



## Family and Medical Leave (FMLA)

Eligible employees may be entitled to leave under the federal Family and Medical Leave Act (FMLA) for specified family and medical reasons.

### 1.2 ELIGIBILITY

To be eligible for FMLA benefits, an employee must have been employed by the Care and Help Home Care Agency LLC for at least twelve (12) months and have worked for at least 2080 hours during the 12-month period immediately preceding the start of the leave. Periods of approved military leave should be counted when calculating these hours of service requirements for FMLA leave. The employee must also be employed at a worksite of the Care and Help Home Care Agency LLC where 20 or more employees are employed by the Care and Help Home Care Agency LLC within 75 miles of that worksite.

### 1.3 QUALIFIED LEAVE REASONS

The Care and Help Home Care Agency LLC will grant FMLA leave to eligible employees for the following reasons:

1. The employee's serious health condition;
2. The birth and care of the employee's child;
3. Placement with the employee of a child for adoption or foster care;
4. Care of the employee's spouse, child, or parent with a serious health condition;
5. Because of a "qualifying exigency" relating to the active-duty status or call to active-duty in the armed forces of a spouse, son, daughter, or parent of the employee, including those contingencies set forth in the applicable regulations, summarized as follows:
  - a. short-notice deployment;
  - b. military events and related activities;
  - c. to arrange for childcare, or provide childcare on an urgent basis, or for school activities;
  - d. to make financial or legal arrangements;
  - e. to attend counseling;
  - f. to spend time with the service member while on short-term leave;
  - g. for post-deployment activities; and
  - h. for other activities in accordance with the regulations.

6. Because care is required for a family member or next of kin who is a covered service member (i.e., member of the U.S. armed forces, National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, or is otherwise in outpatient status on the temporary disability retired list, for a serious injury or illness.

Leave for the birth and care, or placement and care of a child must conclude within twelve (12) months of the birth or placement of the child. FMLA applies equally to male and female employees.

## 1.4 DEFINITIONS

1. **Employee** means office staff member employed by the Care and Help Home Care Agency LLC on a full time basis.

2. **Serious Health Condition** means an illness, injury, impairment, or physical or mental condition that involves either:

- a. inpatient care in a hospital, hospice or residential medical care facility, or
- b. continuing treatment by a health care provider.

3. **Continuing treatment** means, in broad terms:

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 thereof, or recovery there from) of more than three (3) consecutive calendar days (and any subsequent treatment or period of incapacity involving the same condition) involving treatment two (2) or more times by a health care provider--within thirty (30) days of the incapacity--or treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the health care provider's supervision.

b. Any period of incapacity due to pregnancy or prenatal care.

c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that requires periodic visits for treatment by a health care provider; continues over an extended period of time; and may cause episodic rather than continuing incapacity (e.g., asthma, diabetes, epilepsy, etc.).

d. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, severe stroke, terminal stages of a disease).

e. Any period of absence to receive multiple treatments by a health care provider either for restorative surgery after an accident or 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 (e.g., chemotherapy for cancer, physical therapy for severe arthritis, or dialysis for kidney disease).

4. **Parent** means the biological [or adoptive] parent of an employee or an individual who stands or stood in the place of a parent to an employee when the employee was a child.
5. **Child** means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in the place of a parent who is under eighteen (18) years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.
6. **Health care provider** means a physician, dentist, podiatrist, clinical psychologist, or optometrist who is authorized to practice medicine or surgery in the state in which the individual practices his/her profession. In cases limited to treatment consisting of manual manipulation of the spine to correct a subluxation, medical certification may be provided by a chiropractor.
7. **Next of kin** means nearest blood relative.
8. **Covered service member** means a member of the United States armed forces, National Guard, or Reserves.
9. **Serious injury or illness** means an injury or illness incurred by a covered service member in the line of duty on active duty that may render him or her unfit to perform the duties of his or her office, grade, rank, or rating.

## 1.5 APPLICATION PROCESS

Employees seeking FMLA leave must initiate their leave through HR by sending an email to [HR@carehc.com](mailto:HR@carehc.com) by following these steps:

- Email *Request Leave of Absence*
- Enter the “First Day of Leave” and the “Estimated Last Day of Leave”
- Select Leave Type “FMLA,” then scroll through to choose the type of FMLA leave being requested

HR will notify you with start date and next steps.

Failure to follow this policy may delay or postpone the commencement of the FMLA leave and/or result in disciplinary action.

## 1.6 NOTICE TO EMPLOYEE

After an employee has requested an FMLA leave through HR, HR Administrator will provide the employee with a written Notice of Eligibility and Rights and Responsibilities and any other pertinent information concerning the status of the FMLA leave.

## 1.7 CERTIFICATION BY HEALTH CARE PROVIDER

If FMLA leave is based on a serious health condition, whether it involves the employee or a family member (parent, spouse, or child), medical certification from a health care provider will be required and must be submitted to the FMLA Administrator. Failure to provide such certification to the FMLA Administrator may result in a delay or denial of the employee's request for leave. Where a medical certification is required, that certification must be provided within twenty (20) calendar days of the leave request. Employees should be aware that, under certain circumstances, a recertification may be required. In addition, employees may be required to report on their intent to return to work. Finally, if the anticipated duration of an employee's FMLA leave changes (e.g., due to a change in the employee's health condition or other circumstances), the employee is required to notify the FMLA Administrator promptly (i.e., within two business days) of this change.

