

HARBOR-UCLA MEDICAL CENTER

SUBJECT: FAMILY MEDICAL LEAVE (FMLA) AND FAMILY RIGHT ACT (FRA)

POLICY NO. 222

POLICY:

The Federal Family Medical Leave Act (FMLA) and California Family Rights Act (FRA) policy has been established to assist eligible employees to understand their rights when requesting an unpaid leave of up to twelve (12) weeks per year for the birth or adoption of a child, to stay home to care for a seriously ill family member, or to remain off work because of an illness affecting the employee.

Affected employees are guaranteed a return to the same or equivalent job at the end of the leave and continuation of their health and dental coverage during the leave. They are also guaranteed certain rights regarding the giving of notice and the provision of medical verification where illness is the basis for the leave.

KEY PROVISIONS:

I. Eligible Employees

Any employee who has twelve (12) months of employment with the County and 1,250 hours of work during the twelve (12) months preceding the request for leave.

II. Reason for Leave

Both acts permit leave because of the following events:

- The birth and/or care of a newborn child;
- The placement of a child with the employee for adoption or foster care;
- The care for a child, spouse, or parent with a serious health condition; or
- An employee's own serious health condition which prevents the performance of his/her job.

*Note: Disability due to pregnancy is considered a serious health condition under the FMLA, but not under the FRA. However, there is a separate California state law, Government code Section 12945, subdivision (b) (2), that provides unpaid pregnancy disability leave up to four (4) months, depending on actual medically documented period of disability.*

III. Maximum Leave

Twelve (12) weeks per year. A "year" for this purpose is the twelve (12) month period starting with

EFFECTIVE DATE: 09/21/94

SUPERSEDES:

REVISED: 03/99

REVIEWED: 03/99, 02/02, 10/04

APPROVED BY:

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the first day of the FMLA/FRA leave. Leave may be taken on intermittent or part-time basis.

*Note: Up to 16 additional weeks is permitted under the separate California pregnancy disability law. See above note.*

**IV. Medical Certification**

Both FMLA and FRA require the employee to submit medical certification:

- To care for a family member or;
- The employee's own serious medical condition and that the employee is unable to perform the functions of the position.

Under FMLA and FRA, the certification must contain the following: date on which the serious health condition commenced; probable duration of the condition; appropriate medical facts with the knowledge of the health care provider regarding the condition; statement that the employee is needed to care for the family member and an estimate of the amount of time needed. If the leave is for the employee's own health problem, their certification must contain a statement that the employee is unable to perform the functions of the job. If leave is for intermittent treatment, certification must state the dates of the treatment and duration. Please refer to Attachment III, "**Certification of Physician or Practitioner**".

Under the FMLA and/or FRA, the employer can challenge the certification if it has reason to doubt the validity of the certification. Thus, the county may require that the employee obtain, at the County's expense, a second or even third opinion from the County approved health care practitioner regarding any of the information contained in the original certification.

**V. Employee Notice of Desire to Take Leave**

Both Acts require the employee to provide the employer at least thirty (30) days notice of foreseeable event of the date the family care leave will commence and the estimated duration of the leave. If the need for the leave is based on foreseeable planned medical treatment of family member, the employee shall attempt to schedule the treatment so as not to disrupt the county's operations, in concurrence with the health care provider of the family member involved.

**VI. Return to Work**

An employee who returns to work must be returned to the same or an equivalent position with the same benefits, salary, and other terms and conditions of employment.

**VII. Substitution of Paid Leave**

FMLA/FRA leave is unpaid leave, but the employee may elect to use accrued paid leave to cover part of all of the twelve (120-week period. The use of paid leave is subject to all of the same conditions (e.g., medical certification for sick leave, managers/supervisors approval for vacation, compensatory time, etc.) That normally applies to the use of such time.

**VIII. Benefit Continuation**

If a family leave absence is covered with paid leave, cafeteria plan (CHOICES, OPTIONS AND FLEX/MEGAFLEX) contributions and other benefit coverage will continue uninterrupted just as it

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would with paid leave taken for any other purpose.

For employees who take unpaid leave, the County must make contributions toward health leave and dental coverage while the employee is out. The employee must also make payments toward this coverage to the same extent such payments would otherwise be required if the employee were not on family leave.

