



SUBJECT:	Family and Medical Leave (FMLA)
POLICY NO:	IV:20
APPLICABLE TO:	All Employees
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EFFECTIVE DATE:	August 5, 1993
REVISION DATE:	August 1, 2018 (due to name change)

I. POLICY:

The Hennepin Healthcare Research Institute (HHRI) provides eligible employees with leaves for a variety of family and medical reasons. The following discussion summarizes the Family and Medical Leave Act (FMLA) in a way that HHRI hopes will be generally helpful. However, leaves are subject to a complex set of requirements imposed by federal and state law which cannot be thoroughly discussed here.

Anyone wishing to apply for a leave or seeking information about what leaves might be available should contact the Human Resources Department.

II. ELIGIBILITY:

A) Eligible employees may, in any rolling calendar year, take a total of up to 12 weeks of FMLA leave for any combination of the following four (4) reasons:

- 1) To care for the employee's newborn or newly-placed adopted or foster child.
- 2) To care for the employee's parent, child, or spouse with a serious health condition.
- 3) To care for the employee's own serious health condition.
- 4) For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status and/or to care for an ill or injured service member or veteran which occurred from or was exacerbated by their active duty status.

B) When it is medically necessary, the leave may be taken intermittently or on a reduced schedule.

C) To be eligible for FMLA Leave, an employee must satisfy the following requirements:

- 1) The employee has been employed by HHRI for at least 12 months (not necessarily consecutive);
- 2) The employee has worked (excluding paid time off) at least 1,250 hours for HHRI during the previous 12 months; and
- 3) Work at a location where HHRI has at least 50 employees within a 75-mile radius.

III. SERIOUS HEALTH CONDITION:

The definition of serious health condition for which FMLA leave may be taken means an illness, injury, impairment, or condition that involves one of the following:

- A) Inpatient care.



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- B) A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:
- 1) Treatment two or more times by a health care provider or certain others under the supervision of or referral by a health care provider; or
 - 2) Treatment by a health care provider at least once which results in a regimen of continuing treatment under the health care provider's supervision.
- C) Any period of incapacity due to pregnancy or for prenatal care.
- D) A chronic condition which:
- 1) Requires periodic visits for treatment by a health care provider or a person supervised by a health care provider;
 - 2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - 3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy).
- E) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. A person must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (e.g., Alzheimer's, a severe stroke, or the terminal stages of a disease).
- F) Any period of absence to receive multiple treatments for restorative surgery after an 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 (e.g., cancer chemotherapy, kidney dialysis).
- G) Unless complications arise, problems such as the common cold, flu, earaches, upset stomachs, minor ulcers, non-migraine headaches, and routine dental problems are not ordinarily serious health conditions.
- H) Work-related injuries are subject to the FMLA if the requirements are met.

IV. MILITARY LEAVE:

- A) Eligible employees whose spouse, son, daughter or parent is on covered active duty status may use their twelve week leave entitlement to address certain qualifying exigencies.
- B) "Covered active duty" means: (1) for Members of the Regular Armed Forces, covered active duty is duty during deployment of the member with the Armed Forces to a foreign country; (2) for members of the Reserve components of the Armed forces, covered active duty is duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation.



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- C) Qualifying exigencies may include: issues arising from a short notice of deployment; attending certain military events, arranging for alternative childcare; addressing certain financial and legal arrangements; care of the military member's parent; making financial and legal arrangement to address the military member's absence; attending counseling when the need arises from the covered active duty, taking 15 calendar days of leave to spend with a military member who is on short-term, temporary Rest and Recuperation leave during deployment; covering certain post-deployment activities with 90 days of the end of the covered active duty, including issues arising from the death of a military member; and any other event that the employee and employer agree is a qualifying exigency.
- D) Military caregiver leave (also known as covered service member leave) to care for an injured or ill service member or veteran is also a covered leave through the FMLA. This leave allows an eligible employee, whose son, daughter, parent or next of kin is a covered service member, take up to 26 weeks in a single 12-month period to take care of leave to care for that service member.

V. PROCEDURE:

A) Applying for Leave.

The application for a FMLA offered by HHRI may be initiated by the employee or the employee's supervisor. Typically, the employee contacts his/her supervisor or Human Resources to initiate the leave process. However, if a supervisor becomes aware of a serious medical condition of an employee or an employee's family member, he/she should notify Human Resources immediately so Human Resources can contact the employee to initiate the leave process. Following the application, Human Resources will provide written notification to the employee and the employee's supervisor, informing them of the leave's eligibility, rights and obligations under FMLA.

