

SMC Family and Medical Leave Act (FMLA) Policy

Eligible employees may take up to 12 weeks of unpaid family/medical leave within a 12-month period and be restored to the same or an equivalent position upon their return to work. Additionally, as discussed below, in certain circumstances eligible employees may be entitled to up to 26 weeks of unpaid family/medical leave within a 12-month period.

To be eligible for family/medical leave, you must satisfy both of the following conditions:

1. Worked for the Company for at least 12 months and for at least 1,250 hours in the past 12 months; and
2. At the time leave is requested either: (a) worked at a worksite with 50 or more employees or (b) worked at a worksite with less than 50 employees if 50 or more employees are employed within 75 miles of the worksite.

Eligible employees may take family/medical leave for any of the following reasons:

- The birth of your child and to care for such child;
- The placement of a child with you for adoption or foster care, and in order to care for the newly placed son or daughter;
- To care for a spouse, child, or parent (“covered relations”) with a serious health condition;
- Because of your own serious health condition that renders you unable to perform an essential function of your position;
- Because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces (including National Guard or Reserves) which requires deployment to a foreign country;
- For an employee who is a spouse, son, daughter, parent or next of kin of a service member to care for that service member 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. A “serious injury” is one incurred by the service member in the line of duty on active duty in the Armed Forces that may render the service member medically unfit to perform the duties of the service member’s office, grade, rank or rating.

DETAILS ABOUT VARIOUS TYPES OF LEAVE UNDER THIS POLICY

Any leave due to the birth and care of such child or the placement of a child for adoption or foster care, and care of the newly placed child, must be completed within one year of the date of birth or placement of the child.

If you request leave because of a birth, adoption or foster care placement of a child or to care for a family member or service member, any accrued paid vacation, personal days or family leave must be used first as part of your family/medical leave.

An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member shall be entitled to a total of 26 workweeks of leave during a single, 12-month period to care for the service member. During the single 12-month period, an eligible employee shall be entitled to a combined total of 26 workweeks of leave under the FMLA.

If you request leave because of your own serious health condition or to care for a covered relation with a serious health condition or a service member any accrued paid vacation, personal days or family leave must be used first as part of your family/medical leave.

The substitution of paid leave time for unpaid leave time does not extend the 12-week leave (or 26-week service member leave) period. Also, your family/medical leave may run concurrently with other types of leave.

HEALTH BENEFITS

During an approved family/medical leave, the Company will maintain your health benefits under the same terms and conditions applicable to employees not on leave.

- If paid leave is substituted for unpaid family/medical leave, the Company will deduct your portion of the health plan premium as a regular payroll deduction.
- If your leave is unpaid, you must pay your portion of the premium by making arrangements with your supervisor.
- Your health coverage may cease if your premium payment is more than 30 days late. If your payment is more than 30 days late, we will send you a letter to this effect. If we do not receive your co-payment within 15 days of this letter, your coverage will cease.

If you elect not to return to work at the end of the leave for at least 30 calendar days, you will be required to reimburse the Company for the cost of the premiums paid by the Company for maintaining coverage during your unpaid leave unless you cannot return to work because of a serious health condition or because of other circumstances beyond your control.

SPOUSES WORKING FOR THE SAME EMPLOYER

When spouses are employed by this Company, they are entitled to a combined total of up to 12 weeks' leave: (1) for birth, adoption, or foster care and in order to care for such a child; or (2) to care for a parent with a serious health condition. Each individual is entitled to 12 weeks' leave because of his or her own serious health condition or to care for the serious health condition of his or her child or spouse without counting leave time taken by the other spouse.

The aggregate number of workweeks of leave to which both spouses may be entitled to may be limited to 26 weeks during the 12-month period when service member leave is taken.

INTERMITTENT LEAVE

Leave due to a serious health condition may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced leave schedule (reducing the usual number of hours you work per workweek or workday) if medically necessary. Any service member leave may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced leave schedule (reducing the usual number of hours you work per workweek or workday). If the leave is unpaid, the Company will adjust your salary based on the amount of time actually worked. In addition, while you are on an intermittent or reduced-schedule leave, the Company may temporarily transfer you to an available alternate position that better accommodates your recurring leave and that has equivalent pay and benefits.

