

Procedure No. 4-10-10
Replaces Procedure No. 4-10-10

Revised: 10-01-23
Issued: 12-20-93

SUBJECT: Family and Medical Leave Act of 1993

PURPOSE: To assist employees of the organization in their efforts to balance family and workplace demands and to meet Federal Law and carry out the mandate of Human Resources Policy No. 4.

Woodhaven shall grant up to twelve (12) weeks of family and medical leave during any twelve (12) month period to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid, unpaid, or a combination of paid and unpaid, depending on circumstances and as specified in this procedure.

Eligibility - In order to qualify to take family and medical leave under this procedure, the employee must meet all of the following conditions:

1. Have been employed by and work for the organization at least twelve (12) months prior to the date the leave would begin. The (12) months of employment does not need to have been consecutive.
2. Have worked at least 1250 hours in the previous 12 months of employment.

Exempt employees under Fair Labor Standard Act for whom no hours worked records have been kept, are presumed to have met the 1250 hours of service requirement for eligibility if they have been employed with Woodhaven during the twelve (12) months preceding the start of the leave.

Employees applying for and granted a family leave are required to meet notification and documentation requirements as outlined further in this procedure. Failure to meet these requirements may result in the denial or revocation of a family leave.

A. Duration and Basis for Leave

1. Eligible employees are entitled to at least twelve (12) work weeks of leave during a rolling twelve (12) month period for one or more of the following reasons:
 - a. The birth of a child or placement of a child with the employee for adoption or foster care,
 - b. Employee's spouse, child, or parent has a serious health condition, and the employee is needed to attend (the family member's) basic needs, both during periods in hospital care and during periods of home care. The definition of "Care" can include both physical and psychological care. An eligible employee may take leave under this provision regardless of the availability of another family member to provide the same or similar care.
 - c. An employee is unable to perform the functions of his/her position due to a serious health condition.
2. The military family leave provisions of the FMLA entitles eligible employees to take FMLA leave for:
*Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status. "Exigency Leave".

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*To care for a covered service member with a serious injury or illness if the employee is the service member's spouse, child, parent, or next of kin. Eligible employees may take up to 26 workweeks of FMLA leave in a single 12-month period to care for a covered service member with a serious injury or illness. "Military Caregiver Leave"

3. The entitlement to leave under paragraph a. and b. above expire at the end of the twelve (12) month period beginning on the date of such birth or placement.
4. If an employee and his/her spouse are employed by the organization, their combined time off may not exceed twelve (12) work weeks during any twelve (12) month period for the birth, adoption, (or) foster care, or to care for a parent with a serious health condition. Each spouse is, however, eligible for the full twelve (12) weeks during a twelve (12) month period to care for a son, daughter, or spouse with a serious health condition.

B. Intermittent or reduced leave

1. Leave taken for serious health conditions as described in section A. 1. c. and A. 1. d. above, may be taken on an intermittent basis (not all at one time) when medically necessary.

If the employee needs leave intermittently or on a reduced schedule for planned medical treatment for their own serious health condition or that of a qualifying family member, the employee must make a reasonable effort to schedule the treatment so as to not unduly disrupt the employer's operations.

An employer must permit employees to take intermittent or reduced schedule leave to care for a covered service member with a serious injury or illness.

Employees may use FMLA leave in the smallest increment of time the employer allows for the use of other forms of leave, as long as the smallest increment is no more than one hour. In addition, the employee's FMLA leave may not be reduced by more than the time taken (e.g., if employee leaves the last ½ hour of work, employer cannot deduct 1 hour FMLA leave even if smallest increment is 1 hour).

2. The organization may require an employee on intermittent leave to transfer temporarily to an available alternative position for which the employee is qualified if the position has equivalent pay and benefits and better accommodates periods of leave than the employee's regular position. When the employee no longer needs to continue on intermittent leave or reduced schedule leave, the employee will be restored to the same or equivalent job as the job that the employee left when the leave started.
3. On agreement between employee and the organization, an employee may choose to take family leave on a reduced leave schedule. This may involve reducing the usual number of hours per work day or work week during the leave. The duration of the leave will remain at a twelve (12) week maximum.

