



FAMILY AND MEDICAL LEAVE POLICY

Area Agency on Aging 3 has adopted this policy to implement the terms of the Family and Medical Leave Act of 1993 (FMLA). Eligible employees are entitled to family and medical leave on the terms and conditions stated in this policy, the regulations issued by the Department of Labor under the FMLA and in Area Agency on Aging 3 other applicable leave policies.

A. Definitions:

For purposes of this policy, the following definitions apply:

1. “Eligible Employee” means an individual who has been employed by the Company for at least 12 months, has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the requested leave, and is employed at a worksite with at least 50 employees within 75 miles of that worksite.
2. “FMLA Leave” means leave that qualifies under the Family and Medical Leave Act of 1993, as amended by the National Defense Authorization Act of 2008, Pub. L. 110-181, and the Department of Labor’s regulations and is designated by Company as so qualifying.
3. “Leave Year” means the 12-month period measured backward from the date each employee’s leave commenced.
4. “Serious Health Condition” means an illness, injury, impairment or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider.
5. “Inpatient Care” means an overnight stay in a hospital, hospice or residential medical care facility, including a period of incapacity or any subsequent treatment in connection with the inpatient care.
6. “Continuing Treatment” includes any one or more of the following:
 - a. A period of incapacity of more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - i. Treatment by a health care provider two (2) or more times within 30 days of the first day of incapacity; or
 - ii. Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the

supervision of a health care provider;

b. A period of incapacity due to pregnancy or prenatal care;

c. A period of incapacity or treatment for such incapacity due to a chronic serious health condition;

d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or

e. Any period of absence to receive multiple treatments by a health care provider.

7. "Covered Service member" means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

8. "Covered Military Member" means the employee's spouse, son, daughter or parent on active duty or call to active duty status.

9. "Active duty or call to active duty" means duty under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation as either a member of the reserve components, or a retired member of the Armed Forces or Reserve.

10. "Serious Injury or Illness," in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

11. "Qualifying Exigency" means one or more of the following circumstances:

a. Short-notice deployment – to address any issues that may arise due to the fact that Covered Military Member received notice of the deployment seven (7) or less calendar days prior to the date of deployment;

b. Military events and related activities – to attend any official ceremony, program, or event sponsored by the military that is related to the Covered Military Member's active duty; or to attend family support or assistance programs and informational briefings sponsored by the military;

c. Child care and school activities – to arrange for alternative childcare; to provide childcare on an urgent or immediate basis; to enroll or transfer a child to a new school; and to attend meetings with school staff that are made necessary by the Covered Military Member's active duty or call to active duty;

d. Financial and legal arrangements – to make or update financial or legal arrangements related the Covered Military Member's absence while on active duty; and to act as the Covered Military Member's representative with regard to obtaining, arranging or appealing military benefits;

e. Counseling – to attend counseling sessions related to the Covered Military Member's deployment or active duty status;

- f. Rest and recuperation – to spend up to five (5) days with a Covered Military Member who is on short-term, temporary rest and recuperation leave;
- g. Post-deployment activities – to attend ceremonies and reintegration briefings for a period of 90 days following the termination of the Covered Military Member’s active duty status; and to address issues arising from the death of a Covered Military Member ; and/or
- h. Other activities that the Company and employee agree qualify as an exigency.

B. Reasons for FMLA Leave:

An Eligible Employee is entitled to a total of 12-weeks of unpaid leave during each Leave Year in the event of one or more of the following:

1. The birth, adoption or placement for foster care of a son or daughter of the employee and to care for such child. (Leave must be taken during the 12-month period following the birth or placement, and must be taken in a single consecutive period and may not be taken intermittently or on a reduced schedule.)
2. A serious health condition of a qualifying family member, *i.e.* spouse, son, daughter or parent of the employee, if the employee is needed to care for such family member.
3. A serious health condition of the employee that makes the employee unable to perform any one or more of the essential functions of his or her job.
4. Any “qualifying exigency” arising out of the fact that an employee’s spouse, parent, son or daughter is on active duty or has been called to active duty in the Armed Forces in support of a contingency operation.

