

**CITY OF MEDINA  
FAMILY AND MEDICAL LEAVE POLICY**

The City of Medina adopts this policy in order to define the City's policy and procedure with regard to Family and Medical Leave.

- A. An employee who has been employed by the City of Medina for at least twelve (12) months and who has actually worked at least 1,250 hours of service during the twelve (12) month period immediately preceding the commencement of the leave is eligible for Family and medical leave as provided in this policy. For employees not eligible for, or otherwise not entitled to, family and medical leave under this policy, the City will review the individual's circumstances involved.
- B. An eligible employee will be permitted a total of twelve (12) work weeks of family and medical leave for all reasons, except that employees qualifying for "military caregiver leave" may be entitled to twenty-six (26) work weeks as set forth in this policy. All leave is measured forward from the date the employee first uses family and medical leave.
- C. Leave must be taken for one of the following circumstances:
1. Incapacity due to pregnancy, prenatal medical care or child birth;
  2. The placement of a child with the employee in connection with adoption or foster care;
  3. To care for a child, parent or spouse who has a serious health condition (see definition below);
  4. Because of an employee's own serious health condition (see definition below) that makes the employee unable to perform the essential functions of his or her position, including a workers' compensation qualifying injury; or
  5. Military related leave (as described in this policy).
    - a. Because of any "qualifying exigency," arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty and is being deployed to a foreign country or is a member of the National Guard or Reserves who has been notified of an impending call to active duty status in the Armed Forces for deployment to a foreign country;
      - "Qualifying exigency" means: (i) short notice deployment (notice seven or less days); (ii) military events and related activities; (iii) child care and school activities; (iv) financial and legal arrangements; (v) counseling; (vi) rest and recuperation (five days

**CITY OF MEDINA  
FAMILY AND MEDICAL LEAVE POLICY**

Page 2 of 7

for each instance); (vii) post-deployment activities; and (viii) additional activities agreed to by the employer and employee.

- b. To care for a *covered servicemember*, including qualified Veterans or "Caregiver Leave." (See pp. 6-7)<sup>1</sup>
  
- D. An eligible employee shall be required to use all available accrued vacation, holiday, personal and sick leave (if applicable, See #1 below), concurrently with unpaid family and medical leave.
  - 1. Use of paid sick leave may be allowed only when the circumstances for family and medical leave also meet the requirements for sick leave under the City's sick leave policy or applicable collective bargaining agreement.
  
- E. An eligible employee will be required to provide the City with thirty (30) days' advance notice of the employee's desire to take family and medical leave where leave is foreseeable. When the need for leave is not foreseeable thirty (30) days in advance, the employee shall provide as much advance notice as is practicable. In any case in which the leave is for "qualifying exigency," the employee must provide reasonable and practicable notice.
  
- F. Employees may request family and medical leave and/or the City may designate any qualifying leave as family and medical leave.
  
- G. In the event a husband and wife are both employed by the City, and either or both request leave due to the birth of a child or the placement of a child with the employees in connection with adoption or foster care (bonding leave), the aggregate number of work weeks of family and medical leave to which both employees are entitled shall be limited to cumulative twelve (12) work weeks during the applicable twelve (12) month period. In other words, a cumulative total of twelve (12) weeks of bonding leave is available to the parents of a child. The leave may be used by one parent or split between both parents.

---

<sup>1</sup> There are special rules regarding leave to care for a covered servicemember ("Caregiver Leave"). Those rules are set forth in this policy.

**CITY OF MEDINA  
FAMILY AND MEDICAL LEAVE POLICY**

Page 3 of 7

H. Certification of Serious Health Condition (and Recertification)

An employee requesting family and medical leave because of the employee's serious health condition or to care for a child, spouse or parent must provide medical certification of the serious health condition of the employee or individual requiring care. Forms are available from the Director of Finance. The Certification should be submitted within fifteen (15) days of the employee's initial absence or leave request. It is the employee's responsibility to make sure the Certification is complete and provided in a timely manner.