B) Medical Certification

- 1) HHRI may require an employee to provide medical certification of the need for leave.
 - a) When an employee's need for leave is foreseeable and the employee fails to provide certification within 15 days of HHRI's request, HHRI may delay the start of FMLA leave. (This means that if an employee fails to produce certification, no FMLA protection applies to that employee.)
 - b) In the case of an unforeseeable leave, an employee must provide the required certification within a reasonable time (generally 15 days) after HHRI's request. If the employee fails to provide certification, HHRI may delay the continuation of the employee's leave. (This means that if an employee fails to produce certification, no FMLA protection applies to that employee.)



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- 2) When HHRI has reason to doubt the validity of the certification, HHRI may require the employee, at HHRI's expense, to obtain the opinion of a second health care provider designated or approved by HHRI. This health care provider cannot be employed on a regular basis by HHRI. (This means that if an employee fails to produce certification, no FMLA protection applies to that employee.)
- 3) If the opinion of the second health care provider differs from the opinion in the original certification, HHRI may require the employee, at HHRI's expense, to obtain the opinion of a third health care provider who is agreed to by both HHRI and the employee. The third health care provider's opinion is binding.
- 4) HHRI may require that the employee obtain subsequent re-certification by the health care provider on a reasonable basis.

C) Length of Leave.

- 1) All leaves are granted for a specific period of time. Any changes must be communicated with the supervisor. An employee whose original request was less than 12 weeks may apply for an extension to the maximum full 12 weeks available under FMLA, if medically necessary.
- 2) The employee may also apply for any other leave for which the employee is eligible (see Unpaid Personal Leave Policy IV:24).
- 3) The employment of any employee who does not return to work at the end of an approved leave period, including any extensions, will be terminated as of the date the leave ends.

VI. Rules Applicable to Family and Medical Leaves.

- A) An employee must provide HHRI with at least 30 days' notice before a leave is to begin if the need for the leave is foreseeable. If the starting date is not foreseeable, an employee must provide as much notice as is practical. If a medical emergency prevents the employee from personally giving notice, someone else (such as a spouse, parent, or adult child) may give the notice. Notice should be given to the Human Resources Department.
- B) In general, an employee returning from FMLA leave will be placed in the same situation as the employee would have been in at that time had he/she not taken the leave. This means, for example:
 - 1) Upon returning from the leave, the employee will be restored to the same position that he/she held before the leave or an equivalent position, unless during the leave the position was changed in such a way as would have affected the particular employee had he/she not been on leave (e.g., a workforce reduction or general reduction in hours).
 - 2) The employee will not lose any benefits accrued before the leave.



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- 3) The employee will accrue sick and vacation benefits during the FMLA leave as long they have hours paid during the month. There will be no accrual, however, during any month when hours paid are less than 50% FTE.
 - 4) The employee is not paid for a holiday which falls during a leave of absence unless paid time is used before and after the holiday.
- C) HHRI may require an employee who is on leave to confirm that he/she intends to return to work at the end of the leave.
- D) During the FMLA leave, the employee will remain eligible for group medical, dental, life & disability coverage under the same conditions that apply to active current employees. HHRI will continue to pay its regular share of the premiums. The employee must make arrangements to pay his/her regular share of the cost of the coverage during any unpaid portion of the leave. The employee's share of the cost is due on the first day of the month of coverage. The employee's share may also be prepaid, at the employee's option, through payroll deductions with a pretax premium, if applicable.
- E) HHRI's contribution toward the cost of group medical, dental, life & disability coverage will stop when the employee fails to return to work at the end of a leave, when the employee advises HHRI that he/she does not intend to return to work, or when the employee fails to make a required payment of the employee's share of the cost within 30 days of when the payment was due, whichever happens first. At the end of the leave period, if the employee does not return to work, the employee will be entitled to elect any COBRA continuation coverage for which the employee is eligible. The 18-month COBRA period will be measured from the last day of the leave.
- F) Immediately following depletion of sick leave, accrued vacation or holiday time may be used if desired. If an employee elects to use accrued vacation and/or holiday time during a leave, it must be used immediately following the depletion of sick time, if available or at the beginning of the leave; otherwise the employee will not be eligible to use it during any part of their leave.
- G) If the employee does not, for reasons within his/her control, return from leave and work at least 30 calendar days, HHRI may seek reimbursement for the premiums that it paid during the leave.
- H) If the employee participated in the Health Care Spending Account, the employee must continue contributions to the Health Care Spending Account during the leave in order that expenses incurred during the leave will be eligible for reimbursement. Contributions may be made:
- 1) Through pre-tax payroll deductions if leave is paid;
 - 2) Pre-paid through pre-tax payroll deductions if leave is unpaid; or
 - 3) Submitted after tax on the 1st of the month of coverage.



