



**Human Resources Department
Employee Policy and Procedure**

MACOMB TOWNSHIP FAMILY AND MEDICAL LEAVE ACT (FMLA) LEAVE POLICY

Macomb Township allows employees to balance their work and family life by taking reasonable FMLA leave for certain family and medical reasons in accordance with this policy. These provisions are equally applicable to men and women. This policy shall not conflict with the Family and Medical Leave Act of 1993, as amended, 29 USC 2601 et seq. (the Act) or the Code of Federal Regulations implementing the Act, 29 CFR Part 825 (CFR's). Should there be any inconsistency between this policy, the Act or the CFRs, the Act or the CFRs shall control.

EMPLOYEE ELIGIBILITY

Macomb Township employees are entitled up to twelve (12) weeks of unpaid FMLA leave for certain family and medical reasons provided the employee has worked for at least twelve (12) months and 1,250 hours during the twelve (12) months prior to the start of the FMLA leave, and complies with the terms and conditions of this policy and the Act.

Service Member Family Leave - An eligible employee who is the spouse, son, daughter, parent or next of kin (nearest blood relative) of a covered service member shall be entitled to a total of twenty six (26) work weeks of FMLA leave during a twelve (12) month period to care for the service member. The FMLA leave described in this paragraph shall only be available during a single twelve (12) month period.

Covered Service Member - Means a member of the United States Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise on outpatient status, or on the temporary disability retired list, for a serious injury or illness.

Serious Injury or Illness of a Service Member - An injury or illness incurred by the member in line of duty on active duty in the United States Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.

LEAVE ENTITLEMENT

Eligible employees are entitled to a total of twelve (12) work weeks of unpaid FMLA leave in a twelve (12) month period for one or more of the following reasons:

- For the birth of a son or daughter, and to care for the newborn child.
- For the placement with the employee of a child for adoption or foster care, and to care for the newly placed child.

- To care for an immediate family member with a serious health condition.
- Because of a serious health condition which renders the employee unable to perform the functions of their position.
- Because of any qualifying exigency (as yet to be determined by the Secretary of the Department of Labor and adopted by regulation) arising out of the fact that the spouse, or a son/daughter, or a parent of the employee is on active duty, or has been notified of an impending call or order to active duty, in the United States Armed Forces in support of a contingency operation.

DEFINITIONS

Child - means the son or daughter, whether biological, adopted, foster child, step child, or a legal ward who is under eighteen (18) years of age or older than eighteen (18) years of age and incapable of self care because of a mental or physical disability.

Spouse - means a husband or wife.

Parent - means the biological parent of an employee or an individual who stands in loco parentis to an employee when the employee was a son or a daughter.

Immediate Family Member - means the spouse, son, daughter, or parent (not a parent-in-law) of the employee.

Key Employees - A key employee is a salaried FMLA eligible employee who is among the highest paid 10% of all the employees employed by the Township.

Serious Health Condition - means an illness, injury, impairment of physical or mental condition that involves in-patient care in a hospital, hospice or residential medical care facility or continuing treatment by a health care provider.

ENTITLEMENT PERIOD

Rolling 12 Month Period - The Township will measure the twelve (12) month FMLA leave entitlement period as a rolling twelve (12) month period measured backward from the date the FMLA leave is to commence. Each time an employee takes FMLA leave, the Township will compute the amount of FMLA leave the employee has taken under this policy over the preceding twelve (12) months and subtract it from the twelve (12) weeks of available FMLA leave, or twenty six (26) weeks if the service member family leave is being sought, with the balance remaining being the amount the employee is entitled to take at that time.

Both Spouses Employed by Macomb Township - Spouses employed by the Township may be limited to a combined total of twelve (12) weeks of FMLA leave for the following reasons:

- For the birth and care of a newborn child.
- For the placement of a child for adoption or foster care and to care for the newly placed child.
- To care for an employee's parent who has a serious health condition.

When both spouses use a portion of their total twelve (12) week FMLA entitlement, for one of the above reasons, each spouse will be entitled to the difference between the amount used together and the twelve (12) weeks of FMLA leave for the purpose other than those set forth above, e.g., if both spouses took six (6) weeks to care for a newborn child, each spouse could still take six (6) weeks for another qualifying purpose.

Service Member Family Leave - The total number of weeks of FMLA leave to which both a husband and wife may be entitled is limited to twenty six (26) weeks during a single twelve (12) month period.