**XI. Posting Requirements**

A requirement of FMLA is that a notice be posted prominently where it can be readily seen by employees and applicants. Therefore, the Attachment IV, titled **'Your Rights Under the Family and Medical Leave Act of 1993'** is permanently posted on the Human Resources bulletin boards used for posting of job announcements in the first floor east hallway of Unit I and on the bulletin boards in the Human Resources Office, Building L-3.

**X. Restoration or Reinstatement**

Both Acts require the employer to reinstate an employee who takes leave either to the position he/she held before going on leave or to an "equivalent" position, with equivalent employment benefits, pay, and other terms and conditions of employment.

**XI. Records**

Records relating to compliance will be maintained by the Human Resources Department.

**PROCEDURE:**

1. Whenever an employee requests a FMLA/FRA leave of absence, s/he must complete and submit:
  - **"Request for Leave of Absence"** HH611 form (Attachment I) stating "FMLA/FRA" in the 'Reason for Request'.
  - **"Request for Family Medical Leave Act (FMLA) Family Rights Act (FRA Leave of Absence"** (Attachment II).
  - **"Certification of Physician or Practitioner"** (if appropriate), (Attachment III). This medical certification must be attached to **"Request for Leave of Absence"** HH611 form when the employee requests FMLA/FRA to care for a family member or his/her own serious medical condition.
2. The employee must be provided with a copy of **"Your Rights Under the Family and Medical Leave Act of 1993"** (Attachment IV).
3. If an employee requests FMLA/FRA, the supervisor/manager must contact the personnel technician in Human Resources Administration (ext. 3231). The personnel technician will provide advice and counsel in meeting FMLA/FRA requirements. If appropriate, a letter will be sent to the employee advising him/her of FMLA/FRA rights and responsibilities. Additionally, Human Resources Administration will maintain centralized records regarding FMLA/FRA compliance.
4. Human Resources Administration, Building L-3 (ext. 3241) will provide copies of the attachments upon request.

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DEPARTMENT OF HEALTH SERVICES

HARBOR-UCLA MEDICAL CENTER

Request for Leave of Absence

Complete this form and return it to your Division Head for his/her approval.

NAME: \_\_\_\_\_ CLASSIFICATION: \_\_\_\_\_

EMPLOYEE NUMBER: \_\_\_\_\_

REGION/FACILITY \_\_\_\_\_ DIVISION: \_\_\_\_\_

INFORMATION REGARDING LEAVES OF ABSENCE

1. Leaves of absence for 12 months or less require the prior approval of both the Division Head and the Personnel Officer.
2. Leaves of absence for more than 12 months require the prior approval of the Division Head, Personnel Officer and Department of Personnel.
3. Any change in the dates originally requested requires the prior approval of both the Division Head and the Personnel Officer.
4. Discretionary leaves may be terminated at any time based on the needs of the service.
5. For absences of 30 days or more due to non-work related injury or illness, Occupational Health Services must approve a return to duty.
6. Proof of absence must be submitted upon request of departmental management.

REQUEST

I request a Leave with Pay from \_\_\_\_\_ Thru \_\_\_\_\_ Return to duty \_\_\_\_\_

How Covered: \_\_\_\_\_

I request a Leave without Pay from \_\_\_\_\_ Thru \_\_\_\_\_ Return to duty \_\_\_\_\_

Reason for Request: "FMLA/FRA"

I have read the above information regarding Leaves of Absence and agree to comply if my leave is approved.

EMPLOYEE'S SIGNATURE \_\_\_\_\_ DATE: \_\_\_\_\_

APPROVALS

APPROVED  DENIED  DIVISION HEAD: \_\_\_\_\_ DATE: \_\_\_\_\_

APPROVED  DENIED  PERSONNEL OFFICER: \_\_\_\_\_ DATE: \_\_\_\_\_

For Leaves of Absence in excess of 12 months:

APPROVED  DENIED  DEPARTMENT OF PERSONNEL: \_\_\_\_\_ DATE: \_\_\_\_\_

DISTRIBUTION: Original - Personnel Office

Copies - Division Head, Employee, Payroll, Dept., of Personnel

ATTACHMENT I

HARBOR-UCLA MEDICAL CENTER

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RREQUEST FOR
FAMILY MEDICAL LEAVE ACT (FMLA)/FAMILY RIGHTS ACT (FRA)
LEAVE OF ABSENCE

I certify by my signature below that my request for leave is due to one of the conditions indicated below:

- Birth of my child (attach verification of delivery).
Placement of a child with me in connection with my adoption of a child (attach verification of placement).
\*Serious illness of my child.
\*Leave to care for my parent or spouse who has a serious health condition.
\*My serious health condition that prevents me from performing the functions of my position.

