

Family and Medical Leave

Policy 505

Effective Date: 1-01-2010

Revision Date: NA

Policy:

UC Physicians will provide Family and Medical Leave to all eligible employees per the Family and Medical Leave Act. Employees must complete required certification forms to qualify for leave.

Procedure:

1. Employees requesting Family/Medical Leave must contact their HR Consultant to obtain the required certification forms. Where the need for leave is foreseeable (e.g., expected birth, planned adoption, or planned medical procedure/treatment), notice must be given at least 30 calendar days prior to the beginning of the requested leave. In other situations, notice must be given (at least verbally) within a reasonable time, generally not more than one or two business days after the need for leave becomes known to the employee. In all cases, the duration of each requested FMLA leave, and any renewals thereof, shall be specifically stated in the request and in the granting of the leave. The HR Consultant will determine if the employee meets the eligibility criteria and inform the employee of his/her rights regarding FMLA leave. The HR Consultant will also provide the employee with the required forms for completion by the patient's health care provider. Those employees requesting leave due to a military call or order to active duty must provide proper documentation indicating the deployment.

2. Employees must complete the required UCP FMLA forms to qualify for FMLA leave. The employee is required to return completed healthcare certification forms directly to the assigned HR Consultant. The employee is not required to provide a copy of healthcare certification forms to his/her manager, and the manager may not ask for these forms. The HR Consultant will respond to the FMLA request by completing and providing the Notice of Eligibility and Rights and Responsibilities form to the employee. The approved leave will count against the employee's FMLA leave entitlement - - up to 12 work weeks (or 26 work weeks in cases involving seriously injured or ill family members who are in the U.S. Armed Forces) within the rolling 12-month period, measured backwards from the date of commencement of the requested leave. The granting of FMLA leave prior to UCP's receipt of any required medical certification or other verifying documentation, however, is conditional. Failure to provide the requested certifications or verifying documentation in a timely manner may result in delay of the employee's commencement or continuation of approved FMLA leave. An employee will also be given a reasonable opportunity to cure any deficiencies in any incomplete certification that is submitted. However, if the employee does not produce the requested certifications, information, or documentation, the leave may not be considered FMLA-protected.

3. The medical certification, based upon reasonable medical certainty, must verify that the employee is unable to work at all or is unable to perform at least one of the essential functions

of his/her job because of a serious health condition, or that the employee's spouse, child, or parent is affected by a serious health condition and requires care from the employee. Other medical information may be requested, as permitted by law. If UCP has reason to doubt the validity of a medical certification, UCP may require the employee to obtain a second medical opinion (at UCP's expense). If the first and second opinions differ, UCP may require the employee to obtain certification from a third health care provider, again at UCP expense.

4. The employee is responsible for informing his/her manager of his/her request for Family/Medical Leave. Where possible, the employee should schedule leave at a time that is least disruptive to both the employee and employer. Once healthcare certification is received and leave is approved, the HR Consultant will confirm with the employee and his/her manager.

5. For approved FMLA leave related to the employee's own serious health condition, the employee may use any available Long-term Sick (LTS) time and/or Paid-Time Off (PTO) to remain in paid status. For FMLA leaves related to a family member, the employee may only use his/her Paid-Time Off (PTO) bank to remain in paid status.

6. The HR Consultant will coordinate with the employee and payroll to determine a schedule for which the employee will use any available Long-term Sick (LTS) time and/or Paid-Time Off (PTO). Once LTS and PTO balances are exhausted, additional approved leave will be unpaid. Employees must exhaust both their LTS (if leave is for the employee's own serious health condition) and PTO balances before unpaid leave will be granted. The HR Consultant will use the LTS approval form to notify the Payroll Department that the employee's use of LTS time is approved.

7. For Intermittent Leave:

- a. The employee will be required to furnish updates to the healthcare certification every 12 weeks. If a healthcare provider charges a fee to recertify the FMLA, this expense is the responsibility of the employee. Intermittent leave may be terminated if recertification notices are not provided in a timely manner.
- b. The employee's manager will be responsible for recording his/her use of FMLA time via the timekeeping system or a separate FMLA calendar.
- c. The HR Consultant will inform the manager and employee of these responsibilities.

8. Prior to returning to work, an employee who has been on a non-intermittent FMLA leave due to the employee's own serious health condition must provide to the HR Consultant a medical fitness-for-duty certification verifying that the employee is able to resume work at the time of return. In the case of an employee who has a "disability" within the meaning of the Americans with Disabilities Act ("ADA"), a medical fitness-for-duty certification that he/she is otherwise qualified to return to work with or without reasonable accommodation must be provided. UCP will delay reinstatement until such certification is provided, and an employee who does not provide such certification (or a new medical certification for a new or extended serious health condition) may be terminated.

