

POLICY: Family And Medical Leave Act of 1993

DATED: 8-05-93

REVISED: 4-30-96, 2-26-2010

PURPOSE: To grant family and medical leave under certain circumstances.

POLICY:

1) Eligible Employee

Any City of Cadillac employee who has worked for the City of Cadillac for at least 12 months and has at least 1250 actual hours worked in the preceding 12 months before the start of leave.

2) Entitlement To Leave

- A) An eligible employee shall be entitled to up to 12 workweeks of leave during a 12-month period (rolling, counted backwards—see 2)B) below) for one or more of the following:
1. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.
 2. Because of the placement of a son or daughter with the employee for adoption or foster care.
 3. In order to care for the spouse, or a son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition.
 4. Because of a serious health condition that makes the employee unable to perform one or more essential functions of his or her position.
 5. Because the employee's spouse, son, daughter or parent incurs any qualified exigency arising out of he or she being a covered military member (retired Armed Forces, National Guard or Reserves) on active duty, or has been called or ordered to active duty, in support of a contingency operation; "Qualifying exigencies" are: (1) short-notice deployment, (2) military events and related activities, (3) childcare and school activities, (4) financial aid and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post-deployment activities, and (8) other activities to which the City consents in its sole discretion including, without limiting, the timing and duration of the leave.

- B) The amount of FMLA leave available to an eligible employee for the above qualifying conditions is based on a rolling 12-month period immediately preceding the date the employee uses any FMLA leave and is therefore counted backwards. Available leave will be the balance of the 12-week allowance not used during the preceding 12 months.
- C) An eligible employee shall be entitled to up to 26 workweeks of leave during a single 12-month period, starting on the first day the eligible employee takes leave and ending 12 months after that date, to care for the employee's spouse, son, daughter or parent or next of kin (nearest blood relative) who is a current, covered military service member with a serious illness or injury incurred in the line of duty or active duty that may render the service member unfit for the military job. These up to 26 weeks apply to such service member leave alone, or in combination with the up to 12 weeks of the other types of FMLA leave (but remember that service member and the other type leaves are counted under different 12-month periods).
- D) A "serious health condition" as stated above, is defined by this act as "an illness, injury, impairment, or physical or mental condition," that involves:
- 1) Inpatient Care: A condition which requires an overnight stay at a hospital, hospice or residential medical care facility, or any period of incapacity (inability to work, attend school or do other regular daily activities) afterwards due to that serious health condition, its treatment, recovery from that condition, or follow-up treatment related to the inpatient care; or
 - 2) Continuing Treatment by a Health Care Provider: "Continuing treatment" includes any of the five (5) following conditions:
 - i. A period of incapacity of more than three consecutive calendar days (and any treatment or period of incapacity afterwards relating to the same condition), and one of the following: (a) treatment two or more times within 30 days by or under the supervision or orders of a health care provider, or (b) at least one treatment with a regimen of continuing treatment. A "regimen of continuing treatment" means a course of prescription medication or therapy requiring special equipment, but does not mean over-the-counter medications, bed-rest, drinking fluids, or exercise or similar treatment that can be initiated without a visit to a health care provider.
 - ii. Any period of incapacity due to pregnancy or for prenatal care.
 - iii. Any period of incapacity or treatment due to a chronic serious health condition, requiring periodic visits (at least 2 annually) for treatment where the condition continues over an extended time period and is one that may "flare up" at various times, such as epilepsy, diabetes, etc.

- iv. A period of incapacity that is permanent or long-term where treatment may not be effective, such as severe stroke, terminal stages of a disease, Alzheimer's, etc.
- v. Any period of absence to receive multiple treatments or recovery afterwards either for restorative surgery after an illness, accident or injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days if no treatment were provided, such as cancer, severe arthritis, kidney disease, etc.

3) Exclusions: Unless complications arise and one of the above definitions are met, the common cold, flu, bronchitis, ear aches, upset stomach, minor ulcers, headaches other than migraine, stress or allergies, routine dental or orthodontia problems or periodontal disease, routine physical, and dental or eye examinations, for example, are not serious health conditions. Absence from work due to an employee's use of drugs or alcohol in violation of the City's substance abuse policies is not FMLA covered.

- D) When an employee is granted FMLA leave, he or she will first use all accrued paid sick leave, personal leave and vacation leave in that order, consistent with City policies and Union contract as applicable (workers compensation may also apply). After accrued paid leave is exhausted, leave will be unpaid. An employee can request the order in which the above paid leave (if available) is used consistent with City policies and Union contract as applicable. Any unpaid or paid leave qualifying as FMLA is counted towards the annual FMLA amount of leave permitted, and the type of paid leave being substituted will run concurrently with the FMLA leave. The City can place an employee on involuntary medical leave, including FMLA leave if unfit for duty. The City is legally entitled to determine whether any absence from work qualifies under FMLA and, if qualifying, designate and count it as FMLA leave, even if the employee does not want FMLA coverage.
- E) The entitlement of leave for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of the birth or placement.

3) Intermittent and Reduced Schedule Leave

When medically necessary, leave to care for a family member's or employee's own serious health condition, including for a military service member, may be taken on an intermittent basis or by arranging a reduced work schedule when medically certified. The same type leave is available for qualifying military exigency. Any employee taking intermittent leave must attempt to schedule the leave so as not to unduly disrupt operations by contacting Human Resources in advance except for unforeseeable leave and reasons beyond the employee's control, and in such case contact Human Resources as soon as possible, normally the day absence begins at the earliest opportunity. The City of Cadillac may require the employee to transfer temporarily to an alternate position for which the

employee is qualified and which better accommodates the leave. While the employee is in this temporary position, he/she will receive the equivalent pay and benefits of the employee's regular job.

4) Duties Of The Employee

- A) The **City of Cadillac FMLA Leave Request Form** available from Human Resources must be used to provide notice of the need for leave if the need is known in advance. If need for leave is unforeseeable, the form must be completed before returning to work if requested, or, if not so requested, on the first day back to work, together with timely calling in the absence (at least 1 hour before shift) when the employee is absent from work. This form is to be submitted to Human Resources.
- B) Foreseeable and Unforeseeable Need for Leave Notice to City- In any case where the need for any type of FMLA leave is foreseeable, the employee shall provide Human Resources with not less than 30 days notice before the date the leave is to begin. When the need for leave is not foreseeable that far in advance, employees are required to provide notice of the need for leave as soon as practicable, normally that same day when it is known---use the normal notification including call-in procedures describing the illness or injury circumstances and anticipated timing and duration of absence, in addition to answering any other related questions from the City. This means calling in no later than 1 hour before shift start unless conditions beyond the employee's control prevent advance call-in, in which case call in as soon as possible, normally expected to be that same day at the earliest opportunity.
- C) Periodic Reporting During Leave- Employees on leave must call in and report to Human Resources on a periodic basis (at least every 5 work days if leave is to be greater than one work week, each day if less than or equal to 1 workweek, or as otherwise directed by Human Resources) with respect to their progress, or the progress of their spouse, child or parent and their anticipated date for return to work. This notice is in addition to the normal 1 hour before shift start call-in, also required if the employee has not notified the City of an FMLA leave that will be in excess of 5 work days or unless the City has advised the employee of different call-in procedures to be used during leave.
- D) Shortened or Extended Leave- Where the employee learns of the need for more or less FMLA leave than originally anticipated, the employee must timely use the normal call-in procedures and describe the reasons/changed circumstances two (2) work days both before return to work for shortened leave or before end of the original leave for extension of that leave, absent circumstances beyond the employee's control in which case, notice must be given as soon as possible.
- E) Medical and Other Certification- When any leave is requested based on a family member's or the employee's own serious health condition, or serious injury or illness of the military service member, certification issued by the health care

provider is ordinarily required, using forms available from Human Resources. Complete, sufficient and timely provided medical certification is valid only in connection with a current absence from work. Sufficient certification will be in accordance with sections 825.305-.310 of the FMLA regulations, City policies and Union contract as applicable. Certification on a form available from Human Resources is also required for qualifying military exigency leave. Any medical certification form that is returned without required information or is incomplete or insufficient in any regard will not be accepted but must be redone by the health care provider and employee within the reasonable time set by the City (at least 7 calendar days).

