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Sponsor:	Melanie Hatcher: SVP, CHIEF HR OFFICER
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## HR-006-070 Federal Family & Medical Leave Act Compliance

### I. Purpose

This policy outlines Broward Health's Compliance with the Federal Family and Medical Leave Act.

### II. Guidelines

#### A. ELIGIBILITY & QUALIFYING CIRCUMSTANCES

1. All Broward Health employees who have been employed for at least twelve months and have worked a minimum of 1250 hours during the last twelve (12) months of employment are eligible to request Family and Medical leave. The 12 months of employment need not be consecutive. Separate periods of employment will count towards eligibility as long as the break in service does not exceed seven years; or unless the break is a result of the employee's military obligations (See HR Policy HR-006-050 Military Leave).
2. Eligible employees may qualify to take Family and Medical leave for:
  - a. Incapacity due to pregnancy, prenatal medical care or the birth of a child.
  - b. The placement of a child for adoption or foster care and the associated care of the child. In some instances, the employee may require leave for the birth of a child or for placement for adoption or foster care, **prior** to the actual birth or placement.
  - c. The care of the **employee's** seriously ill spouse, child or parent;
  - d. A serious health condition which causes an incapacity is (a) measured by the duration of the incapacity itself (more than 3 full consecutive days); (b) requires in-person treatment by a healthcare provider at least once within seven days of the first day of incapacity; and (c) requires either (a) a regimen of continuing treatment initiated by the health care provider during the first treatment or (ii) a second in person visit to the health care provider for treatment (the necessity of which is determined by the health care provider) within 30 days of the first day of incapacity. A chronic condition is one that (a) requires visits for treatment by a health care provider at least twice a year; (b) continues over an extended period of time (including recurring episodes of a condition; and (c) may cause episodic incapacity rather than a continuing period of incapacity.
  - e. Military Caregiver Leave – to provide care for the employee's spouse, child, parent or next of kin who is a covered service member of the Armed Forces, National Guard or Reserves

who is (1) on the temporary disability retired list, (2) has a serious injury or illness incurred in the line of duty on active duty and undergoing medical treatment, recuperation, or therapy; or (3) is otherwise in outpatient status.

- f. Qualifying Exigency Leave – non-medical leave to take care of family issues due to the employee's spouse, son, daughter, or parent call to active duty status. This leave is only available to member of reserve military/ armed services and may be granted for: (1) short notice deployment, (2) military events and related activities, (3) child care and school activities, (4) financial and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post deployment activities, and (8) additional activities where the employer agrees to the leave.

## **B. APPLYING FOR & DESIGNATION OF FAMILY/MEDICAL LEAVE**

1. It is the employee's responsibility to timely notify their Regional HR department and supervisor of their request for Family/Medical Leave and to complete the required paperwork. This can be accomplished by the employee's representative/spouse, family member, or other responsible party if the employee is unable to do so personally.
2. Upon notification of Human Resources, the employee will be provided with the necessary paperwork to be completed by the employee, their supervisor and healthcare provider. In order to maintain compliance with FMLA regulations and Broward Health policies, all forms must be obtained from HR. These forms will include:
  - a. Request for Time Off Form
  - b. Sick Pay Form (as applicable)
  - c. Notice of Eligibility and Rights and Responsibilities Form
  - d. Relevant Healthcare Certification Form(s)
  - e. Designation Notice Form

When the need for leave is foreseeable, the employee is required to give their supervisor thirty (30) days' notice. If the employee fails to give thirty days' notice with no reasonable excuse for the delay, the leave request may delay the entitlement to commence family/medical leave or entitlement for FMLA leave. Failure to provide timely notice may result in absences being counted as non-FMLA and subject to disciplinary action.

When the need for leave is not foreseeable, the employee is required to give the department supervisor notice as soon as it is practicable under the circumstances of the case. The employee is responsible to schedule medical treatments so as not to disrupt the operations.

3. The employee must submit the completed forms with sufficient information to Human Resources at the time of the request, or within fifteen (15) days of giving notice. Failure to provide the information needed to make a determination within the time prescribed may result in denial of FML leave.
  - a. Employees requesting Qualifying Exigency Leave must also provide Human Resources with two (2) types of certification within fifteen (15) days of the request absent unusual circumstances (i.e. a copy of the military orders with the relevant information for the first (1<sup>st</sup>) request and a statement from the employee about the specific exigency, the amount of leave requested, the employee's relationship to the military service member).