9. If an employee requires additional time off beyond the 12 week allotment in a rolling backward 12-month period, the employee's manager may grant additional time off if business needs permit. This leave will be considered personal leave, and FMLA rights no longer apply.

If personal leave is granted, the HR Consultant will provide the employee with a letter confirming that personal leave has been granted. During a personal leave, the organization will not protect an employee's job and will not subsidize health insurance premiums. If an employee wishes to continue his/her health insurance coverage during an unpaid personal leave, he/she must do so via the COBRA process.

Definitions and Eligibility

The Family and Medical Leave Act ("FMLA") provides eligible employees with up to 12 work weeks of unpaid leave during a rolling 12-month period for certain family and medical reasons as detailed below. The FMLA also permits an employee who is the spouse, parent, child, or "next of kin" of a member of the United States Armed Forces to take up to 26 work weeks of unpaid leave to care for the service member if the service member becomes seriously injured or ill in the line of duty. During an FMLA leave, an eligible employee is entitled to continued group health plan coverage as if the employee had continued to work. At the conclusion of the leave, subject to some exceptions, the employee generally has a right to return to the same or an equivalent position.

Basic Employee Eligibility Criteria

To be eligible for FMLA leave, an employee must:

- have been employed by UCP for a total of at least 12 months (which need not be consecutive) prior to the date upon which the requested FMLA leave would commence; and
- have actually worked at least 1,250 hours for UCP during the 12-month period immediately preceding the commencement of the requested leave; and
- be employed by UCP at a worksite (a) with 50 or more UCP employees or (b) where 50 or more UCP employees are located within a 75-mile radius of the employee's worksite.

Events Which May Entitle an Employee to FMLA Leave

FMLA leave may be taken for any one, or for a combination, of the following reasons:

- the birth of the employee's child or to care for the newborn child;
- the placement of a child with the employee for adoption or foster care or to care for the newly-placed child;
- to care for the employee's family member with a "serious health condition". Family member is defined as spouse, parent (but not in-law), child under age 18, or child age 18 or over that is incapable of self-care because of a physical or mental disability, where disability is defined as a physical or mental

impairment that substantially limits one or more of the major life activities of the individual;

- the employee’s own “serious health condition” that renders the employee unable to work at all or unable to perform any one or more of the essential functions of his/her job;
- to care for the employee’s spouse, child, parent (but not in-law), or other relative for whom the employee is the next of kin, if the so-defined family member is a member of the United States Armed Forces, including the National Guard and Reserves, and 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 suffered while on active military duty; and/or
- any “qualifying exigency,” as the Secretary of Labor shall, by regulation, determine, arising out of the fact that the employee’s spouse, child, or parent is on active duty, or has been notified of any impending call or order to active duty, in the U.S. Armed forces in support of a “contingency operation.”

The FMLA defines a “serious health condition” as an injury, illness, impairment, or physical or mental condition that involves:

1. Hospital Care: inpatient care (*i.e.*, an overnight stay) in a hospital or similar medical facility, including any period of incapacity* or any subsequent treatment in connection with or consequent to such inpatient care; or
2. Absence Plus Continuing Treatment: a period of incapacity* of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:
 - (a) treatment two or more times by a doctor or other “health care provider” within 30 days of the period of incapacity; or
 - (b) treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;
or
3. Pregnancy: any period of incapacity* due to pregnancy, or for prenatal care; or
4. Chronic Conditions Requiring Treatments: a chronic condition is one which:
 - (a) requires periodic visits for treatment by a doctor or other health care provider;
 - (b) continues over an extended period of time (including recurring episodes of a single underlying condition) and

(c) may cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, or epilepsy) or

5. Permanent/Long-Term Conditions Requiring Supervision: a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving treatment by, a health care provider. Examples may include Alzheimer's, a severe stroke, or the terminal stages of a disease; or
6. Multiple Treatments (Non-Chronic Conditions): any period of absence to receive multiple treatments (including any period of recovery therefrom) by a doctor or other health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation), severe arthritis (physical therapy), or kidney disease (dialysis).

* For FMLA purposes, "incapacity" is defined to mean inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from.

Ordinarily, unless complications arise or inpatient care is required, the common cold, the flu, earaches, upset stomachs, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, and periodontal disease are examples of conditions that generally do not meet the definition of a serious health condition and do not qualify for FMLA leave.

Maximum Amount of FMLA Leave

The maximum total amount of time available to an eligible employee for FMLA leaves of absence is 12 work weeks during the rolling 12-month period measured backward from the date leave is used (except in cases involving seriously injured or ill family members, as defined by the FMLA, who are in the U.S. Armed Forces, in which case up to 26 work weeks of unpaid leave may be granted). A work week for purposes of this policy generally consists of five eight-hour work days for a full-time employee. If an employee works a schedule that changes from week to week, however, the average amount of time the employee worked per week over the twelve-week period just before the date of the requested leave will be used to determine the work week.

