

7-16-96 96-318
10

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

DATE: June 25, 1996
AGENDA ITEM NO.:

DEPARTMENT: County Counsel BY: Jeffrey G. Green PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes ___ No X)

Adopt Family and Medical Leave Policy and Procedures for Mariposa County and related documents essential to request such leave, i.e., Family Care Leave Request form, Certification of Health Care Provider and the Employer's Response to Employee Request for Family or Medical Leave. When the Family and Medical Leave Act of 1993 went into effect, it became necessary to implement this law by developing a policy for Mariposa that complied with federal and state statutes relating to the Family and Medical Leave Act. The firm of Whitmore, Johnson & Bolanos was retained to review the final regulations implementing both the State and federal Family and Medical Care Leave Policy and compare to the County's proposed Policy to ensure conformity. Upon their final review, Whitmore recommended no changes as the County's Policy conformed to the requirements of both the State and Federal Family and Medical Leave Act. Each bargaining unit was given an opportunity to comment on the proposed Policy and, subsequently, provided their input.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None on this action.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

➤ Adopt Policy as proposed. The County will not be in compliance with the law if negative action is taken.

COSTS: (X) Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

SOURCE: () 4/5ths Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve for Contingencies, if approved: \$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

Mariposa Co. Family and Medical Leave Policy and Procedures.
Family Care Leave Request Form.
Certification of Health Care Provider.
Employer Response to Employee Request for Family or Medical Leave.

CLERK'S USE ONLY:

Res. No.: 96-318 Ord. No. _____

Vote - Ayes: _____ Noes: _____

Absent: _____ Abstained: _____

() Approved () Denied

() Minute Order Attached () No Action Necessary

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

Recommended

Not Recommended

For Policy Determination

Submitted with Comment

Returned for Further Action

Comment: _____

A.O. Initials:

The foregoing instrument is a correct copy of the original on file in this office.


Date: _____

ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: JEFF GREEN, County Counsel
FROM: MARGIE WILLIAMS, Clerk of the Board 
SUBJECT: RESOLUTION NUMBER 96-318

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on July 16, 1996

ACTION AND VOTE:

4:07 p.m. Jeff Green, County Counsel;


Adoption of Mariposa County's Family and Medical Leave (FMLA) Policy Procedures and Approval of the Leave Request Form, Health Care Provider Certification Form, and Employer Response to Employee's Request for Leave (Continued from 6/25/96)

BOARD ACTION: Discussion was held with Jeff Green. Lisa Edelheit/SEIU, provided input relative to their requests for changes. (M)Reilly, (S)Parker, Res. 96-318 adopted with changes as discussed in Section C/deletion of last sentence in first paragraph, and Section J/change "required" to "shall have option" for use of vacation leave balances/Ayes: Unanimous.

cc: All Departments
File

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: JEFF GREEN, COUNTY COUNSEL
FROM: MARGIE WILLIAMS, Clerk of the Board 
SUBJECT: FAMILY AND MEDICAL LEAVE POLICY

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on June 25, 1996

ACTION AND VOTE:

Jeff Green, County Counsel;

Adoption of Mariposa County's Family and Medical Leave Policy and Procedures and Approval of the Leave Request Form, Health Care Provider Certification Form, and Employer Response to Employee's Request for Leave

BOARD ACTION: Jeff Green advised that the employee bargaining units were given an opportunity to comment on the proposed policy and subsequently changes were made; however, SEIU wants additional changes which he feels would expand the policy beyond requirements of the State and Federal law. Discussion was held. Lisa Edelheit/SEIU, requested that options be included in the policy to allow the employees flexibility in determining whether they want to take paid (using vacation or sick time) or unpaid leave, that leave taken under the Family and Medical Leave policy should be in addition to the current time that is allowed, and that intermittent or reduced leave not be restricted to just when medically necessary. Further discussion was held. Board requested that the request from the Union be presented in writing for further review and consideration. Matter was continued to July 16, 1996.

cc: File

OFFICE OF



JEFFREY G. GREEN
County Counsel
(209) 966-3222

P. O. Box 189
Mariposa, CA 95338
FAX (209) 966-5147

The County Counsel

MARIPOSA COUNTY

July 24, 1996

To: All Department Heads
From: Jeffrey G. Green, County Counsel
Re: Family Medical Leave Act

A handwritten signature in black ink, appearing to be "J. Green", written over the "From:" line of the memo.