At the discretion of Human Resources, the City of Cadillac may require that the eligible employee obtain an opinion of a second health care provider designated or approved by Human Resources. The expense of this second opinion will be paid by the City of Cadillac. In any case in which the second opinion is different from the original certification, Human Resources may require that the employee obtain the opinion of a third health care provider, which will be approved jointly between the employee and Human Resources. The opinion of the third health care provider shall be considered to be final. The expenses for this third opinion shall be paid by the City of Cadillac. Notwithstanding FMLA medical certification procedures, medical information obtained in handling disability circumstances (Americans with Disabilities Act, state disability or worker's compensation) may be considered by the City in determining entitlement to FMLA leave.

Fitness-For-Duty Return-To-Work- Before return to work from an intermittent, reduced schedule or 12-week leave due to an employee's serious health condition, the employee must provide medical certification of fitness for duty (FFD) in advance, unless waived in writing by Human Resources. For the same health condition involving intermittent or reduced schedule leave for non-bargaining unit employees, FFD certification is required no more than every 30 days of a prior FFD certification if there is a reasonable safety concern. Bargaining unit employees are governed by Union contract management rights. If the City requires, a description of the employee's essential job functions must be provided to and reviewed by the certifying health care provider for purposes of the FFD certification. (See City Policy C-6 titled, "Notification of Non-Duty Injury-Related Absence".)

Recertification- Employees will be required to medically recertify the need for the leave for the medical condition at least every 30 days in connection with absence from work, unless the City waives the requirement in writing or different timetable is provided by law. In all cases, recertification of a medical condition ordinarily will be required every 6 months in connection with an absence. (Recertification does not apply to military service member leave or qualifying military exigency.)

- F) Annual Medical Certification- Regardless of prior medical certification, an annual medical certification can be required where the employee's or family member's serious health condition lasts beyond the 12-month period measured from the initial leave date for that condition.
- G) Unless obtained on a visit to the health care provider during diagnosis or treatment for a work-related illness or injury requiring medical attention during the workday, employees will normally obtain medical certification on the employee's off-work time consistent with scheduling "check-ups." *To make things easier for all, employees are strongly encouraged to keep copies of the medical certification forms at home, and to take the applicable form (Employee's or Family Member's) and have it completed whenever visiting the health care provider. This will ensure that the employee won't need to make a special trip back to the doctor just to get a form completed. If forgotten, promptly mail, fax or hand deliver the medical certification form to the provider before or after work.*
- H) Failure to provide timely and sufficient notice to the City, provide timely certification, or follow FMLA-related procedures, as provided above, elsewhere in this Policy or on related forms, subjects leave to delay and denial .

5) Health Benefits

During any period that an eligible employee takes family or medical leave under this act, the employee shall receive the same health benefits at the same level and under the same conditions as the employee normally receives. However, the City of Cadillac may recover the premium that was paid if the employee fails to return to work after the period of leave expires unless the continuation or recurrence of a serious health condition prevents the employee to return to work or for other circumstances that are beyond the control of the employee. Human Resources may require certification issued by the health care provider of the employee, or son, daughter, spouse, or parent of the employee. When FMLA leave is used for the employee's serious health condition that is also covered by the Workers' Disability Compensation Act, the provisions of that Act will apply and the absences will count toward the annual 12-week (or 26-week military service member) FMLA allowance.

6) Employment And Benefits Protection

- A) Any employee who takes family or medical leave under this act shall be entitled on return from such leave:
 - 1. to be restored to their previous position of employment, or
 - 2. to be restored to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.
- B) The taking of family or medical leave under this Act shall not result in the loss of any employment benefits accrued prior to the date on which the leave commenced.

- C) During the period of unpaid leave, there is no accrual of any seniority or fringe benefits such as sick leave, vacation leave or longevity.

7) Spouses Employed By City

In the event that both spouses are employed by the City of Cadillac, the aggregate number of workweeks of leave to which they may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for birth or placement of a child or to care for a parent with a serious health condition, or combined 26 workweeks for military service member leave.

8) Termination of Leave

An employee's FMLA leave and accompanying benefits will cease when: (i) the employment relationship would have terminated if the employee had not taken FMLA leave; (ii) the employee informs the City of his or her intent not to return from leave; (iii) the employee falsely attempts to or does obtain FMLA leave; or (iv) the employee fails to return from leave or continues on leave after exhausting 12 weeks (or 26 weeks as applicable).

The City reserves all rights to administer this Policy as required or permitted by the Family and Medical Leave Act, its regulations and governing case law.