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- I) During the leave, the employee will be eligible for dependent care reimbursement only for the time in which the employee is disabled. The Flexible Benefits Election form may be completed indicating a change in status if an employee wants to discontinue the dependent care deduction for a leave which would not qualify for dependent care. The Dependent Care deduction may be restarted upon return to work.
- J) If the employee uses paid time off simultaneously with the Family and Medical Leave, the amount of FMLA leave available will not be increased.

VII. Additional Provisions Applicable to Parenting Leave.

- A) The leave is available for the birth of a biological child or the placement of an adopted child or foster child.
- B) The leave must be completed within 12 months after the birth or placement of the child.
- C) Maternity leaves of absence are treated the same as medical leaves of absence. Female employees may continue to work as long as their doctors feel employment will not adversely affect their health.
- D) In general, HHRI does not allow a parenting leave to be taken on an intermittent or reduced work schedule unless approved by the department. Approval will depend on the needs of the particular department in which the employee works.
- E) During the parenting leave, the biological mother must use available sick time for the period of disability, and may use either available vacation or holiday time or be unpaid for the duration of her leave. All other new parents may use available vacation or holiday time or be unpaid. However, accrued sick leave may be used to care for an ill or disabled family member.

If an employee elects to use accrued vacation and/or holiday time during a leave, it must be used immediately following the depletion of sick time, if available, or at the beginning of the leave, otherwise the employee will not be eligible to use it during any part of their leave.

VIII. Additional Rules Applicable to Leave to Care for an Employee's Spouse, Child, or Parent with a Serious Health Condition.

- A) The leave is available to care for the serious health condition of:
 - 1. The employee's biological child, adopted child, foster child, stepchild, legal ward, or a child for whom an employee has assumed the status and obligations of a parent. An employee's "child" must be under the age of 18 or incapable of self-care because of a disability.
 - 2. The employee's parent or a person who, when the employee was a child, assumed the status and obligations of a parent to the employee.
 - 3. The employee's husband or wife.



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- B) If an employee requests intermittent leave or leave on a reduced schedule that is foreseeable due to planned medical treatment, the employee may be temporarily transferred to another position if the position has equivalent pay and benefits and better accommodates the recurring periods of leave.
- C) If the need for leave is foreseeable due to planned medical treatment, an employee must make a reasonable effort to schedule the treatment so as not to disrupt HHRI's operations unduly.
- D) HHRI may require that a leave request be supported by a certification issued by the health care provider of the employee's qualifying relative. The certification must state that the employee is needed to care for the relative and estimate the time that the employee is needed.
- E) During a leave to care for the serious health condition of a covered relative, the employee may use available sick, vacation or holiday time or be unpaid.

IX. Additional Provisions Applicable to Leave to care for an Employee's Own Serious Health Condition.

- A) An employee may take leave to care for his/her own serious health condition that makes the employee unable to perform the essential functions of his/her job.
- B) If an employee requests intermittent leave or reduced schedule leave that is foreseeable due to planned medical treatment, the employee may be temporarily transferred to another position if the position has equivalent pay and benefits and better accommodates the recurring periods of leave.
- C) If the need for leave is foreseeable due to planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to disrupt HHRI's operations unduly.
- D) During a leave to care for an employee's own serious health condition, the employee must use available sick time and may use available vacation, holiday time or be unpaid for the duration of the leave. If an employee elects to use accrued vacation and/or holiday time during a leave, it must be used immediately following the depletion of sick time, if available, or at the beginning of the leave, otherwise the employee will not be eligible to use it during any part of their leave.
- E) An employee returning from a leave due to the employee's serious health condition must provide certification that he/she is able to resume work. The certification must be provided to the Human Resources Department within five (5) days prior to returning to work.

X. Unlawful Acts.

- A) It is unlawful for HHRI or any supervisor or co-employee to:



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1. Interfere with or deny the exercise of any right under the FMLA law.
 2. Discharge or discriminate against any person for opposing any practice made unlawful by the FMLA law.
 3. Discharge or discriminate against any person because of involvement in any proceeding under or related to the FMLA law.
- B) HHRI encourages any employee who thinks that the FMLA leave has been violated to report the problem to the Director, Human Resources. All complaints will be promptly investigated.