Please find enclosed a copy of the County's Family Medical Leave Act Policy which was recently adopted by the Board of Supervisors. This document details the County's Policy relative to leave for an employee under the Family Medical Leave Act which has been enacted by the federal government and the State of California. Also enclosed is a copy of each of the following forms which must be completed for this type of leave:

- Family Care Leave Request Form - to be completed by employee.
- Certification of Health Care Provider - to be completed by physician.
- Employer Response to Employee Request for Family or Medical Leave - to be completed by Department Head.

Please use the enclosed copies for your masters and make whatever copies are necessary when family or medical leave is requested.

Benefits under the Family Medical Leave Act are mandatory and only in highly unusual circumstances can the County decline to allow an employee to take leave under the Family Medical Leave Act. Therefore, you will need to work with your other employees in order to accommodate an employee who requests a leave. If you are unsure of the process when an employee requests leave under the Family Medical Leave Act, please contact my office as there are portions of this policy that are somewhat complicated.

Should you have any questions regarding this, please feel free to contact me.

sa

encl/as stated

cc: Lisa Edelheit, SEIU
Gene Stamm, AFSCME
Charles Howard (for Deputy Sheriff's)
Sergeant Howard Davies, Sheriff's Management Assoc.

Mariposa County

Family and Medical Leave Policy and Procedures

I. Purpose

This document sets forth the County's policy regarding employee leave requested under the Family and Medical Leave Act of 1993 (the "FMLA") [29 U.S.C. §§ 2601 et seq.; 29 C.F.R. part 825] and the California Family Rights Act of 1991 as amended (the "CFRA") [Gov. Code § 12945.2; Cal. Code Regs. §§ 7297.0 et seq.]. This policy does not cover leave requested under other federal or state laws.

II. FAMILY AND MEDICAL LEAVE

A. Any eligible employee may be granted a family and medical leave subject to the provisions of the California Family Rights Act as amended in 1993 and the federal Family Medical Leave Act of 1993 in accordance with applicable statutes, case law, ordinances, and policies in effect at the time of the family and medical leave. Family and medical leave shall be instituted only upon written request of a qualified employee. For purposes of complying with state and federal law, an "eligible employee" is defined in "B" below. A family and medical leave may be granted for any of the following reasons:

1. Birth of a child of the employee.
2. Care of a newborn child of the employee.
3. Placement of a foster child with an employee.
4. Placement of a child with an employee in connection with the adoption of the child by the employee.
5. To care for a child, parent, or spouse of the employee who has a serious health condition.
6. A serious health condition that makes the employee unable to perform the functions of his/her position.

B. The definition of terms used in conjunction with family and medical leave are as follows:

1. Eligible employee means:
 - a) An employee who has been employed with the County of Mariposa for at least 12 months and has been employed by the County of Mariposa for at least 1,250 hours during the 12 month period immediately preceding the commencement of the leave.

Serious health condition means:

- a) Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purpose of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or
- b) Continuing treatment by a health care provider. (29 C.F.R. § 825.114(a)(1) and (2).)

2. Continuing treatment means:

- a) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
 - ii) 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.
- b) For purposes of the FMLA leave only, any period of incapacity due to pregnancy, or for prenatal care. [See Gov. Code § 12945; Cal. Code Regs. § 7297.6(b)] Refer to this policy at Section II.D.
- c) Any period of incapacity of treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
- d) 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 active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
- e) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care

services under orders of, or on referral by, a 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 calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.) severe arthritis (physical therapy), kidney disease (dialysis).

3. Health care provider means:

- a) An individual holding a physician's or surgeon's license, or osteopathic license in the state in which they practice;
- b) Podiatrists, dentists, clinical psychologists, and optometrists;
- c) Chiropractors and nurse practitioners who are licensed and performing within scope of their practice under state law;
- d) Christian Science practitioners, although the employee must consent to any request from the County for a second or third certification from a health provider other than a Christian Science practitioner.
- e) Nurse - midwives.
- f) Any health care provider that is recognized by the County or the County's group health plan.

4. Child includes a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis (who has parents' rights) who is either under age 18, or an adult dependent child. An adult dependent child is an individual who is 18 years of age or older and who is incapable of self-care because of a mental or physical disability

5. Parent includes biological, foster or adoptive parent, a stepparent, legal guardian, or a person other than a natural parent who acted in loco parentis to the employee, when the employee was a child. Parent specifically excludes a parent-in-law (29 CFR § 825.800).

6. Spouse means a partner in marriage as defined in Family Code § 300 (Cal. Family Care Leave Regulations § 7297.0(p)).

C. An eligible employee shall be entitled to family and medical leave up to a total of 12 workweeks during a 12 month period which shall begin when the employee first takes leave which qualifies as family and medical leave.