4. Following receipt of the applicable forms, Human Resources department will review forms for completeness, sufficiency, to determine eligibility, and calculate the amount of leave if applicable. Human Resources may consult with Employee Health in making a determination of the request and will communicate to the employee in writing within 5 business days. If the certification is incomplete or insufficient, the employee has seven (7) calendar days to cure the deficiency. Failure to provide the required Certification will result in denial of the Family and Medical leave.
  - a. All requests for SP and unpaid Family and Medical leave must comply with HR Policy 006-020 and HR-006-060 respectively and must be submitted to Human Resources for approval.
5. Decisions regarding an employee's request for Family/Medical, Military Caregiver or Exigency Leave, shall be communicated to the employee and supervisor in writing by Human Resources.
6. BH may Request additional Provider Certification every six (6) months in connection with an absence for intermittent leave; or every thirty (30) days if connected to an absence and a reasonable safety concern exist, that is, a significant risk of harm to the employee or others.

#### C. DURATION OF LEAVE & LEAVE OF ABSENCE EXTENSIONS

1. An eligible employee may qualify for a maximum of twelve (12) weeks of Family/Medical & Qualifying Exigency Leave in a rolling twelve (12) month period. Military Caregiver Leave permits up to twenty six (26) weeks in a single twelve-month period. The duration of leave will be computed commencing the first day of eligibility or the onset of the serious health condition with the exception of Military Leave. For military caregivers leave calculations, the single 12 month period is measured forward starting from the 1<sup>st</sup> day the employee takes leave to care for the covered service member. The employee forfeits any unused portion of the 26 weeks in the applicable single 12 month period.
  - a. A part time employee's FMLA eligibility hours is determined on a pro-rata or proportional basis as below:

**Hours normally worked per pay period x 12 = Hrs of FMLA eligibility**

2. Legally married couples, opposite-sex or same-sex, who are both employed by Broward Health are permitted to take a **combined** total of twelve (12) weeks of Family and Medical leave for the birth and care of a newborn, placement of a child for adoption or foster care, care of parent who has serious health condition (or 26 weeks if leave is for military caregiver leave. For e.g. If each spouse takes six (6) weeks of leave for the birth of a child, he/she could later use six (6) weeks each for another eligible circumstance.
3. Eligible full-time and part-time employees may request a leave of absence extension subject to approval by their department supervisors and Regional HR Director in accordance with the Personal Leave Policy (HR 006-010), the Unpaid Leave of Absence (HR-006-060) or the Flexible Staffing Policy (HR 006-080) outside the scope of FMLA. The maximum duration of a leave of absence (paid, unpaid, or combination) is six (6) months.

Subsequent requests for leave extensions and supporting medical certification must be submitted to HR prior to seven (7) days of the originally approved return to work date. Failure to submit requests within the appropriate time frame may result in denial of the request.

#### D. PAY STATUS OF LEAVE

Broward Health grants family/medical leave through its Management Time Off, staff sick pay, staff personal leave and unpaid leave of absence programs. Eligibility and entitlement will be determined subsequent to the request for qualifying leave and pursuant to HR Policies: Management Time Off, Personal Leave, Sick Pay, and Unpaid Leave of Absence.