The City may require that the employee obtain re-certification regarding the serious health condition of the employee or the employee's child, spouse or parent in certain circumstances. Employees and family members who have a serious health condition lasting longer than a year must provide a new medical Certification each year.

The City, at the City's expense, may require examination of the employee by an independent second health care provider. Should a conflict arise between the opinions of the two (2) health care providers, a third opinion will be sought. The third opinion will be provided by a health care provider mutually agreeable to the employee and the City. The expense of a third opinion will be paid by the City. The finding of the third health care provider is final and binding.

[Form WH-380E Certification of Health Care Provider for Employee's Serious Health Condition; Form WH-380F Certification of Health Care Provider for Family Member's Serious Health Condition]

I. Certification When Leave is due to a Qualifying Exigency

Employees needing family and medical leave for a *qualifying exigency* must provide a copy of the covered military member's active duty orders or other documentation issued by the military that indicates the covered member is on active duty and is being deployed to a foreign country or is a member of the National Guard or Reserves who has been notified of an impending call to active duty status in the Armed Forces for deployment to a foreign country, and the dates of the member's active duty service. The employee also must provide a statement of the facts regarding the qualifying exigency for which family and medical leave is requested.

[Form WH-384 Certification of Qualifying Exigency for Military Family Leave]

**CITY OF MEDINA  
FAMILY AND MEDICAL LEAVE POLICY**

Page 4 of 7

J. Intermittent/Reduced Leave

The employee may take family and medical leave intermittently (take time off periodically) or use leave to reduce the workweek or workday, resulting in a reduced hour schedule when leave is taken (i) when medically necessary to care for a spouse, son, daughter or parent who has a serious health condition; (ii) when medically necessary because of the employee's serious health condition; (iii) for a qualifying exigency; or (iv) to care for a covered servicemember. If leave is requested for any of these reasons, the City may require the employee to temporarily transfer to an alternative position which has equivalent pay and benefits and better accommodates recurring periods of absences or a reduced schedule. Leave for planned medical treatment should be scheduled to avoid disruption of City operations. Intermittent leave and/or a reduced hour schedule are not permitted for the birth or placement of a child for adoption or foster care.

K. It will not be considered a break in service when an employee takes leave in accordance with this policy, provided the employee returns to work at the expiration of the leave. However, an employee is not entitled to the accrual of any other employment benefits that would have accrued if not for taking off leave.

L. An eligible employee who takes leave in accordance with this policy shall, upon return from such leave, be restored to the position held by the employee when the leave commenced, or to a similar position of equivalent pay, benefits and other terms and conditions of employment. The City will require the employee's health care provider to certify that the employee is able to resume work as a condition of return to employment.

M. During any period that an eligible employee takes family and medical leave, the City will maintain the employee's group health insurance as if the employee was not on leave. The employee will be responsible for paying the employee's share of the health insurance costs during the leave. If an employee is contributing to the health insurance premium prior to the leave, the City will continue to make payroll deductions to collect the employee's share of premium while the employee is on paid leave. While the employee is on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Director of Finance each month. The City's obligation to maintain the employee's insurance shall cease if the employee is more than thirty (30) days late in tendering his or her share of the premium. The City will provide fifteen (15) days' notification prior to ceasing the premium payment.

**CITY OF MEDINA  
FAMILY AND MEDICAL LEAVE POLICY**

Page 5 of 7

**Insurance coverage may end at the completion of family and medical leave if an employee does not return to work or has extended the leave. A COBRA notice will be sent at this time, if applicable.**

N. Failure to Return

If the employee fails to return to leave, the employee shall reimburse the City for the total insurance premium paid by the City unless the failure to return is due to:

- a. continuation, recurrence, or onset of a serious health condition; or
- b. other circumstances beyond the employee's control:

In such cases, the City may require medical certification. If an employee fails to provide certification or an adequate excuse, the employee shall be liable for the total insurance premium paid by the City.

