



## Family Medical Leave Policy

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- 1.0 Policy Statement:** The purpose of this policy is to describe the leave available to employees under the Family and Medical Leave Act of 1993 (hereafter referred to as "FMLA Leave").

Employees may be entitled to a leave of absence under the Family and Medical Leave Act (FMLA). This policy provides employees information concerning FMLA entitlements and obligations employees may have prior to and/or during such leaves. If employees have any questions concerning FMLA leave, they should contact Human Resources.

### 2.0 Policy

#### 2.1 Eligibility

FMLA leave is available to "eligible employees". To be an "eligible employee," an employee must: 1) have been employed by the City of Johnson City hereinafter referred to as "the City" for at least 12 months (which need not be consecutive); 2) have been employed by the City for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave; and 3) be employed at a worksite where 50 or more employees are located within 75 miles of the worksite.

#### 2.2 Entitlements

As described below, the FMLA provides eligible employees with a right to take a certain amount of unpaid leave, options to continue health insurance benefits during that leave and, with some limited exceptions, job restoration after the completion of the leave.

#### 2.3 Basic FMLA Leave Entitlement

The FMLA provides eligible employees up to 12 weeks of unpaid leave for certain family and medical reasons during a 12-month period. The 12-month period is determined based on a rolling 12-month period measured backward from the date an employee uses his/her FMLA leave. Under the rolling 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months.

In any case in which both spouses are entitled to FMLA Leave and are employed by the City, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during the 12-month period if such FMLA Leave is taken: (a) because of the birth of a son or daughter of the employee and in order to care for such son or daughter; (b) because of the placement of a son or daughter with the employee for adoption or foster care;

or (c) in order to care for a sick parent of the employee, if the parent has a serious health condition.

#### **2.4 Substitute Paid Leave for Unpaid FMLA Leave**

Employees must use any accrued paid time while taking unpaid FMLA leave.

The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leave and the paid time will run concurrently with an employee's FMLA entitlement.

The remainder of the 12-week leave period, if any, will then consist of unpaid FMLA Leave. If an employee has accrued sick, vacation, or any other type of paid time off under the City's current policies, the employee must take the appropriate paid leave in this order prior to taking unpaid FMLA Leave.

Leaves of absence taken in connection with a disability leave plan or workers' compensation injury/illness shall also run concurrently with any FMLA leave entitlement.

#### **2.5 Coordination of FMLA Leave with Other Leave Policies**

The FMLA does not affect any federal, state or local law prohibiting discrimination, or supersede any State or local law that provides greater family or medical leave rights. For additional information concerning leave entitlements and obligations that might arise when FMLA leave is either not available or exhausted, please consult the City's other leave policies or contact Human Resources.

#### **2.6 Qualifying Reasons for Leave**

Leave may be taken for any one (1), or for a combination, of the following reasons:

1. For the birth of the employee's child or placement of a child with the employee for adoption or foster care;
2. To care for the employee's spouse, son, daughter or parent (but not in-law) who has a serious health condition;
3. For the employee's own serious health condition (including any period of incapacity due to pregnancy, prenatal medical care or childbirth) that makes the employee unable to perform one or more of the essential functions of the employee's job; and/or
4. Because of any qualifying exigency arising out of the fact that an employee's spouse, son, daughter or parent is a military member on covered active duty or called to covered active duty status (or has been notified of an impending call or order to covered active duty) in the Reserves component of the Armed Forces for deployment to a foreign country in support of contingency operation or Regular Armed Forces for deployment to a foreign country.

The availability of FMLA Leave for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement.

## **2.7 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. Further, a serious health condition is defined as an illness, injury, impairment, or physical and medical condition requiring:

1. Inpatient care in a hospital, hospice, or residential medical care facility, or
2. Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) due to:
  - a. A health condition (including treatment therefore, or recovery there from) lasting more than three (3) consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes;
  - b. Treatment two (2) or more times by or under the supervision of a health care provider within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist; or
  - c. At least one (1) treatment by a health care provider with a continuing regimen of treatment under the supervision of a health care provider, with "treatment by a health care provider" to mean an in-person visit to a health care provider and that the first, or only, in-person visit must take place within seven (7) days of the first day of incapacity; or
1. Pregnancy or prenatal care. A visit to a health care provider is not necessary for each absence; or
2. A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider at least two (2) times per year, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or
3. A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or

4. Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three (3) days if not treated (e.g., chemotherapy or radiation treatments for cancer).