INTERMITTENT LEAVE

Medical Need Required - For intermittent FMLA leave or FMLA leave on a reduced leave schedule, there must be a medical need for FMLA leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The Township may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced FMLA leave schedule.

Scheduling - Employees needing intermittent FMLA leave or FMLA leave on a reduced FMLA leave schedule must attempt to schedule their FMLA leave so as not to disrupt the Township's operations. Intermittent FMLA leave may be taken in time frames of one half (1/2) hour, as it is the shortest period of time the Township's payroll system uses to account for absences. The Township may request periodic reports every thirty (30) days from an employee regarding status and intention to return to work on a full-time basis.

CERTIFICATION OF HEALTH CARE PROVIDER

The need for FMLA leave for a serious health condition of the employee or the employee's immediate family member shall be supported by a certification issued by a health care provider. The employee shall have the form entitled "Certification of Health Care Provider", WH-380, or its successor, completed by a health care provider within fifteen (15) calendar days of being requested to do so by the Township. If an employee fails to submit a requested certification, the leave is not FMLA protected leave.

Foreseeable Leave - When the leave is foreseeable and at least thirty (30) days notice has been provided, the employee must provide the Certification of Health Care Provider, Form WH-380, before the leave begins. Failure to provide the Certification of Health Care Provider, Form WH-380, prior to the beginning of a foreseeable leave may result in the employee's FMLA leave being delayed until such form is completed and returned to the Human Resources Department.

Unforeseeable or Emergency Leave - When the leave is unforeseeable or of an emergency nature, the employee shall have the Certification of Health Care Provider, Form WH-380, completed by a health care provider within fifteen (15) calendar days of the date the leave commences. If an employee fails to submit the Certification of Health Care Provider, the leave is not FMLA protected leave.

Incomplete Forms - If the Human Resources Department determines that the Certification of Health Care Provider submitted by the employee is incomplete, the Human Resources Department will notify the employee and give the employee a reasonable opportunity to cure the identified deficiency. If the employee fails to cure the deficiency noted, the leave is not FMLA protected leave.

Additional Medical Certification - Pursuant to and in accordance with 29 CFR 825.307, the Township may, for specified reasons and at its expense, require the employee to obtain a second medical certification from a health care provider. The Township may choose the health care provider for the second opinion. If the opinions of the employee's and the employer's designated health care providers differ, then the Township may require the employee to obtain certification from a third health care provider again at the Township's expense pursuant to 29 CFR 825.307(C). The third opinion shall be final and binding. The third health care provider must be approved jointly by the Township and the employee.

Recertification - The Township may request recertification of medical necessity every thirty (30) days. If the Township has evidence or information casting doubt upon the employee's stated reason for FMLA absence, the Township may request recertification more often than every thirty (30) days.

REQUESTING FMLA LEAVE

Forms to be Completed - An employee desiring FMLA leave must notify the Human Resource Department by completing the FMLA Leave Request Form (all applicable blanks, boxes and spaces on the form must be completed by the employee) and returning it to the Human Resource Department. If necessary, the employee must also submit a Certification of Health Care Provider. The Township will respond to the employee's request within two (2) business days of receiving a completed request, by completing Form WH-381, or its successor, entitled "Employer Response to Employee Request for Family or Medical Leave", or its successors.

Preliminary Designation of FMLA Leave - If the Township is unable to confirm that the leave qualifies as FMLA leave, which normally occurs when the Township is waiting to receive medical certification, the Township may preliminarily designate the leave as FMLA qualifying and notify the employee accordingly. The preliminary designation as FMLA qualifying may later be withdrawn if the medical certification does not confirm the existence of a serious health condition.

30 Days Notice to Township - When an employee intends to take an FMLA leave under this policy, the employee must ordinarily provide thirty (30) days advance notice to the Township. If the FMLA leave is not foreseeable, the employee must give as much notice as is practicable. Absent emergencies and taking into account all of the facts and circumstances, notice to the Township, by completing the FMLA Leave Request Form and returning it to the Human Resources Department, must be given within two (2) business days of the date upon which the need for FMLA for leave becomes known to the employee.

Township is Required by Law - Whether or not an employee has requested FMLA leave, Macomb Township shall place on FMLA leave any qualified non-key employee who experiences an event that qualifies for FMLA leave, when the event is anticipated or known by the Township.