1. Eligible full-time and part-time staff employees are required to exhaust all sick pay and accrued personal leave prior to taking unpaid family/medical leave.
    - a. Sick Pay (followed by PL if the SP is exhausted) must be used for family/medical leave requested for the birth of a child or serious health condition which makes the employee unable to perform the job functions. However, the father of the child must use Personal Leave (PL), not Sick Pay (SP).
    - b. Accrued PL must be used for placement of a child for adoption, foster care of the child or associated care of the employee's seriously ill child, spouse or parent.
  2. Non-benefits eligible employees do not accrue paid leave, therefore they will be granted unpaid family/medical leave.
  3. Eligible full-time and part-time management employees will remain in paid status as long as they are compliant with the Management Time Off policy.
- E. **MANAGERIAL FILING REQUIREMENT:** Managers are expected to file for FMLA after 3 consecutive days away from work and need to comply with intermittent FMLA notification requirements. Should ADA be applicable, the same time filing expectations as FMLA will apply. FMLA job protection ends after the maximum Federal FMLA allotment. Time will be tracked in KRONOS as Absent-Sick. Absent-Sick time includes sick time for the manager and/or a family member. See HR Policy - Manager Time Off (MTO) for more information.
- F. **BENEFIT PLAN COVERAGE**
1. Broward Health will maintain all applicable benefit plan coverage's (pension, Star Plus, health plan, life insurance, PL accruals) as long as the employee is on personal leave or sick pay and is making appropriate contributions for their coverage.
  2. However, Personal Leave does not accrue during periods of unpaid absence. If the unpaid absence exceeds thirty calendar days, anniversary dates for merit increases, pension eligibility, and service awards will be adjusted by the total number of days of unpaid leave of absence.
  3. Employees who are on unpaid leave and wish to continue health plan or life insurance coverage must make payment arrangements with their Regional Human Resources Department. Payments are due on the first day of each month. Broward Health's obligation to maintain this group coverage ceases if premium payments are more than thirty (30) days late. Health plan and life insurance coverage will be terminated retroactive to the day before the unpaid premium was due if payments are not paid within the thirty (30) day grace period.
  4. Employees who return to active status, after having waived benefit plan coverage for a period of more than 30 days, may enroll in the health plan in their previous status (i.e., Single or Family) by completing an application in Human Resources.
  5. When a full-time exempt employee takes unpaid intermittent or reduced work week family/medical leave, the appropriate deductions will be taken from the employee's salary without affecting the employee's exempt status.

G. **RETURN TO WORK/CLEARANCE-FOR-DUTY**

1. Upon exhausting the twelve (12) weeks of Family/Medical or Qualifying Exigency Leave, or twenty six (26) weeks of Military Caregiver Leave, Broward Health will return the employee to the same or equivalent position held prior to the commencement of the leave.
2. Employees who obtain approval for additional medical leave of absence (up to an additional 3 months) must obtain approval in increments of 30 days and are not guaranteed reinstatement to their prior position. The department supervisor in conjunction with Chief Human Resource Officer will make this determination based on department or operational requirements.
3. When the exact duration of a leave of absence is unknown (as in the case of illnesses), the employee is expected to maintain regular contact with his/her supervisor and to advise the supervisor of the anticipated return date as soon as it is known.
4. If the period of leave is expected to be different from the period originally anticipated, the request for an adjusted return date must be submitted to the department supervisor for approval or denial. Requests for extensions of leave must be submitted a minimum of seven (7) days prior to the originally approved return date. Failure to submit extensions of leave within an appropriate time frame may result in loss of FMLA entitlement.
5. Failure to return from a leave of absence on the agreed upon date without obtaining an approved extension or without good reason will be considered an act of resignation.
6. When Family/Medical Leave is due to employee illness or injury, the employee must be seen by the Employee Health for a "Clearance for Duty" Form (see HR Policy 007-010) before returning to work.

#### **H. LIMITATIONS**

1. An employee's entitlement to family leave for birth, adoption or placement of a child expires twelve (12) months after the birth/placement. In this situation employees must take their family leave on a full work week basis i.e. Leave will not be granted on an intermittent or reduced work week basis. Leave may be granted up to a maximum of twelve (12) full weeks.
2. Leave to care for a seriously ill family member, or due to an employee's serious health condition, may be taken whenever "medically necessary." Broward Health recognizes that these situations may require the granting of family leave on an intermittent or reduced work week basis.

#### **III. ADMINISTRATION AND INTERPRETATION:**

Administration and interpretation of this policy is the responsibility of the Chief Human Resources Officers in conjunction with the AVP, Total Rewards and VP, Human Resources. Final interpretation is the responsibility of the EVP/ Chief Human Resource Officer or designee.

## **Attachments**

No Attachments

## Approval Signatures

Step Description	Approver	Date
	Melanie Hatcher: VP, HUMAN RESOURCES	05/2018
	Jennifer Cohen: AVP, TOTAL REWARDS	04/2018
	Alicia Pasillas: MGR, BENEFITS	04/2018
	Rosana Beltres: MGR, HR STRATEGIC OPS	04/2018

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