

The Metropolitan District Commission

**FAMILY MEDICAL LEAVE ACT POLICY**

The Metropolitan District Commission provides eligible employees access to Family Medical Leave Act (FMLA) benefits. The District maintains compliance with the federal regulations governing FMLA. The District's current policies regarding the request and use of any accrued or credited time such as sick leave, vacation time or earned time/personal time shall be continued and along with Worker's Compensation, shall run concurrently with FMLA.

An employee with insufficient accrued or credited time who requests to be absent due to a **serious health condition**; to care for a parent, spouse, or child with a **serious health condition** or for the birth or adoption of a child shall be afforded FMLA consideration.

**ELIGIBILITY:**

District employees that have been employed for at least one year of service and have worked at least 1,250 hours in the previous 12 months are eligible to take FMLA if one of the following conditions applies:

- For the birth and care of the newborn child of the employee;
- For placement with the employee of a son or daughter for adoption or foster care;
- To care for an immediate family member (spouse, child, or parent) with a **serious health condition**; or
- To take medical leave when the employee is unable to work because of a **serious health condition**.

**NOTICE AND CERTIFICATION:**

Requests for FMLA must be made at least 30 days prior to the date requested leave is scheduled to start. If the leave is unforeseeable, the employee should give as much notice as practicable. **The Request for Family Medical Leave and Certification of Health Care Provider (please see attached) must be completed and submitted to Human Resources within 15 business days of receipt of the FMLA packet.** The District may require continuing recertification of the serious health condition during the leave.

In order for the District to comply with the Federal regulations for FMLA, **supervision must notify Human Resources immediately** when they know an employee is out for either a serious health condition, an illness resulting in absences lasting more than 3 days, scheduled surgery, or accident which will result in absences lasting more than 3 days, or any other reason considered eligible under FMLA.

**ENTITLEMENT:**

District employees who are entitled to FMLA may take up to a 12-week leave within a 12-month rolling period with the period measured forward from the first day FMLA is used.

Intermittent leave is permitted only when medically necessary to care for a seriously ill family member or because of the employee's own serious health condition.

Employees will be required to exhaust all unused accrued paid days including sick leave, vacation, earned/personal time, comp time and holidays as part of their FMLA leave. Please note that any accrued sick

time must be used first before any other paid time can be used during the leave and sick time may only be used for the employee's serious health condition or to care for an immediate family member with a serious health condition. In addition, the employee must use any accrued paid vacation or earned/personal time during FMLA to bond with a newborn or newly adopted child.

Under FMLA, medical benefits and pension coverage continue for up to 12 weeks of paid leave. Employees are not entitled to seniority or benefit accrual during periods of unpaid FMLA.

Any employee who does not return to work or contact the appropriate supervisor on the intended date of return will be considered to have terminated their employment with The Metropolitan District Commission.

#### **JOB RESTORATION:**

The District will reinstate an employee returning from FMLA leave to the same or equivalent position with equivalent pay, benefits, and other employment terms and conditions. However, an employee on FMLA leave does not have any greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the provisions of the Americans with Disabilities Act (ADA) will also be considered.

Any employee that exceeds the 12-week FMLA period may be returned to their original or similar position, only if available, in accordance with applicable laws. If the original or similar position is not available once the 12-week period is exceeded, the employee may be terminated.

Under limited circumstances where restoration to employment will cause "substantial and grievous economic injury" to its operations, an employer may refuse to reinstate certain highly paid, salaried "key" employees. In order to do so, the employer must notify the employee in writing of his/her status as a "key" employee (as defined by FMLA), the reasons for denying job restoration, and provide the employee a reasonable opportunity to return to work after so notifying the employee.

#### **UNLAWFUL ACTS:**

It is illegal for the District to interfere with, restrain, or deny the exercise of any right provided by the FMLA, or to discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or being involved in any proceeding under or relating to the FMLA.

#### **ENFORCEMENT:**

The U.S. Department of Labor is authorized to investigate and resolve employee complaints of violation of the FMLA. An eligible employee may also bring a civil action against the District for violations.

#### **OTHER PROVISIONS:**

The 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.

Salaried executive, administrative, and professional employees of the District who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wages and overtime do not lose their FLSA-exempt status by using any unpaid FMLA. This special exception to the “salary basis” requirements for the FLSA’s exemptions extends only to eligible employees’ use of leave required by FMLA.

## **DEFINITIONS**

### **“Serious Health Condition”**

A serious health condition is defined as illness, injury, impairment, or physical or mental condition due to any period of incapacity and involves:

- Inpatient care in a hospital, hospice, or residential medical-care facility;
- A health condition which lasts more than 3 days that requires at least 2 treatments from a health care provider;
- A health condition which lasts more than 3 days any treatment relating to that condition that requires continuing treatment by a health care provider;
- Pregnancy or prenatal care;
- A chronic serious health condition that may recur and requires periodic follow-up treatments by a health care provider;
- A permanent or long-term that requires the continuing supervision of a health care provider;
- Any absences related to receiving multiple treatments by a health care provider for a condition that would likely result in a period of incapacity.

### **“Health Care Provider”**

Health care provider means:

- A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or
- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; and
- Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; and
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.
- Any health care provider from whom an employer or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.
- A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country.

### **“Chronic Health Condition”**

A chronic health condition is one which:

- Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
- Continues over an extended period of time (including recurring episodes of a single underlying condition); and

- May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

### **“Child”**

Child means the son or daughter of:

- Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

### **“Spouse”**

Spouse means:

- a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

### **“Intermittent Leave”**

Intermittent leave means:

- leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Eligible employees may take FMLA intermittently only if the FMLA is medically necessary because of the employee’s serious illness or to care for a seriously ill family member.

FMLA Forms are available in the Human Resources Department or on the website, [www.themdc.com/humanresources.htm](http://www.themdc.com/humanresources.htm).