A serious health condition exists if it renders the employee unable to perform the essential functions of his or her job. Serious health conditions are not intended to cover routine conditions for which treatment and recovery are very brief.

### **3.0 Military Leave**

The City is committed to protecting the job rights of employees absent on military leave. In accordance with federal and state law, it is the City's policy that no employee or prospective employee will be subjected to any form of discrimination on the basis of that person's membership in or obligation to perform service for any of the Uniformed Services of the United States. Specifically, no person will be denied employment, reemployment, promotion or other benefit of employment based on such membership. Furthermore, no person will be subjected to retaliation or adverse employment action because such person has exercised his or her rights under applicable law or City policy. If any employee believes that he or she has been subjected to discrimination in violation of City policy, the employee should immediately contact Human Resources.

Employees taking part in a variety of military duties are eligible for benefits under this policy. Such military duties include leaves of absence taken by members of the uniformed services, including Reservists and National Guard members, for training, periods of active military service and funeral honors duty, as well as time spent being examined to determine fitness to perform such service. Subject to certain exceptions under the applicable laws, these benefits are generally limited to five years of leave of absence.

Under the National Defense Authorization Act, FMLA leave can be taken by employees as follows:

#### **3.1 Military Caregiver**

Military Caregiver Leave applies to employees whose covered family member is a service member of either the Regular Armed Forces or a Reserve component of the Armed Forces. The covered service member must have a serious injury or illness that renders the service member medically unfit to perform the duties of his or her office, grade, rank or rating. The covered service member must have become injured or ill in the line of duty on active duty and must be:

1. undergoing medical treatment, recuperation, or therapy; or
2. otherwise in outpatient status (where a member of the Armed Forces is assigned to a military medical treatment facility as an outpatient or is otherwise assigned to a unit for purposes of receiving medical care as an outpatient); or
3. otherwise on the temporary disability list.

In order to be eligible for FMLA leave to care for a covered service member, an eligible employee must be the spouse, son, daughter, parent, or next of kin of the covered service member. The son or daughter of a covered service member is any biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age. A parent of a covered service member is any biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member.

The next-of-kin of a covered service member is the nearest blood relative other than the spouse, parent, son, or daughter, in the following order of priority:

Blood relatives who have been granted legal custody, brothers and sisters, grandparents, aunts and uncles, and first cousins.

However, the covered service member can specifically designate in writing another blood relative for purposes of military caregiver leave, which person shall be deemed to be the only "next of kin" eligible for FMLA military caregiver leave. When no such designation is made and there are multiple family members with the same level of relationship to the covered service member, all such family members are considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member. The City may require an employee to provide confirmation of family relationship to the covered service member.

An eligible employee is entitled to 26 workweeks of FMLA leave to care for a covered service member with a serious injury or illness during a "single 12-month period." The "single 12-month period" begins on the first day the eligible employee takes FMLA leave to care for a covered service member and ends 12 months after that date. If the eligible employee does not use all 26 workweeks of available leave during this 12-month period, the remainder is forfeited.

The leave is available on a per-covered-service member, per-injury basis, so that if the employee becomes entitled to military caregiver leave under the FMLA with respect to a different family member, the employee is entitled to a new 26 workweeks of leave during a separate "single 12-month period." Similarly, if the covered service member incurs a new illness or injury subsequent to the original one, a new 26 workweeks is available to the employee. Nevertheless, the employee is limited to taking no more than 26 workweeks of leave in each single 12-month period.

The 26 workweeks of leave is decreased by FMLA leave taken by the employee for other qualifying reasons. That is, 26 workweeks of FMLA leave are available for caring for a covered service member and for all other FMLA reasons. For example, if an employee takes 10 weeks of FMLA leave to care for a newborn child, that employee would only be able to take 16 weeks of FMLA leave to care for a covered service member. When leave is taken to care for a covered service member where it is taken by both a husband and wife who are employed by the City, the husband and wife would have a combined total of 26 workweeks of leave during the "single 12-month period."