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C. Paid or Unpaid Leave

1. Family leave is without pay, except in the following situations:
 - a. When the employee has Earned Time Off (ETO) and/or Sick Leave, such will be used first as part of the employee's twelve-week (12) entitlement during the twelve (12) month period under the FMLA. Workers Compensation leave, short term and long term disability leave can run concurrently with FMLA leave if the reason for the leave is an FMLA leave qualifying serious health condition.
 - b. A salaried employee is needed to attend to the needs of his/her spouse, child, or parent who has a serious health condition. An employer may make deductions from a salaried employee's salary for any hours taken as intermittent or reduced schedule FMLA leave within a work week without affecting exempt status.
2. An employee shall be required to use any of his/her accrued unused vacation or other paid time off for any part of the twelve (12) weeks allowed in a twelve (12) month period.
3. Absences from scheduled shifts due to a work-related injury subject to the Workers' Compensation laws that qualify as FMLA leave will be charged against the employee's 12-week entitlement in a twelve (12) month period.

D. Employee Notice and Scheduling Requirements

1. An employee requesting family leave is required to give thirty days notice before the date of leave is to begin except for bona fide emergencies, which will be accommodated as soon as practical. Where a need for leave is unexpected, employee must provide notices as soon as possible and practical. For planned treatment, employee must consult with employer and try to schedule treatment in order to best suit needs of both employee and employer; however, schedules is subject to approval of treating health care provider.
3. When a family leave is related to a serious health condition, the employee must make a reasonable effort to schedule treatments so as not to unduly disrupt the organization's operations.

E. Medical Certification and Reporting Requirements

1. The organization shall require that a family leave related to a serious health condition be supported by certification issued by the health care provider of the employee or the employee's spouse, son, daughter, or parent as appropriate. A copy of this certification shall be provided to the organization in a timely manner. Employee must provide completed certification within 15 calendar days, absent unusual circumstances. Employees will be notified that failure to provide certification can result in denial of FMLA leave request or deny the leave for the period of time that the certification was late if the delay is due to extenuating circumstances outside the control of the employee.

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2. The certification shall include:
 - a. The date on which the serious health condition commenced.
 - b. The probable duration of the condition, whether the employee is unable to work and the likely duration of inability to work.
 - c. The appropriate medical facts within the knowledge of the health care provider regarding the condition.
 - d. A statement that the employee is needed for care for the son, daughter, spouse, or parent (if applicable). Employer may request documentation to confirm the family relationship.
 - e. An estimate of the amount of time that the employee is needed to care for the son, daughter, spouse, or parent.
3. If the organization questions the validity of the certification, it may require at the organization's expense, that the employee obtain a second opinion. If the second opinion conflicts with the original opinion, the organization may require, at its expense, that the employee get the opinion of a third health care provider designated or approved jointly, by the organization and the employee. The third opinion will be considered final and binding on both parties. The employer will notify employee, in writing, if leave will or will not be FMLA Protected. (Designation Notice).
4. The organization may require that the employee obtain subsequent recertification on a reasonable basis.

F. Restoration to Position

1. When an employee returns to work following a family leave, he/she must be:
 - a. Restored to the position held by the employee when the leave began; or at the organization's discretion;
 - b. Restored to the position held by the employee when the leave began; or at the organization's discretion;
 - c. Restored to an equivalent (not comparable or similar) position with equivalent employment benefits, pay, and other terms and conditions of employment. Any dispute as to what constitutes "equivalent" should be reviewed with the organization's Human Resources Department.