If an FMLA leave request is based on a qualifying exigency due to active duty service or a call to active-duty service, the employee may be required to provide a copy of the active-duty order or other appropriate documentation, as well as certification and documentation from the employee containing information supporting the qualifying exigency. When leave is taken to care for a covered service member, the employee may be required to provide certification from an authorized health care provider.

Employees using FMLA leave of any kind are prohibited from performing Care and Help Home Care Agency LLC work either in the workplace or at any other location, including the employee's home; the prohibition on working while on FMLA leave also applies to work performed for other employers, except in limited circumstances. When returning to work from an FMLA leave taken because of the employee's own serious health condition, the employee will be required to provide a return to work note from the employee's health care provider to the FMLA Administrator prior to reporting back to the workplace.

## 1.8 LENGTH OF LEAVE

Eligible employees may be entitled to up to twelve (12) weeks of unpaid FMLA leave during any rolling 12-month period (which period is measured backward from the date an employee uses any FMLA leave). Each time an employee takes FMLA leave, the remaining leave entitlement equals the balance of the 12 weeks that has not been used during the immediately preceding twelve (12) months.

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of (26) workweeks of FMLA leave during a 12-month period to care for the service member. The leave in this paragraph shall only be available during a single 12-month period, though that leave entitlement shall be applied on a per-covered-service member, per-injury basis.

In certain circumstances, employees may take intermittent FMLA leave or FMLA leave on a reduced leave schedule. Intermittent leave or leave on a reduced schedule may be taken only if medically necessary to care for a seriously ill family member or because of the employee's own serious health condition. Intermittent leave or leave on a reduced schedule to care for a child following its birth or placement for adoption or foster care will be allowed based on business needs and only with prior written approval, which will be provided by the FMLA Administrator.

Where both spouses are employed by the Care and Help Home Care Agency LLC, they are each entitled to twelve (12) weeks of FMLA leave for the birth and care of their newborn child, or for the care and placement with them of a child for adoption or foster care. However, if the employee takes leave under the Care and Help Home Care Agency LLC's Paid Time Off in these circumstances, the twelve (12) weeks of unpaid FMLA will run concurrently with any leave taken under any of these programs.

#### 1.9 THE INTERPLAY BETWEEN PAID LEAVE AND FMLA LEAVE PERIODS

The employee's PTO benefit periods will run concurrently with the days as to which an employee's FMLA leave entitlement applies. In other words, paid leave is substituted for unpaid leave and will be counted toward the twelve (12) weeks of FMLA leave.

#### 1.10 BENEFITS DURING LEAVE

During any FMLA leave, the Care and Help Home Care Agency LLC will maintain the employee's medical coverage on the same conditions that coverage would have been provided if the employee had been continuously employed during the entire leave period. The Care and Help Home Care Agency LLC and the employee will each continue to pay their portion of the benefit costs. In some instances, the Care and Help Home Care Agency LLC may recover premiums (on a prorated basis) it had paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

During an FMLA leave, PTO will continue to accrue only during that portion of the leave which is paid by using PTO.

#### 1.11 RETURN FROM LEAVE

Normally, employees returning from FMLA medical leave will be reinstated to the same or an equivalent position, with equivalent pay, benefits and other terms and conditions of employment. Failure to return to work if the employee no longer qualifies for FMLA leave (or another type of permissible leave) may result in termination of employment.

However, at times, departments, centers may restructure due to changing business and operational needs and the need to continually enhance programs and services. These restructuring initiatives may result in position discontinuations or terminations, even positions held by employees out on FMLA leave. If a staff member on FMLA leave has his/her position discontinued, the employee will be given at least thirty (30) days written notice of the position discontinuation and will be informed of any applicable benefits that the employee may be eligible to receive under the Position Discontinuation and Staff Transition Program.

Employees returning from an FMLA leave for a serious health condition or pregnancy must provide the FMLA Administrator with a signed doctor's note on letterhead documenting their fitness to return to work. Employees who are unable to return to work at the end of the approved FMLA leave should notify the FMLA Administrator at least two (2) weeks in advance (where possible) and must have the physician re-certify their medical need for continued leave. Supervisors should contact Human Resources to discuss alternatives prior to taking any action if staff members are unable to return to work and have exhausted their approved leave.

In addition, except as provided in this policy, an employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned before using FMLA leave. Use of FMLA leave will not be counted against the employee under a "no-fault" attendance policy.

## 1.12 OTHER LEAVE ARRANGEMENTS

The determination of whether an employee qualifies for FMLA leave will be made by the HR FMLA Administrator. If an employee is ineligible for leave under FMLA or has exhausted his/her 12 weeks of FML leave, or Workers' Compensation leave, the employee may apply for or leave as a reasonable accommodation under the Americans with Disabilities Act (ADA).

## 1.13 FOR MORE INFORMATION

Information can be obtained by contacting the HR FMLA Administrator or by seeking information from the employee's supervisor or Human Resources. In addition, a poster has been placed in Human Resources which includes further details regarding eligibility and other requirements of the law.