An Eligible Employee is entitled to a total of 26-weeks of unpaid leave during a single 12-month period to care for a parent, son, daughter, spouse or next of kin who is a Covered Service member, regardless of whether the employee has taken leave for another FMLA qualifying reason in the past 12-months.

Any leave taken under one or more of these circumstances will be counted against the employee’s total entitlement to FMLA leave for that Leave Year.

C. Paid Leave Benefit Coordination with FMLA Leave:

FMLA leave under this policy is generally unpaid leave. If, however, the employee is eligible for any paid leave under any other benefit programs such as accrued vacation, unused sick or personal days, the employee will be required to exhaust the paid leave upon the commencement of, and concurrently with, FMLA leave (unless the employee’s own serious health condition has caused the leave and the employee is receiving workers’ compensation benefits). Paid leave will run concurrently with and be counted toward the employee’s total 12-week or 26-week period of FMLA leave. Employees on leave that qualifies both as workers’ compensation and FMLA

leave who are offered a light duty position will have the option of remaining on FMLA leave without pay (and foregoing the light duty position and additional workers' compensation benefits) or accepting the light duty position. If the employee accepts the light duty position, then the employee's right to job restoration (as described below) runs through the end of the applicable Leave Year. If the employee accepts light duty, then s/he retains the right to be restored to the same position the employee held at the time his or her FMLA leave commenced or to an equivalent position.

D. Intermittent or Reduced Scheduled Leave:

FMLA leave may be taken intermittently or on a reduced work schedule basis. If FMLA leave is taken intermittently or on a reduced schedule basis, then Area Agency on Aging 3 may require the employee to transfer temporarily to an available alternative position with an equivalent pay rate and benefits, including a part-time position, to better accommodate recurring periods of leave due to foreseeable medical treatment. Every employee is obligated to make a reasonable effort to schedule medical treatment so as not to unduly interrupt Area Agency on Aging 3 operations. Any employee who needs an intermittent or reduced schedule leave shall submit an application for such leave on a form supplied by Area Agency on Aging 3 at the time described above. The employee shall also, within the time limits set forth, furnish Area Agency on Aging 3 with the proper medical certification on Form WH-380-E, which will be supplied by , Area Agency on Aging 3 regarding the need for such intermittent or reduced schedule leave. As in the case for other FMLA leaves, Area Agency on Aging 3 may require a second or third medical certification. Prior to the commencement of any intermittent or reduced schedule leave, the employee requesting intermittent or reduced scheduled leave must advise the of the reasons Area Agency on Aging 3 why the intermittent/reduced scheduled leave is necessary and of the schedule for treatment, if applicable. The employee and Area Agency on Aging 3 shall attempt to work out a schedule for such leave that meets the employee's needs without disrupting Area Agency on Aging 3 operations.

E. Employee Notice Requirement:

Employees are required to provide Area Agency on Aging 3 with sufficient information to make it aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. Sufficient information may include the following: that the employee is unable to perform his or her job functions; that the employee's family member is unable to perform his or her daily activities; that the employee or his or her family member must be hospitalized or undergo continuing treatment; or the circumstances supporting the need for military family leave. When an employee seeks leave due to a FMLA-qualifying reason for which Area Agency on Aging 3 has previously provided FMLA-protected leave, the employee must specifically reference the qualifying reason for the leave and the need for "FMLA" leave.