Department Heads - All department heads shall inform the Human Resources Department of all information of which they are aware, or have reason to believe, regarding the circumstances or events related to any absence of an employee.

Periodic Reports Requested - While on FMLA leave, employees are requested to report periodically (every thirty (30) days) to the Human Resources Department regarding the status of their FMLA leave and the employees' intent to return to work.

SUBSTITUTION OF VACATION, PERSONAL OR SICK TIME

Generally, FMLA leave is unpaid. However, Macomb Township requires employees to substitute accrued paid leave (personal, vacation and sick leave) for FMLA leave in accordance with the following:

- For the birth of an employee's child, or placement for adoption or foster care - An employee must substitute accumulated vacation, and then personal days, for unpaid FMLA leave. An employee may substitute sick time for unpaid FMLA leave, however, a minimum of forty (40) hours in their bank must remain.
- All other FMLA leaves, including service member family leave - An employee must use accumulated sick leave, personal leave and vacation hours for unpaid FMLA leave. The employee must first use sick days, then personal days, and then vacation days. At the exhaustion of the use of these days, the remainder of the leave will be unpaid.

BENEFITS WHILE ON FMLA LEAVE

An employee's use of FMLA leave will not result in a loss of any employment benefit the employee earned or was entitled to before using, but not during, FMLA leave.

Health Insurance - The Township will maintain group health insurance coverage, including family coverage, for an employee on FMLA leave on the same terms as if the employee continued to work. The Township's obligation to maintain health benefits stops if and when an employee informs the Township of their intent not to return to work at the end of the leave or if the employee fails to return to work, then the FMLA leave entitlement is exhausted. Subject to certain exceptions, should an employee decide not to return to work, the Township is entitled to recover its share of health plan premiums paid by the Township during the FMLA leave. Health insurance includes dental and vision, but not life insurance, disability or workers' compensation.

Additional Benefits and Seniority - Other benefits and seniority will accrue while on paid FMLA leave. Other benefits and seniority will not be accrued while on unpaid FMLA leave. The employee's seniority and benefits at the time the unpaid FMLA leave begins remain in effect when the employee returns from leave. With regard to pension or retirement benefits, the taking of unpaid FMLA leave does not constitute a break in service for purposes of vesting and eligibility to participate.

RETURNING TO WORK

Prior to returning to work, the employee shall, if requested by the Township, submit a written Fitness for Duty Certification to the Human Resources Department.

A Fitness for Duty Certification shall be completed by the employee's health care provider and state the employee is able to return to work, meaning that the employee has the ability to perform the essential functions of their position. Any employee returning from FMLA leave which was necessitated by a serious health condition will not be able to return to work until the employee's health care provider has certified that the employee is fit for duty *and* the Township's occupational health provider has concurred with the health care provider's certification.

Upon return from FMLA leave, an employee will be restored to his or her original job, or to an "equivalent job" with equivalent employment benefits, pay, terms and conditions.

HUMAN RESOURCES DEPARTMENT

The Human Resources Department is hereby authorized to approve FMLA leave requests and administer such in accordance with this policy, the Act and the CFR's. The Human Resources Department is responsible for administering FMLA leave for all employees of Macomb Township in accordance with the provisions of this policy.

The Human Resources Department shall:

1. Provide employees requesting FMLA leave with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations.
2. Provide employees with a copy of the FMLA Request form.
3. Provide employees with a copy of this policy and the Department of Labor, Wage and Hour Fact Sheet No. 28 or its successor form.
4. Provide written notice designating leave as FMLA leave and detailing specific expectations and obligations of the employee who is exercising his or her FMLA entitlements, by virtue of completing Department of Labor Wage and Hour Form WH-381.
5. Provide employees with appropriate forms for Certification of Health Care Providers.
6. Answer questions regarding FMLA rights, obligations, and duties of both the employee and the Township.

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| Effective Date: | 01/01/09 | Policy Number: | 09-13-01 |
| Issue Date: | 01/20/09 | Approval Date: | 12/22/08 |
| Subject: | Family and Medical Leave Act (FMLA) Leave Policy | | |
|  | Approvals: | | |
| |  Mark H. Grabow, Township Supervisor | | |
|  John F. Brogowicz, Human Resources Director | | | |