Husband/Wife Employees

If both spouses are employed by UCP, the maximum total (combined) amount of time available to both employee spouses for the birth or placement of a child is 12 work weeks during the rolling 12-month period as defined above.

Birth/Placement Leave - Continuous Period

An FMLA leave for the birth or placement of a child must be taken in a single, continuous period of time, unless UCP and the employee agree to an intermittent leave or reduced schedule, and must be concluded within 12 months of the birth/placement. An intermittent or reduced schedule leave must be approved in advance of the leave by UCP, in its sole discretion.

Concurrent Exhaustion of All Paid Time Off

Leave for an FMLA-covered reason will be without pay, unless the employee has accrued PTO and/or LTS (for employee's own serious health condition) time available for use. If accrued paid time off is available, employees are required first to exhaust any such paid time off during any FMLA leave. The use of paid time off will run concurrently with, and count toward, the maximum amount of FMLA leave to which the employee is entitled. Any applicable short-term or long-term disability pay policies also will run concurrently with an employee's FMLA leave due to a serious health condition.

Intermittent/Reduced Schedule FMLA Leave

FMLA leave taken due to an employee's own, or his/her family member's, serious health condition may be taken on an intermittent or reduced-schedule basis where such leave is certified as medically necessary. Time off of work on an intermittent or reduced-schedule basis will be charged proportionally toward the 12 work week maximum.

To take intermittent or reduced-schedule leave, there must be a medical necessity for such leave (as distinguished from voluntary treatments and procedures). Employees who require intermittent or reduced-schedule leave also have an obligation to attempt to schedule the leave so as not to disrupt UCP's business operations. If the leave is required for medical treatment, the employee should consult with his/her manager and the Human Resources Department to make a reasonable effort to minimize any potential disruptions to UCP's operations; e.g., the employee may be required to attempt to reschedule the treatment, subject to the availability and approval of the health care provider. In addition, UCP may, at its option, temporarily reassign an employee to an available alternative position with equivalent pay and benefits that better accommodates his/her intermittent or reduced-schedule leave.

Group Health Insurance

Group health insurance, where applicable, shall be continued in effect for any employee on approved FMLA leave. If the employee is on paid leave, the applicable employee contribution will be made in the same manner as it would have been made had the employee been working (i.e., payroll deduction). If the leave is unpaid, the employee must pay his/her applicable employee contribution amount directly to UCP on or before the day of the month on which the premium is due. If the employee's payment of his/her portion of the health insurance premium is more than 30 days late, UCP may discontinue the health insurance coverage upon notice to the employee.

Other Employment Benefits

An approved FMLA leave means that time spent on leave and time previously worked for UCP will not be lost in the computation of length of service and any benefits dependent thereon. Any previously accrued PTO and/or LTS not exhausted during the FMLA leave, for example, will still be available to the employee upon his/her return from leave. The unpaid portion of an FMLA leave, however, will not be credited toward the accumulation of any additional applicable benefits. Nor will an employee be eligible for any paid holiday falling within an unpaid portion of an FMLA leave period.

Return from FMLA Leave

1. Reinstatement. Upon return to work from an FMLA-covered leave, and subject to other applicable FMLA provisions, UCP will place the employee in the same position he/she held before the leave or an equivalent position with equivalent pay, benefits, and other terms and conditions of employment.
2. Limitations on Reinstatement. An employee is entitled to reinstatement only if he/she would have continued to be employed by UCP had FMLA leave not been taken. Thus, an employee is not entitled to reinstatement if, for example, because of a layoff, reduction in force, or other reason, the employee would not have been employed at the time job restoration is sought, irrespective of the FMLA leave taken. UCP also reserves the right to deny reinstatement to salaried, eligible employees who are among the highest-paid ten percent of UCP's employees employed within 75 miles of the worksite (FMLA-defined "key employees") if such denial is necessary to prevent substantial and grievous economic injury to UCP's operations.
3. Failure to Return To Work Following FMLA Leave. As with all other leaves of absence and time off from work, an employee's failure to return to work at the time at which he/she is regularly scheduled to report at the conclusion of an FMLA leave, or to obtain an approved extension of leave in advance, will result in termination of employment as the employee will be considered to have voluntarily resigned. UCP may recover health insurance premiums that it paid during any unpaid portion of the FMLA leave on behalf of any such employee who fails to return, unless the employee's failure to return is due to the continuation of the employee's or a family member's serious health condition or because of other circumstances beyond the employee's control. In such cases, UCP may require the employee to provide medical certification of the employee's or family member's continuing serious health condition.

Forms/Additional Information

For FMLA forms or further information or clarification about FMLA leave, please contact the Human Resources Department.

On File

12/23/09

Approved by:

Date: