

FAMILY & MEDICAL LEAVE

This policy is intended to comply with and be subject to the terms of the Family and Medical Leave Act of 1993 (FMLA). This section is not intended to create any rights in addition to those stated in the Act.

All terms referenced in this policy shall be governed by the respective meanings given to them by the FMLA. FMLA provides up to 12 weeks of unpaid, job-protected leave to “eligible” employees for certain family and medical reasons within a twelve month period. That twelve month period is a rolling 12-month period backward from date of requested leave. Employees are eligible if they have worked for at least one (1) year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees of your individual company within 75 miles. If you have questions concerning your eligibility or other issues concerning FMLA leave contact Human Resources.

FMLA leave is granted for any of the following reasons:

- For the birth of a son or daughter, and to care for the newborn child;
- For placement with the employee of a son or daughter for adoption or foster care;
- To care for the employee’s spouse, child, or parent who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the functions of the employee’s job.

Military Family Leave. In addition, eligible employees may take FMLA leave:

- Because of any qualifying exigency arising out of the fact that the employee’s spouse, child or parent is a covered military member on active duty or has been notified of an impending call or order to active duty in support of a contingency operation; or
- To care for a covered service member with a serious injury or illness if the employee is the spouse, child parent or next of kin of the 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 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 incurred in the line of duty on active duty. A “qualifying exigency” may include attending certain military events, making arrangements for alternative childcare, making financial or legal arrangements to address the covered military member’s absence, up to five days of leave to spend time with a covered military member on rest and recuperation, and attending certain post-deployment activities.

When family leave is taken to care for a covered service member with a serious injury or illness, a maximum of 26 weeks may be taken in a rolling 12-month period.

Serious Health Condition Defined - A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves either –

- An overnight stay in a medical care facility;

- “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 and any subsequent treatment or period of incapacity relating to the same condition that also involves -

- Treatment during at least two visits to a health care provider within 30 days of the first day of incapacity;
- One visit and a regimen of continuing treatment;
- Incapacity due to pregnancy; or
- Incapacity due to a chronic condition.

An incapacity exists when the employee or covered family member is unable to work, attend school or perform other regular daily activities due to the serious health condition, treatment of the serious health condition, or recovery from the serious health condition.

Other conditions may meet the definition of continuing treatment. In order to qualify as treatment by a health care provider, the first (or only) in-person treatment visit must take place within seven (7) days of the first day of the employee’s incapacity. If it does not, your request for FMLA will be denied absent extenuating circumstances.

Where Husband and Wife both work for Refreshment Services -If a husband and wife both work for Refreshment Services and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent in-law) with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for Refreshment Services and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.

Employee Notice - Where the need for the leave is foreseeable, the eligible employee must give Refreshment Services thirty (30) days prior notice advising Refreshment Services of the employee’s anticipated leave (where thirty (30) days notice is not possible, the employee must give Refreshment Services as much prior notice as is practicable and comply with Refreshment Services’ normal call-in procedures). If the leave is for planned medical treatment, the employee must make a reasonable effort to schedule the leave so as not to disrupt Refreshment Services regarding the status of the medical condition and their intent to return to work. Notice should be provided to the Human Resources Department.

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 (see *Employee's Certification Responsibilities* below).

Employee's Certification Responsibilities - Refreshment Services requires that an employee provide it with certification from a health care provider or from the military (as appropriate) for any leave taken for any of the following reasons:

- the employee's own serious health condition;
- to care for a covered family member with a serious health condition;
- for an employee's request for leave because of a qualifying exigency; or
- to care for a covered service member with a serious injury or illness.

After it is requested, it is the employee's responsibility to return the certification within 15 calendar days to Human Resources. Failure to return this certification to Human Resources may result in the denial of your request for leave.

Moreover, for employees who have their own serious health condition or are caring for the serious health condition of a family member, Refreshment Services may require that the health care provider recertify the status of the serious health condition. As with the initial certification, a recertification must be returned to Human Resources within 15 calendar days. Failure to return the recertification to Human Resources may result in the denial of your request for leave.

Certification of the Serious Health Condition of the Employee or the Spouse, Child or Parent of the Employee - Certification of the serious health condition shall include the date when the condition began, its expected duration and a brief statement of treatment. For medical leave for the employee's own medical condition, the certification must also include a statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of the employee's position. For a family member who is seriously ill, the certification must include a statement that the patient, the family member, requires assistance and that the employee's presence would be beneficial or desirable.

If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent leave or working a reduced schedule.

Refreshment Services has the right to ask for a second opinion if it has reason to doubt the certification. Refreshment Services will pay for the employee to get a certification from a second doctor, which Refreshment Services will select. If necessary to resolve a conflict between the original certification and the second opinion, Refreshment Services will require the opinion of a third doctor. Refreshment Services and the employee will mutually select the third doctor, and Refreshment Services will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

Documentation of the Covered Family Member's Call to Active Duty in the Armed Forces - Employees requesting this type of FMLA leave must provide proof of the qualifying family member's call-up or active military service. This documentation may be a copy of the military orders or other official Armed Forces communication.

Documentation of the Need for Service member FMLA Leave to Care for an Injured or Ill Service member - Employees requesting this type of Service member FMLA leave must provide documentation of the family member's or next-of-kin's injury, recovery or need for care. This documentation may be a copy of the military medical information, orders for treatment, or other official Armed Forces communication pertaining to the service member's injury or illness incurred on active military duty.

Reduced Work Schedule / Intermittent leave: In limited circumstances, an employee who is eligible for FMLA leave may be permitted to work a reduced schedule or receive periodic time off from work. In cases of a serious health condition of the employee or a family member, such leave may be permitted in circumstances when it is medically necessary, and appropriate medical certification will be required.

Use of Available Paid Sick Leave: If you are eligible for FMLA leave, you must use any available paid sick leave. FMLA leave will be unpaid at Refreshment Services only after use of all paid sick leave.

Other Work: Employees on FMLA leave may not perform work for other employers during their leave.

Return to Work -An employee returning to work from leave taken pursuant to this policy will be reinstated to the position the employee held before the leave or to an equivalent position. Employees must present a doctor's certificate indicating the employee's fitness to return to work where leave has been occasioned by the employee's serious health condition.

While an employee is on FMLA leave it is important that he or she notify the appropriate person at Refreshment Services of any changes in his or her circumstances that could impact employee's return to work. It is the employee's responsibility to notify Refreshment Services within two (2) days of any changes to his or her circumstances where notification is foreseeable. It is also the employee's responsibility to notify Refreshment Services of his or her intent not to return to work following the expiration of the period of leave.

Benefits While on Leave -While an eligible employee is on leave, he or she will be allowed to maintain all pre-existing health benefits. While on paid leave, Refreshment Services will continue to make payroll deductions to collect the employee's share of premiums for health coverage.

While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Human Resources Department by the 10th day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The employer will provide 15 days' notification prior to

the employee's loss of coverage. The employee must also continue to pay all deductible and co-payment amounts required under the coverage.

If the employee chooses not to return to work for reasons other than a continued serious health condition or for other circumstances beyond the employee's control, Refreshment Services will require the employee to reimburse Refreshment Services the amount it paid for the employee's health insurance premium during the leave period. Employees do not accrue such additional benefits as paid vacation and paid sick leave during a leave.

State Laws -Employees located in certain states may have greater rights than those afforded under the Family and Medical Leave Act. Those rights are not affected by this policy and this policy shall be deemed modified to the extent necessary to comply with applicable state laws.