When medically necessary, leave may be taken intermittently or on a reduced leave schedule. Intermittent leave is taken in separate blocks of time due to a single illness or injury, and may be taken in blocks of an hour or more. Reduced leave schedule is a leave that reduces an employee's usual number of working hours per workweek, or hours per workday.

Should an employee request intermittent or reduced schedule leave when medically necessary, the employee may be required to transfer temporarily to an available alternative position for which the employee is qualified which has equivalent pay and benefits and which better accommodates the need for leave.

- D. Although a pregnant employee may be eligible for FMLA leave for pregnancy-related health conditions, she is not entitled to CFRA leave for disability due to pregnancy. She may be entitled to disability leave under separate state laws and regulations. (See Gov. Code § 12945 and Proposed 2 Cal. Code Regs. §§ 7297.0 et seq.)
- E. For family and medical leave taken for reason of the birth or adoption of a child of the employee or the placement of a foster child with the employee, any leave taken shall be initiated within one year of the birth or placement of the child with the employee.
- F. For leaves to care for a child, parent, or spouse with a serious health condition, the employee shall provide, within 15 days of the leave request if practicable, written certification from the health care provider containing the following information:
 - 1. A certification as to which part of the definition of “serious health condition,” if any, applies to the patient’s condition.
 - 2. i) The approximate date the serious health condition commenced, and its probable duration, including the probable duration of the patient’s present incapacity.
 - ii) Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis (i.e., part-time) as a result of the serious health condition, and if so, the probable duration of such schedule.
 - iii) If the condition is pregnancy or a chronic condition, whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.
 - 3. i) (A) If additional treatments will be required for the condition, an estimate of the probable number of such treatments.
 - (B) If the patient’s incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment, if known, and period required for recovery, if any.
 - ii) If any of the treatments referred to in subparagraph (i) will be provided by another provider of health services (e.g., physical therapist), the nature of the treatments.
 - iii) If a regimen of continuing treatment by the patient is required under the supervision of the health care provider, a general description of the regimen.
 - 4. i) If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether

the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.

ii) If the employee's family member will need care only intermittently or on a reduced leave schedule basis (i.e., part-time), the probable duration of the need.

Upon expiration of the time period which the health care provider originally estimated that the employee needed to care for the family member, the appointing authority shall require the employee to obtain recertification if additional leave is requested.

If the family and medical leave is requested because of the employee's own serious health condition, the certification must indicate whether 1) the employee is unable to perform work of any kind; 2) a statement of the essential functions of the position that the employee is unable to perform; or 3) the employee must be absent from work.

If the validity of the certification is questioned, the County may at its own expense, require the employee to obtain the opinion of a second health care provider chosen by the County. When the second opinion differs from the first, the County may require at its own expense the opinion of a third health care provider approved jointly by the County and the employee whose opinion shall be considered final and binding.

- G. If a husband and wife request leave due to the birth or placement of the same child, the leave time for both employees will be combined. Such employees may take a total of 12 weeks of leave due to the birth or placement of a child during a 12 month period. The County will not combine leave taken to care for a parent.
- H. If the event necessitating the leave becomes known to the employee more than 30 calendar days prior to the employee's need for a leave the employee shall provide, at a minimum, 30 days written advance notice to the County. If the event necessitating the leave becomes known to the employee less than 30 days prior to the employee's need for a leave, the employee shall provide to the County as much advance notice as possible.

If the employee's need for family and medical leave is foreseeable due to a planned medical treatment or planned supervision of the employee, a child, parent, or spouse with a serious health condition, an employer may require the employee to provide reasonable advance notice of the need for the leave and to consult with the County regarding the scheduling of the treatment or supervision so as to minimize disruption to the operations of the County. Any such scheduling, however, shall

be subject to the approval of the health care provider of the child, parent, or spouse.

If the employee is not to use paid leave, requests for family and medical leave shall be in writing and shall contain a date on which the leave will commence, an expected return to work date, and a statement of the nature of the leave. If the employee is to use any paid leave, the employee shall give the same notice as required for normal paid leave.

- I. While on leave, the employee will remain covered by the County's health care benefits to the same extent as he/she would be while an active employee. As such, should the employee wish to continue his/her health care benefits while on leave, the employee will be required to remit to the health plan any premiums he/she is responsible to remit via payroll deduction while active. If the employee does not return to work after the leave period, the County will require the employee to repay the health care premiums paid by the County during the leave period, unless a) the employee does not return to work due to circumstances beyond the employee's control, or b) the failure to return to work is due to the continuation, recurrence, or onset of a serious health condition which would otherwise entitle the employee to family and medical leave.
- J. Employees shall have the option to use accrued vacation leave while on a family and medical leave prior to going on an unpaid leave for birth, adoption, or to care for a family member. Employees shall be required to use sick leave if the family and medical leave is taken for their own serious health condition prior to going on unpaid status.