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G. **Effect on Accrued Benefits** — Taking a family leave will not result in the loss of any employee benefits accrued prior to the date on which the leave began, however, ETO, vacation or sick leave benefits may not accrue during any period of unpaid leave. An employee will not accrue any right, benefit or position of employment other than one in which she/he would have been entitled to had a leave not been taken.

H. **Employee status and benefits during leave**

1. An employee on a family leave may remain a participant in the organization's employee health benefit plan throughout the duration of the leave, as if actively employed. She/he will be required to pay the same cost of coverage as if actively at work.

While on **unpaid leave**, the employee must continue to make their payment. The premium for the full month is due and payable prior to the 1st day of the coverage month during the period of leave. If the employee's premium payment is more than 30 days late, the employee's coverage may be cancelled. The employer will provide a written notice to the employee if the payment has not been received by the 1st day of the coverage month indicating the date the coverage will be cancelled if payment is not received. An employee may choose not to retain group health plan coverage during FMLA leave, although upon return to employment is entitled to be reinstated on the same terms prior to taking the leave without any qualifying period or exclusion. If the employee is on unpaid leave and was previously paying on a pre-tax basis, the employee may re-activate the pre-tax contributions upon returning from the leave.

2. If the employee fails to return to work at the conclusion of the leave, for a minimum of 30 days, the organization will require the employee to reimburse it for the organization's share of health insurance premiums paid on the employee's behalf during unpaid FMLA leave. However, the employee may not be asked to reimburse the organization if she/he fails to return to work because of legitimate medical reasons or circumstances beyond the employee's control; or the continuation, reoccurrence, or onset of a serious health condition.
3. While on leave, employees are requested to report periodically (as specified in the FMLA letter received) to the Human Resource Office regarding the status of the medical condition, and their intent to return to work.

I. **Applying for Family Leave**

1. Employees should complete and submit for approval, a written request for a leave under FLMA. This request should conform to the notice and certifications requirements mentioned in Section D and E of this procedure.
2. The employee must submit all sick leave and ETO requests through the payroll time system used by the organization. For example, if any of the leave is paid, the employee must add the requested leave pay to receive the appropriate pay while on leave. Employer has an obligation to provide employee with Notice of Eligibility and Rights and Responsibilities. Sec. 825.300(b). This must be completed within 5 business days of receiving notice of leave and will be mailed by certified mail to employee's home address on file or sent via email with receipt of delivery required.

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3. A copy of any documentation concerning an employee's leave will be placed in the organization's FMLA file. All documentation containing employee's personal health information shall be kept separate from the employee's personnel file and maintained in a confidential manner in the organization's FMLA file.

J. Definitions

1. **Employee Benefits** - All benefits provided or made available to employees by the organization, including group health insurance, ETO, Sick Leave and pensions regardless of whether these benefits are provided by practice or written procedure.
2. **Parent** - The biological parent of an employee, an individual who stood in the place of a parent to that employee, or an employee who has day to day responsibility for caring for a parent.
3. **Child** - A biological, adopted, or foster child; a step child; a legal ward; or child of a person standing in the place of a parent who is under 18 years of age or 18 years or older and incapable of self care because of a mental or physical disability.
4. **Spouse** – For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either: (1) Was entered into in a State that recognizes such marriages; or (2) If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.
5. **Year** - in which the entitlement to twelve (12) weeks of leave occurs is the twelve (12) month period measured backward (rolling 12 month period) from the date the employee's first FMLA leave begins.
6. **Health care provider** - A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices, or any person determined by the Secretary of Labor to be capable of providing health care services.
7. **"In loco parentis"** - those persons with day to day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child.
8. **Covered Service Member** – A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is receiving medical treatment, recuperation or therapy, or is in outpatient status, or is on the temporary disability retired list for a serious injury or illness. A covered service member also means a veteran who has discharged within the previous five years and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness.

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Severability invalidity or enforceability of any provision of this procedure shall not effect the validity or enforceability of any other provision of this procedure or any other application of such provision.

Approved by: _____
Human Resource Manager

Date: _____