If the need for leave is foreseeable, the employee is required to provide such notice to the employees Supervisor, HR/EEO Officer or the Executive Director at least 30 days before the commencement of the leave, unless impracticable to do so under the circumstances, in which case notice must be given as soon as possible, generally the same or the next business day. The employee also must follow any Area Agency on Aging 3 policy requiring advance notice, reasons for leave and anticipated start and duration of the leave. Failure to provide advance notice or follow Area Agency on Aging 3 policy when the need for leave is foreseeable may result in delay or denial of FMLA leave. If the leave is not foreseeable, the employee must provide notice to the Area Agency on Aging 3 of need for leave as soon as practicable, and must follow Area Agency on Aging 3 normal call-in procedures, as set forth in the Handbook. Failure to follow Area Agency on Aging 3 call-in procedures, absent unusual circumstances, will result in delay or denial of the leave.

In case of planned medical treatment for a serious health condition, the employee is required to make a reasonable effort to schedule the treatment so as not to disrupt the

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operations of Area Agency on Aging 3.

Employees are required to give additional notice as soon as practicable whenever there is a change in the dates of scheduled leave. Area Agency on Aging 3 requires that the employee's health care provider complete a fitness-for-duty certification that specifically addresses whether the employee is able to perform the essential functions of his or her job before the employee can return to work. If the Area Agency on Aging 3 has a "reasonable safety

concern," it may also require periodic fitness-for-duty certifications prior to the employee's return from intermittent FMLA leave, up to once every 30 days. A "reasonable safety concern" means a reasonable belief of significant risk of harm to the individual employee or others.

Upon receiving sufficient notice of an employee's need for FMLA-qualifying leave, Area Agency on Aging 3 will notify the employee of his or her eligibility to take FMLA leave

within five (5) business days of the request, absent extenuating circumstances. At this time, the Area Agency on Aging 3 will also provide the employee written notice of the employee's

rights and obligations with respect to the leave (as well as providing copies of the required certification form).

F. Application and Medical Certification:

A leave to care for the employee's own serious health condition, or the serious health condition of a covered family member, must be supported by a medical certification completed by the health care provider for the employee or the covered family member. A qualifying exigency leave or a leave to care for a Covered Servicemember with a serious injury or illness must also be supported by a certification. Area Agency on Aging 3 will provide the proper certification to the employee for his or her respective leave within five (5) business days of the employee's request for leave.

The employee must return a complete and sufficient copy of the appropriate certification to Area Agency on Aging 3 within 15 calendar days of receiving the certification, unless it is not practicable. If the employee returns an incomplete or insufficient certification, then Area Agency on Aging 3 shall advise the employee in writing what additional information is necessary to make the certification complete and sufficient. In order to cure the deficiency, the employee must then return a complete and sufficient certification to Area Agency on Aging 3 within seven (7) calendar days. If the employee fails to cure a deficiency in a certification, or fails to return a certification, within the prescribed time period, Area Agency on Aging 3 may deny the taking of leave. A Area Agency on Aging 3 representative (other than the employee's direct supervisor) may contact the employee's health care provider to clarify or authenticate the medical certification submitted for leave for the employee's own serious health condition or the serious health condition of a family member. If Area Agency on Aging 3 has reason to doubt the validity of a medical certification, the employee will be required to obtain a second or third opinion at Area Agency on Aging 3 expense. Failure to comply with these certification requirements will result in the delay, denial or termination of leave. An employee who will be on a FMLA leave for more than one (1) week is required to call the employees Supervisor, HR/EEO Officer or the Executive Director weekly to report when and if the employee expects to return to work. Area Agency on Aging 3 may request recertification at any time during the course of the leave for the employee's own serious health condition, if: (1) the employee requests an extension of leave; (2) the circumstances of the employee's condition as described in the previous certification have changed significantly, or (3) if Area Agency on Aging 3 has reason to suspect that an employee on FMLA leave has fraudulently obtained the FMLA leave. If desired by Area Agency on Aging 3, a second or third certification in the manner provided above may be required. If the employee's leave to care for his or her own serious health condition or that of a family member is expected to last more than 30 days, Area Agency on Aging 3 will require a new certification from the employee's health care provider when leave is scheduled to expire, or every 6 months, whichever occurs earlier. When Area Agency on Aging 3 learns of an FMLA reason for leave after a leave has commenced under another of Area Agency on Aging 3 policies, Area Agency on Aging 3 will designate the leave as FMLA-qualifying from the commencement of the leave. Employees are required to cooperate in providing Area Agency on Aging 3 with information needed to make this determination.