Such vacation leave, if used, or sick leave shall count towards the 12 workweeks of family and medical leave to which the employee is entitled.

- K. An employee returning from a leave will be reinstated to the same position or an equivalent position, with equivalent pay, benefits, and other terms of employment, unless the employee would not otherwise have been employed at the time reinstatement is requested.

An employee whose leave was due to the employee's own serious health condition shall be required to obtain and present a fitness-for-duty certification from the health care provider relative to the health condition which caused the leave prior to returning to full duty. Restoration to employment may be denied until the certification is obtained. If an employee is no longer qualified for the position, the employee shall be given a reasonable opportunity to fulfill any conditions required for qualification or the County shall attempt to make a reasonable accommodation. A fitness-for-duty certification is not required if the leave was intermittent.

The County may deny restoration to a previous position if the employee who has taken family and medical leave is considered a “key” employee (among the highest paid 10% of all employees) if:

1. Denial is necessary to prevent substantial and grievous economic injury to the operations of the County.
 2. The County notifies the employee of the intent to deny restoration on such basis at the time the County determines that such injury would occur; and
 3. In any case where the leave has commenced, the employee elects not to return to employment after receiving such notice.
- L. Employees on leave do not lose any benefits which have accrued prior to their first day of leave and the leave period will be treated as continued service (i.e., no break in service) for purposes of determining vesting and eligibility to participate in the County retirement plan. This means they have the option of “buying back” the time they were on an unpaid FMLA leave. However, the employee does not accrue any other benefits during the leave period, nor does the leave period entitle the employee to any greater rights than he/she would have had if he/she had remained in the workplace.

Mariposa County
Family Care Leave Request Form

Name: _____ Title: _____

Department: _____ Telephone No: _____

1. Reason for request: Illness or injury of self child
 spouse parent

If for birth or adoption of child:

Birthdate: _____ or

Date of placement: _____

2. List name and relationship of person requiring your care.

Name: _____ Relationship: _____

3. List attending health care provider's name, address, and telephone number. Attach certification from the health care provider indicating that condition warrants participation of a family member, and an estimate of the amount of time the employee needs to care for the individual.

Health Care Provider

Name: _____ Telephone No.: _____

Address: _____

4. Anticipated beginning date of leave. _____

 Month Day Year

5. Anticipated ending date of leave. _____

 Month Day Year

6. Employee has the option to use accrued vacation leave prior to going on unpaid leave for birth, adoption, or to care for a family member. If leave is for the employee's health reasons, all accrued sick leave must be exhausted prior to going on unpaid leave.

	Number of Hours to be Used
a. Number of hours vacation accrual to be used at employee's election.	_____
b. Number of sick leave hours to be used.	_____
c. Number of hours unpaid leave.	_____

7. Have you been granted Family Care Leave during the past 12 months?

Yes No

a. If yes, indicate dates of Leave. _____

8. I hereby certify that I have read and understand Mariposa County's policy relating to Family and Medical Leave, which is attached hereto.

 Employee signature

 Date

 Department Head signature

 Date

APPROVED **DENIED**

Certification of Health Care Provider
(Family and Medical Leave Act of 1993)
(State Family Care and Medical Leave Act)

1. Employee's name:
2. Patient's name (if different from employee):
3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act. Does the patient's condition¹ qualify under any of the categories described? If so, please check the applicable category.

(1)____ (2)____ (3)____ (4)____ (5)____ (6)____, or None of the above _____

- 4(a). State the approximate **date** the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present **incapacity**² if different):

(a).

- (b). Will it be necessary for the employee to take work only **intermittently** or to **work on a less than full schedule** as a result of the condition (including for treatment described in Item 6 below)? _____

If yes, give the probable duration:

- (c). If the condition is a **chronic condition** (condition #4) or **pregnancy**, state whether the patient is presently incapacitated² and the likely duration and frequency of **episodes of incapacity**².