You may elect to use accrued paid leave to cover part or all of the FMMLA/FRA leave. If the leave is approved and is unpaid, your timecard will be coded as "FL" in the reason column.

\*You are required to submit a doctor's certification of the serious health condition of the family member involved or yourself. The attached "CERTIFICATION OF PHYSICIAN OR PRACTITIONER" must be completed by both you and the physician involved.

Date Employee name
Employee number

(A minimum thirty days' advance notice is required when leave is foreseeable. When it is not practicable to provide such advance notice, such notice must be given as soon as possible).

NOTE: THIS DOCUMENT AND IF APPROPRIATE, A "CERTIFICATION OF PHYSICIAN OR PRACTITIONER:, MUST BE ATTACHED TO A COMPLETED "REQUEST FOR LEAVE OFABENCE" (HH 611).

R13:fmla

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DEPARTMENT OF HEALTH SERVICES

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CERTIFICATION OF PHYSICIAN OR PRACTITIONER

(Federal Family & Medical Leave Act/California Family Rights Act)

1. Employee's Name:
2. Does the employee have a serious health condition as defined on the reverse side of this form?
3. Date the employee's condition commenced:
4. Probably duration of the employee's condition:
5. Is the employee unable to perform the essential functions of his or her position due to his or her serious health condition?

**IF THIS CERTIFICATE RELATES TO CARE OF THE EMPLOYEE'S SERIOUSLY ILL FAMILY MEMBER, PLEASE PROVIDE THE FOLLOWING INFORMATION:**

6. Patient's Name and Relationship to Employee:
7. Does the serious health condition of the patient warrant the participation of a family member to provide care or supervision as defined on the second page?
8. If so, please estimate the amount of time the employee will need to care for his or her family member?

Signature of Physician or Practitioner:

Type of Practice or Field of Specialization:

Date:

ATTACHMENT III

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**SERIOUS HEALTH CONDITION**

A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- (1) Any period of incapacity or treatment in connection with or consequent to inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or,
- (2) Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three (3) calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider; or,
- (3) Continuing treatment by (or under the supervision of) of a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three (3) calendar days; or,
- (4) Prenatal care.

**NEEDED TO CARE FOR A FAMILY MEMBER**

An employee is "needed to care for" a family member encompasses both physical and psychological care, it includes situations where:

- (1) The family member is unable to care for his or her own basic medical, hygienic, nutritional, or safety needs;
- (2) The family member is unable to transport himself or herself to the doctor, etc.;
- (3) Psychological comfort and reassurance by the employee would be beneficial to the seriously ill family member receiving inpatient care; or,
- (4) The employee is needed to fill in for others who are caring for the family member, or to make arrangements in care, such as transfer to a nursing home.

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YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year, and for 1,2150 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

**REASONS FOR TAKING LEAVE:** Unpaid leave must be granted for any of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

**ADVANCE NOTICE AND MEDICAL CERTIFICATION:** The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable".
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

**JOB BENEFITS AND PROTECTION:**

- For the duration of FMLA leave the employer must maintain the employer's health coverage under any "group health plan".
- Upon return from FMLA leave, most employees must be returned to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**UNLAWFUL ACTS BY EMPLOYERS:** FMLA makes it unlawful for any employer to:

Interfere with, restrain, or deny the exercise of any right provided under FMLA;  
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:**

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

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.

**FOR ADDITIONAL INFORMATION:** Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor or Human Resources Administration (310) 222-3231.

U.S. Department of Labor, Employment Standards Administration  
Wage and Hour Division, Washing, D.D. 20210  
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