

## **GENERAL NOTICE**

### **EMPLOYEE RIGHTS AND OBLIGATIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT (FMLA)**

#### **Basic Leave Entitlement**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees in any 12-month period for the following reasons:

- (a) the employee's own serious health condition makes the employee unable to perform his/her job;
- (b) to care for the employee's parent, child or spouse who has a serious health condition;
- (c) incapacity due to pregnancy, prenatal medical care or child birth; or
- (d) to care for the employee's child after birth, or placement for adoption or foster care.

#### **Military Leave Entitlements**

*Qualifying Exigency Leave.* Eligible employees with a spouse, child, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week FMLA entitlement to address certain qualifying exigencies. Qualifying exigencies may include, but are not necessarily limited to, attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. Qualifying Exigency Leave also includes leave to address issues that may arise from the fact that the employee's spouse, child or parent is called to active duty seven or less days prior to the date of deployment; however, leave for this reason must be taken within seven days of the notification of deployment. Finally, Qualifying Exigency Leave includes leave to spend time with the employee's spouse, child or parent who is on short-term, temporary rest and recuperation leave during the period of deployment; however, leave for this reason is limited to five (5) days.

*Leave to Care for a Covered Servicemember.* Eligible employees who are the spouse, child, parent or next of kin of a Covered Servicemember may take up to twenty-six (26) workweeks of leave to care for the Covered Servicemember during a single 12-month period, which period begins on the first day the eligible employee takes FMLA leave to care for the Covered Servicemember. For purposes of this twenty-six (26) week entitlement, a Covered Servicemember is defined as a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. This twenty-six (26) week allotment to care for a Covered Servicemember is not in addition to leave taken for the other qualifying events listed above. Moreover, if the full twenty-six (26) weeks are not taken within the 12-month period, the remainder of the leave will be forfeited.

## **Eligibility Requirements**

Employees are eligible for FMLA leave if they:

- (a) have been employed by the Company for at least 12 months (not necessarily consecutive) prior to the leave; AND
- (b) have worked at least 1,250 hours during the 12-month period immediately preceding the leave; AND
- (c) work at a location where at least 50 employees are employed by the employer within 75 miles.

## **Calculating the 12-Month Leave Period**

Generally, the Company will calculate an employee's FMLA leave eligibility based on the 12-month period measured backward, on a rolling basis, from the date leave for a FMLA qualifying event begins. However, where FMLA leave is taken to care for a Covered Servicemember, the 12 month period for determining servicemember caregiver leave begins on the date the employee first takes leave to care for a Covered Servicemember and ends 12 months after that date.

## **Benefits and Protection**

During FMLA leave, the Company must maintain the employee's health insurance coverage under any group health plan on the same terms as if the employee had continued to work, including a continuing obligation for the employee to make any required benefits contributions. An employee's failure to pay his/her benefits contributions in a timely manner could result in cancellation of benefits and a request to provide medical evidence of insurability upon re-enrollment, provided the Company notifies the employee in writing at least 15 days before the date that health coverage will lapse. Alternatively, at the Company's option, the Company may pay the employee's share of the premiums during FMLA leave, and recover these payments from the employee upon his/her return to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

## **Use of Leave**

In general, FMLA leave is taken in consecutive days. However, an employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary (but generally not for the birth, adoption or placement of a child). Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## **Substitution of Paid Leave for Unpaid Leave**

For those employees who qualify for Short Term Disability ("STD") benefits or worker's compensation benefits, the Company requires that the paid leave (during which the employee is receiving STD or worker's compensation benefits) and the unpaid FMLA leave run

concurrently. The Company also requires that employees use any accrued and unused floating holidays and other paid leave concurrently with unpaid FMLA leave. The Company does not require eligible employees to substitute paid vacation for unpaid FMLA leave; however, employees can choose to substitute accrued, unused vacation for any portion of unpaid leave under the FMLA. If employees choose to substitute paid vacation for unpaid FMLA leave, the paid vacation that employees take will be deducted from the total amount of unpaid FMLA leave available to them.

### **Definition of Serious Health Condition**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by:

- (a) a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider within thirty (30) days of the first day of incapacity, or one visit to a health care provider and a regimen of continuing treatment. The first visit to a health care provider must occur in person within seven (7) days of the first day of incapacity; or
- (b) incapacity due to pregnancy; or
- (c) incapacity due to a chronic condition requiring, among other things, periodic visits of no less than two (2) times per year for treatment by a health care provider; or
- (d) incapacity due to a permanent or long-term condition requiring continuing supervision by a health care provider; or
- (e) incapacity due to a condition requiring multiple treatments by a health care provider.

### **Employee Responsibilities**

*Advance Notice:* Employees must provide 30 days advance notice to their Human Resources Representative of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, employees must provide notice to their Human Resources Representative as soon as practicable and generally must comply with the Company's normal call-in procedures.

*Certification:* Employees must provide sufficient information for the Company to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information should include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the Company if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees will be required to provide certification and periodic recertification supporting the need for leave.

## **Employer Responsibilities**

The Company must inform employees requesting leave whether they are eligible under the FMLA, generally within five (5) business days of receiving sufficient information regarding the need for the FMLA leave. If an employee is eligible, the Company's notice will specify any additional information required as well as the employee's rights and responsibilities. If the employee is not eligible, the Company will provide a reason for the ineligibility. The Company will also inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the Company determines that the leave is not FMLA-protected, the Company will notify the employee.

## **Unlawful Acts by Employers**

FMLA makes it unlawful for any employer to:

- (a) interfere with, restrain, or deny the exercise of any right provided under FMLA; or
- (b) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## **Enforcement**

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights. The Company will comply with all applicable state laws concerning family and/or medical leave.

An employee may file a complaint of a violation of the FMLA with the U.S. Department of Labor or may bring a private lawsuit against an employer. For additional information from the U.S. Department of Labor: Contact the nearest office of the Wage and Hour Division, or call 1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627, or visit [www.wagehour.dol.gov](http://www.wagehour.dol.gov).