- 6(a). If additional **treatments** will be required for the condition, provide an estimate of the probable number of such treatments:

If the patient will be absent from work or other daily activities because of **treatment** on an **intermittent** or **part-time** basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

- (b). If any of these treatments will be provided by **another provider of health services** (e.g., physical therapist), please state the nature of the treatments:

- (c). If a **regimen of continuing treatment** by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

¹ Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

² "Incapacity," for purposes of FMLA, is defined to mean inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

7(a). If medical leave is required for the employee's **absence from work** because of the **employee's own condition** (including absences due to pregnancy or chronic condition), is the employee unable to perform work of any kind? _____

(b). If able to perform some work, is the employee **unable to perform any one or more of the essential functions of the employee's job** (the employee or the employer should supply you with information about the essential job functions)? _____ If yes, please list the essential functions the employee is unable to perform:

(c). If neither (a) nor (b) applies, is it necessary for the employee to be **absent from work for treatment**? _____

8(a). If leave is required to **care for a family member** of the employee with a serious health condition, does the patient **require assistance** for basic medical or personal needs or safety, or for transportation? _____

(b). If no, would the employee's presence to provide **psychological comfort** be beneficial to the patient or assist the patient's recovery; or is the employee needed to **arrange for third-party care** for the family member? _____

(c). If the patient will need care only **intermittently** or on a **part-time** basis, please indicate the probable duration of this need:

(Signature of Health Care Provider)

(Type of Practice)

(Address)

(Telephone Number)

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

(Employee Signature)

(Date)

A “Serious Health Condition” means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Hospital Care

Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity² or subsequent treatment in connection with or consequent to such inpatient care.

2. Absence Plus Treatment

(a) A period of incapacity² of more than three consecutive calendar days (including any subsequent treatment or period of incapacity² relating to the same condition), that also involves:

- (1) Treatment³ two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
- (2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment⁴ under the supervision of the health care provider.

3. Pregnancy

Any period of incapacity due to pregnancy, or for prenatal care.

4. Chronic Conditions Requiring Treatment

A chronic condition which:

- 1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
- 2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- 3) May cause episodic rather than a continuing period of incapacity² (e.g., asthma, diabetes, epilepsy, etc.)

5. Permanent/Long-Term Conditions Requiring Supervision

A period of incapacity² 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 active treatment by, a health care provider. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease.

6. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a 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 incapacity² of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

³ Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

⁴ A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to health care provider.

**Employer Response to Employee
Request for Family or Medical Leave**
(Optional use form - see 29 CFR § 825.301(c))

**U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division**

(Family and Medical Leave Act of 1993)

(Date)

TO: _____
(Employee's Name)

FROM: _____
(Name of appropriate employer representative)

SUBJECT: Request for Family/Medical Leave

On _____, you notified us of your need to take family/medical leave due to:

- the birth of your child, or the placement of a child with you for adoption or foster care; or
- a serious health condition that makes you unable to perform the essential functions of your job; or
- serious health condition affecting your spouse, child, parent, for which you are needed to provide care.

You notified us that you need this leave beginning on _____ and that you expect leave to continue until on or about _____.
(date)

Except as explained below, you have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and under certain circumstances you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: *(check the appropriate boxes; explain where indicated)*

1. You are eligible not eligible for leave under the FMLA.
2. The requested leave will will not be counted against your annual FMLA leave entitlement.
3. You will will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by _____ *(insert date)* (must be at least 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. You will be required to substitute accrued paid leave for unpaid FMLA leave, until paid leave is extinguished.
- 5(a). If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: *(Set forth dates, e.g., the 10th of each month, or pay periods, etc. that specifically cover the agreement with the employee.)*
- (b). You have a minimum 30-day *(or, indicate longer period, if applicable)* grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work. We will will not pay your share of health insurance premiums while you are on leave.
- (c). We will will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA leave. If we do pay your premiums for other benefits, when you return from leave you will will not be expected to reimburse us for the payments made on your behalf.
6. You will will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received your return to work may be delayed until the certification is provided.
- 7(a). You are are not a “key employee” as described in § 825.218 of the FMLA regulations. If you are a “key employee”, restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.
- (b). We have have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. *(Explain (a) and/or (b) below. See § 825.219 of the FMLA regulations.)*
8. While on leave, you will will not be required to furnish us with periodic reports every _____ *(indicate interval of periodic reports, as appropriate for the particular leave situation)* of your status and intent to return to work (see § 825.309 of the FMLA regulations). If the circumstances of your leave change and you are able to return to work earlier than the date above, you will will not be required to notify us at least two work days prior to the date you intend to report for work.
9. You will will not be required to furnish recertification relating to a serious health condition. *(explain below, if necessary, including the interval between certifications as prescribed in § 825.308 of the FMLA regulations.)*