date an employee uses any leave under this policy. Each time an employee takes leave, the employer will compute the amount of leave the employee has taken under this policy and subtract it from the 12 weeks (or 26 weeks) of available leave. The balance remaining is the amount that the employee is entitled to take at that time.

If both a husband and wife work for the Employer, and each wishes to take leave for the birth of a child, adoption, or placement of a child for foster care or to care for a parent (but not a parent-in-law) with a serious health condition, the husband and wife may only take a total of 12 weeks of leave.

4. Employee Status and Benefits During Leave

While an employee is on leave, the Employer will continue the employee's group health benefits at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition, the Employer will require the employee to reimburse the Employer for the amount paid for the employee's health insurance premium during the leave.

If, under the Employer's current policy, the employee pays a portion of the health care premium, while on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment either in person or by mail. The payment must be received at the same time and in the same manner that payment was made during the time that the employee was employed. If the payment is more than 30 days late, the employee's health coverage may be dropped for the duration of the leave.

If the employee contributes to a life insurance or disability plan, the Employer will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, he or she must continue to make those payments along with health care payments. If the employee does not continue these payments, the Employer may discontinue coverage during the leave period, or will recover payments at the end of a leave period in a manner consistent with the law.

An eligible employee is not entitled to any right, benefit or position of employment other than a right, benefit or position to which he or she would have been entitled had the leave of absence not been taken. In addition, eligible employees will not be entitled to accrual of seniority or other employee benefits during a leave unless otherwise provided specifically by a collective bargaining agreement.

5. **Employee Status After Leave**

An employee who takes leave under this policy will be able to return to the same job or a job with equivalent status, pay, benefits and other employment terms; provided, the employee returns to work prior to, or upon the expiration of, the 12 weeks (or 26 weeks) of leave.

If an employee is unable to return to work within the 12 week (or 26 week) period, there is no guarantee they will return to their prior position, or to any position, unless the employee is entitled to extended job protections pursuant to the provisions of a collective bargaining agreement, Board policies, or law. Employees who fail to return to work upon the expiration of their leave for reasons other than medical shall be deemed a voluntary quit, and for non-disability illness or conditions, the employee may be deemed a voluntary quit depending on the lawful circumstances.

6. **Use of Paid and Unpaid Leave**

FMLA leave will run concurrently with worker's compensation benefits and short-term and long-term disability benefits. When a leave is covered by state and federal law, state leaves run concurrently with federal leaves.

In order to avoid wage loss during FMLA leaves, an employee who is taking leave because of his or her own serious health condition or the serious health condition of a family member (including childbirth and recovery) must elect to use paid leave (i.e. all purpose leave, vacation, personal or sick leave as the case may be) during unpaid FMLA leave. However, once the employee has 80 hours or less accrued leave, the use of such paid leave during an FMLA leave is not mandatory, but may be used at the discretion of the employee.

However, before making use of available, accrued paid time off, an employee is cautioned to explore whether the receipt of such payment would reduce or forfeit their wage loss benefits through the insurance plan (worker's compensation or short term and long term disability).

7. **Intermittent Leave or a Reduced Work Schedule**

An employee may take FMLA leave in 12 consecutive weeks (or 26 consecutive weeks) or may use the leave intermittently (take a day periodically when needed over the year), or under certain circumstances may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 weeks (or 26 weeks) over a 12-month period. The Employer may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

For the birth, adoption, or foster care of a child, the Employer and the employee must mutually agree to a schedule before the employee may take leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the Employer before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary. The Employer may require certification of the medical necessity, discussed in Section 8.

8. Certification of a Serious Health Condition

The Employer may ask for certification of the serious health condition. The employee should try to respond to such a request within 15 days, provided there is a reasonable explanation for the delay. Failure to provide certification may result in a denial of a continuation of leave.

Certification of the serious health condition shall include: the date when the condition began, its expected duration, diagnosis, and a brief statement of treatment. For medical leave for the employee's own medical condition, the certification must also include a statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of his or her position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and that the employee's presence would be beneficial or desirable. If the employee plans to take intermittent leave or work a reduced schedule, certification should also include dates and the duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule.

The Employer has the right to ask for a second opinion if it has reason to doubt the certification. The Employer will pay for the employee to get a certification from the second doctor, which the Employer will select.

If necessary to resolve a conflict between the original certification and a second opinion, the Employer may require the opinion of a third doctor. The Employer and the employee will jointly select the third doctor and the Employer will pay for the opinion. This third opinion will be considered final and binding.

9. Procedure for Requesting Leave

Except where leave is not foreseeable, all employees requesting leave under this policy must submit a request in writing to their immediate supervisor with a copy to the parish office or the office of Human Resources (whatever the case may be). The Employer may also place an employee on FMLA leave when it learns that the employee is off work due

to his or her own serious health condition and otherwise meets the eligibility standards for FMLA leave.

When an employee plans to take a leave under this policy, the employee must give at least 30 days' advance notice. If it is not possible to give 30 days' notice, the employee must give as much notice as is practicable. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule a treatment to minimize disruptions of the Employer's operations.

If an employee fails to provide 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date the employer receives notice.

While on leave, employees are requested to report periodically to the Employer regarding the status of their medical condition and their intent to return to work.

10. Key Employees

The Employer may deny job restoration to key employees. A key employee is a salaried employee whose pay is among the top ten (10) percent of all employees within seventy-five (75) miles of the employee's work site. Key employees may be denied job restoration if necessary to prevent substantial and grievous economic injury to the operations of the Employer. Alternatively, the Employer may delay restoration to a key employee who fails to provide a fitness for duty certificate to return to work.