REQUESTING LEAVE

Eligible employees seeking to use FMLA leave must provide:

- Thirty (30) days' advance notice of the need to take FMLA leave when the need for leave is foreseeable;
- Notice "as soon as practicable" when the need to take FMLA leave is not foreseeable ("as soon as practicable" generally means at least verbal notice within one or two business days of learning of the need to take FMLA leave; additionally, employees within this category must comply with usual call-in procedures);
- Sufficient information for the Company to understand that the employee needs leave for FMLA-qualifying reasons, and the anticipated timing and duration of the leave (this information may also include but is not limited to: information that the employee is unable to perform his or her job functions; that a family member is unable to perform daily activities; the need for hospitalization or continuing treatment by a health care provider; the circumstances supporting the need for family military leave; and

whether the requested leave is for a reason for which FMLA leave was previously taken or certified); and

- Where the Company was not made aware that an employee was absent for FMLA reasons and the employee wants the leave counted as FMLA leave, timely notice (generally within two business days of returning to work) that leave was taken for an FMLA-qualifying reason.

Within five business days of the receipt of an employee's request for FMLA leave (or knowledge that an employee's leave may be for a FMLA-qualifying reason), the Company will provide written notice detailing specific rights and responsibilities of an employee who is exercising his or her FMLA entitlement (the "rights and responsibilities" notice), along with any other information that it requires from the employee. This notice will also notify the employee of his or her eligibility or ineligibility for FMLA leave, and the reasons for any ineligibility. The Company will also provide the employee notice designating the leave as FMLA leave (or notice that the leave will not be designated as FMLA leave, and the reason(s) why), within five business days of the receipt of sufficient information to determine that the leave is being taken for an FMLA-qualifying reason (the "designation" notice). Such notices will include the following:

- A statement that the leave will be counted against the employee's annual FMLA leave entitlement, and the amount of leave;
- Any requirements for the employee to furnish medical certification and the consequences of failing to do so;
- Whether the Company will require the use of paid leave, or whether employees have chosen to apply accrued paid leave with their FMLA entitlement (in order to use paid leave for FMLA leave employees must comply with normal paid leave policies);
- Any requirement for the employee to contribute to his or her health insurance premiums for maintaining group health insurance and the arrangement for making such payments;
- Any requirement to present a fitness-for-duty certification before being restored to his or her job;
- The employee's right to job restoration at the conclusion of his or her leave;
- The employee's potential liability for reimbursement of health insurance premiums paid by the Company during the leave, if the employee does not return to work after taking FMLA leave;

- Whether the employee qualifies as a “key” employee and the circumstances under which the employee may or may not be restored to his or her job following leave.

MEDICAL CERTIFICATION FOR A SERIOUS HEALTH CONDITION

If you are requesting leave because of your own or a covered relation’s serious health condition or to care for a service member, the appropriate health care provider must supply medical certification. Obtain a medical certification form from your supervisor. If possible, you should provide the medical certification within 15 days after you request leave. If you provide at least 30 days’ notice of your need for medical leave, you should provide the medical certification before your leave begins. If you do not provide the required medical certification in a timely manner, your leave may be delayed until it is provided.

The Company, at its expense, may require an examination by a second health care provider designated by the Company, if it has reason to doubt the medical certification you initially provide. If the second health care provider’s opinion conflicts with the original medical certification, the Company, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion. The Company may require subsequent medical recertification. Failure to provide requested certification within 15 days if such is practical may result in delay of further leave until it is provided.

TRACKING YOUR LEAVE

The 12-month period in which 12 weeks of leave may be taken is the 12-month period measured rolling backward from the date FMLA leave begins.

REPORTING WHILE ON LEAVE

If you take leave because of your own serious health condition or to care for a covered relation with a serious health condition, contact your supervisor on a prescheduled basis regarding the status of the leave and your intention to return to work. In addition, you must give notice as soon as is practicable (within two business days if feasible) if the dates of leave change or are extended or initially were unknown.

RETURNING FROM LEAVE

If you take leave because of your own serious health condition (except if you are taking intermittent leave), you must provide fitness-for-duty certification that you are able to resume work before you return. Obtain return-to-work fitness-for-duty forms from your supervisor.

Employees failing to complete the return-to-work medical certification form will not be permitted to resume work until it is provided.

Certain highly compensated employees or “key employees” may be denied restoration to their prior or equivalent position. Key employees are those salaried employees who are among the highest paid ten percent of employees within 75 miles of the worksite. Denial is based on the following conditions:

- The denial is necessary to prevent substantial economic injury to the employer;
- The employer has notified the employee of his or her “key” employee status as well as its decision to deny restoration should the leave take place or continue; and
- The employee elects not to return to work after being notified of the employer’s decision.

NO WORK WHILE ON LEAVE

The taking of another job while on family or medical leave or any other authorized leave may lead to disciplinary action, up to and including discharge.

STATE AND LOCAL FAMILY AND MEDICAL LEAVE LAWS

Where state or local family and medical leave laws offer more protection or benefits to employees, the protection or benefits provided by such laws will apply.