O. If an employee does not report to work or request and receive further approved leave after the family and medical leave expires, the employee will be absent without leave and may be subject to disciplinary action up to and including termination.

P. Employees who may be eligible for family and medical leave will receive written notice from the City outlining the employee's rights and obligations. [WH-381 Notice of Eligibility and Rights & Responsibilities]

Q. The City will provide employees who have requested or who are required to take family and medical leave with a Designation Notice. [WH-382 Designation Notice]

R. Family and Medical Leave Definitions

1. Parent: The biological parent or person standing in place of the parent (*in loco parentis*) to the employee when the employee was a child. "In-laws" are not included.
2. Child: A biological, adopted, foster, or step-child; a legal ward; or a child of a person who has 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.

**CITY OF MEDINA  
FAMILY AND MEDICAL LEAVE POLICY**

Page 6 of 7

3. Serious Health Condition: A serious health condition is generally defined as a physical or mental condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider. The continuing treatment requirement may be met by:
  - (i) a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one visit and a regimen of continuing treatment;
  - (ii) incapacity due to pregnancy, or
  - (iii) incapacity due to a chronic condition.
4. Intermittent Leave: Leave taken in separate blocks of time due to a single qualifying reason.
5. Reduced Leave Schedule: Leave that reduces an employee's usual number of working hours per work week or work day.

S. Caregiver or Covered Servicemember Leave

An eligible employee who is the spouse, son, daughter, parent or next of kin (nearest blood relative) of a "covered servicemember" is entitled to leave to care for that *covered servicemember* who has a *serious injury or illness*.

A "covered servicemember" is a member of the Armed Forces who has a "serious health, illness or injury" incurred by the member on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. "Covered servicemember" also includes veterans who are undergoing medical treatment for a "qualifying serious injury or illness" sustained in the line of duty who were members of the Armed Forces within five years preceding the need for medical treatment.

"*Serious injury or illness*" means: (i) undergoing medical treatment, recuperation, or therapy; or (ii) is otherwise an outpatient; or (iii) is otherwise on the temporary disability retired list. It also includes service-related aggravation of existing or preexisting injuries.

**CITY OF MEDINA  
FAMILY AND MEDICAL LEAVE POLICY**

Page 7 of 7

*“Next of kin”* means the nearest blood relative other than the *covered servicemember's* spouse, parent, son or daughter (blood relatives with custody, brothers and sisters, grandparents, aunts and uncles and first cousins). A *covered servicemember* may designate in writing a blood relative as next of kin for purposes of caregiver leave. If this is done, the designated person is the *only* next of kin for these purposes. When no designation is made, all eligible family members are considered next of kin and each may take family and medical leave consecutively or simultaneously. The City may require confirmation of a *“next of kin”* relationship.

***Duration of Caregiver Leave***

An eligible employee may take up to twenty-six (26) work weeks of leave in a single 12-month period to care for the *covered servicemember*. Leave to care for a *covered servicemember*, even if combined with other qualifying family and medical leave, may not exceed 26 weeks in a single 12-month period. For purposes of caregiver leave, the 12 month period commences on the date the employee first takes leave to care for a *covered servicemember*.

***Notice for Covered Servicemember Leave***

When leave is foreseeable based on planned medical treatment for a serious injury or illness of a *covered servicemember*, the employee must provide 30 days' notice. If 30 days' notice is not practicable, notice must be given as soon as practicable.

***Use of Paid Time Off for “Covered Servicemember” Leave***

An eligible employee may elect to use paid time off as is set forth on p. 4.

***Certification***

Medical Certification of leave to care for a *covered servicemember* is required. Certification may be provided by a health care provider with the U.S. Department of Defense (“DOD”), the U.S. Department of Veterans Affairs, a DOD Tricare network or a DOD non-network Tricare authorized private health care provider.

[Form WH-385 Certification of Serious Illness or Injury for Covered Servicemember for Military Leave]

## EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

### Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- 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.

### Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

### Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

### Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

### Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

### Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

### Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

### Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

### Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

### 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

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

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.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)