G. Continuation of Group Health Benefits:

Area Agency on Aging 3 will maintain the employee's coverage under a group health plan during the period of FMLA leave under the same terms and conditions as though the employee were actively working. During the leave, the employee will be required to continue to make all premium payments that he/she otherwise would have had to make if actively employed. Where feasible, Area Agency on Aging 3 will advise the employee concerning

the necessary arrangements for such payments prior to the commencement of the leave.

If the employee fails to return to work following the expiration of FMLA leave for a reason other than a serious health condition or circumstances beyond the employee's control, Area Agency on Aging 3 will be entitled to the repayment by the employee of any premiums

paid by Area Agency on Aging 3 during the leave. Failure to make timely premium payments may

result in the termination of coverage.

An employee on FMLA leave should deliver payment of the employee's portion of such premium to the employees Supervisor, HR/EEO Officer or the Executive Director **or** Fiscal prior to the first

work day of each month. Failure to make prompt payment of the employee's portion of such premium may result in the loss of medical insurance coverage for the duration of the FMLA leave, but upon the employee's return to work, the medical insurance will be restored as of the date that the employee returns. If the employee does not return from FMLA leave or returns to work, but does not remain an active employee for at least 30 days, Area Agency on Aging 3 may seek to recover the amount paid for such insurance premiums

from the employee.

An employee on FMLA leave shall be responsible for the payment of the full premium for all other insurance, pensions and other benefits. Failure of the employee to pay the entire premium for such items shall result in their lapse for the duration of the FMLA leave. If the employee returns from FMLA leave, all such insurance, pension and other benefits shall be restored without any break in service.

An employee shall not accrue any credit toward vacation or other benefits based upon time worked for the time that he or she is on FMLA leave.

H. Return to Work / Fitness-for-Duty Certification:

Consistent with Area Agency on Aging 3 practice, before returning to work following a medical leave due to the employee's serious health condition, the employee will be required to present a fitness-for-duty certification from his/her health care provider that the employee is medically able to resume work and to perform the essential functions of his or her job. If the date on which an employee is scheduled to return to work from an FMLA leave changes, the employee is required to give notice of the change, if foreseeable, to Area Agency on Aging 3 within two (2) business days of the change. Subject to the limitations below, an employee returning from FMLA leave will be restored to the position of employment held when the leave commenced or to an

equivalent position. Job restoration may be denied if conditions unrelated to the FMLA leave have resulted in the elimination of the employee's position, or if the employee qualifies as a "key employee" (generally the highest paid 10% of the workforce). Key employees may be denied job restoration if it would cause substantial and grievous economic injury to Area Agency on Aging 3, in which case the key employee will be notified of this decision.

In summary, upon expiration of a FMLA leave, an employee who returns to work shall be restored to the same or an equivalent job, if the employee shall have:

1. Called the employees Supervisor, HR/EEO Officer or the Executive Director in accordance with terms above;
2. Furnished the employees Supervisor, HR/EEO Officer or the Executive Director with proper certifications and recertifications in accordance with terms above;
3. Submitted to any second or third examination by a health care provider upon request of Area Agency on Aging 3;
4. Furnished with a the employees Supervisor, HR/EEO Officer or the Executive Director medical certification of the employee's ability to return to work and to perform the essential functions of the job; and
5. Returned to work immediately upon expiration of the FMLA leave.

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Failure to call the employees Supervisor, HR/EEO Officer or the Executive Director weekly, to provide the required medical recertification or to return to work immediately upon expiration of a FMLA leave may result in termination of the employee. Failure to furnish a fitness-for-duty certification of the employee's ability to return to work and to perform the essential functions of the job may result in the delay of job restoration or the termination of the employee.