

## **THE CITY OF NORWICH FAMILY AND MEDICAL LEAVE POLICY**

The City of Norwich shall comply with the requirements of the Federal Department of Labor Family and Medical Leave Act of 1993 (FMLA) and the additional requirements set forth in the 2008 FMLA amendment to extend additional leave rights to families of members in the Armed Forces. The following is a summary of the City's policy. In all circumstances, the actual language of FMLA, as it may be amended, shall control.

### **SUMMARY OF THE CITY OF NORWICH FAMILY AND MEDICAL LEAVE POLICY**

#### **Eligibility Requirements**

In accordance with the Family and Medical Leave Act, the City of Norwich will grant job protected family and medical leave to eligible employees for up to 12 weeks per 12-month period measured forward from the date the employee begins their leave. Employees are eligible if they have worked for at least one year, and for 1,250 hours over the previous 12 months. Leave will be granted for any one or more of the following reasons.

#### **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 service member during a single 12-month period. A covered service member 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 service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

### **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 may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of a serious health condition of the employee when "medically necessary".

For part-time employees and those who work variable hours, the family and medical leave entitlement is calculated on pro rata basis. A weekly average of the hours worked over the 12 weeks prior to the beginning of the leave will be used for calculating the employee's normal work week.

For intermittent leave or leave on a reduced schedule, the employee must make a reasonable effort to schedule treatment so as not to disrupt the operations of his/her department or the City.

### **FMLA Limitation**

When both spouses are employed by the City of Norwich, leave will be limited to a combined total of 12 weeks in a 12 month period for birth, foster care, adoption of child, or care for a sick parent. Each spouse is entitled to 12 weeks of leave in a 12 month period for all other leaves under the Act. If the husband and wife both use a portion of the total 12-workweek FMLA leave entitlement for the birth of a child, placement of a child for adoption or foster care, or to care for a parent, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 workweeks for FMLA leave for other purposes. For example, if each spouse took 6 workweeks of leave to care for a parent, **each** could then use an additional 6 workweeks due to his or her own serious health condition or to care for a child with a serious health condition.

### **Military Distinction to FMLA Limitation**

Spouses working for the same employer are limited to a combined total of 26 workweeks of leave during a "single 12-month period" if leave is taken to care for a covered service member with a serious injury or illness.

### **Substitution of Paid Leave Time for Unpaid Leave**

An employee **will be required** to substitute accrued paid time (i.e., sick, vacation, holiday, compensatory) for any part of a family/medical leave taken for any reason.

### **Workers Compensation Leave of Absence**

Workers' compensation leave of absence will be designated as FMLA provided the reason for the absence is due to a qualifying serious illness or injury. Time off taken for a qualifying illness or injury will be counted against the employee's applicable 12-week entitlement to job-protected FMLA leave.

### **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. In unexpected or unforeseeable situations, an employee should provide as much notice as is practicable. Verbal notification followed by a completed "Request for Family/Medical Leave" Form is acceptable.

Employees must provide sufficient information 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 will also be required to provide a certification and periodic recertification supporting the need for leave.

### **Medical Certification**

For leave taken because of the employee's or a covered family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" Form (Exhibit B) to the Human Resources Director. Medical certification must be provided by the employee within 15 calendar days after the Human Resources Department is notified of the family/medical leave request.

In addition, The City may require clarification or authentication of your medical certification (at its own expense) to verify the extent of an illness. In addition, periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work may be required. An employee approved for FMLA leave will be informed of the requirements.

**ALL DOCUMENTATION RELATED TO THE EMPLOYEE'S OR FAMILY MEMBER'S MEDICAL CONDITION WILL BE MAINTAINED IN THE EMPLOYEE'S MEDICAL RECORDS FILE.**

### **Effects on Benefits**

An employee granted a leave under this policy will continue to be covered under the City's group health insurance plan, life insurance plan and disability plans, if applicable, under the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period.

Employees are required to continue to pay their cost-shares while out on leave. Cost-shares will continue to be deducted from the employee's paycheck as long as there is a paycheck. In the event all accrued time is used and the leave becomes unpaid, employees are responsible to pay their cost-shares directly to the City.

**Failure to pay cost-shares will result in termination of insurance.**

If an employee fails to return from FMLA leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member or (2) circumstances beyond the employee's control (certification required within 30 days of failure to return for either reason), the City may seek reimbursement from the employee for the portion of premiums paid on behalf of that employee (also known as the employer contribution) during the period of leave. In addition, if the employee fails to return from family/medical leave for any reason, the City shall seek reimbursement for any unpaid employee cost-shares.

An employee is not entitled to accrue City service time or benefits during periods of unpaid leave (i.e., sick, vacation, holiday, etc.), but will not lose anything prior to the leave.

**Job Protection**

If an employee returns to work within 12 weeks following an FMLA leave, he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status and authority.

The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated if he or she had not been on the leave, the employee would not have the right to be reinstated upon return from leave.

If the employee fails to return within 12 weeks following an FMLA leave, he or she is no longer protected under FMLA and may be terminated.