### 3.2 Qualifying Exigency

Qualifying Exigency Leave applies only to employees whose covered family member is on active duty, or called to active duty, from a reserve component (or re-called from retirement).

Eligible employees are entitled to take up to 12 workweeks in a 12-month period of unpaid leave because of any qualifying exigency (as defined by the Department of Labor) arising out of the fact that the employee's spouse, son, daughter, 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. This 12 workweeks of leave are not in addition to an employee's 12-week FMLA entitlement for other reasons, e.g., serious health condition or bonding; it is merely another reason for which FMLA leave may be available.

Upon submission of the FMLA Application, a copy of active duty orders must be provided to the City upon the employee's first request for leave because of a qualifying exigency. Additionally, the City may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship.

A "Qualifying Exigency" must meet one of the following:

1. Short Notice Deployment: Leave to address any issue that arises from being notified of an impending call or order to active duty seven (7) or less calendar days prior to the date of deployment. This leave can be for a period of up to seven (7) days beginning on the date the covered service member is notified of deployment. Therefore, any leave taken outside the 7-day period must qualify under one of the other categories of qualified exigency.
2. Military Events and Related Activities: Leave to attend any official ceremony, program or event sponsored by the military or to attend family support and assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of the covered service member. This includes leave for arrival and departure ceremonies, pre-deployment briefings, briefings for family during the period of deployment and post-deployment briefings which occur while the covered military member is on active duty or call to active duty status.
3. Childcare and School Activities: Leave to arrange for childcare or attend certain school activities for the child of the covered military member. This includes:
  - a. to arrange for alternative childcare when the active duty or call to active duty status necessitates a change to in the existing childcare arrangements;
  - b. to provide childcare on an urgent, immediate need basis (but not on a routine, regular, or everyday basis) when the need to provide such care arises from active duty or the call to active duty;

- c. to enroll the child in or transfer the child to a new school or day care facility when enrollment or transfer is necessitated by the active duty or call to active duty;
  - d. to attend meetings with staff at a school or day care facility, such as meetings with school officials regarding disciplinary measures, parent• teacher conferences, or meetings with school counselors, when such meetings are necessary due to circumstances arising from active duty or a call to active duty.
4. Financial and Legal Arrangements: Leave to make or update financial or legal arrangements to address the covered military member's absence while on active duty or call to active duty status [e.g. preparing and executing financial and healthcare powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System ("DEERS"), obtaining military ID cards, or preparing or updating wills and trusts]. Leave is intended to address issues directly related to the covered military member's absence, and not routine matters such as paying bills. Leave is also permitted for the employee to act as the covered service member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits while the covered service member is on active duty or call to active duty status and for a period of ninety (90) days following the termination of the covered military member's active duty status.
  5. Counseling: Leave to attend counseling provided by someone other than a healthcare provider for oneself, for the covered service member, or for the child of the covered military member provided the need for the counseling arises from the active duty or call to active duty status of a covered military member. This provision covers counseling not already covered by the FMLA because the provider is not recognized as a health care provider. Examples include counseling provided by a military chaplain, pastor or minister, or counseling offered by the military or a military service organization that is not provided by a health care provider. If it is medical counseling, the City has the right to require a medical certification.
  6. Rest and Recuperation: Leave to spend time with the covered service member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to five (5) days leave for each instance of rest and recuperation.
  7. Post-Deployment Activities: Leave to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of ninety (90) days following the termination of the covered military member's active duty; or to address issues that arise from the death of a covered military member while on active duty status, such as meeting and recovering the body of the covered service member and making funeral arrangements.

8. Additional Activities: Leave to address other events which arise out of the covered military member's active duty or call to active duty status provided the employer and employee agree that such leave shall constitute a qualifying exigency, and agree to both the timing and duration of the leave.

Employees requesting leave for military duty should contact Human Resources to request leave as soon as they are aware of the need for leave. For request forms and detailed information on eligibility, employee rights while on leave and job restoration upon completion of leave contact Human Resources.

#### **4.0 Intermittent Leave and Reduced Leave Schedules**

FMLA leave usually will be taken for a period of consecutive days, weeks or months. However, employees also are entitled to take FMLA leave intermittently or on a reduced leave schedule when medically necessary due to a serious health condition of the employee or covered family member or the serious injury or illness of a covered service Member. Qualifying exigency leave also may be taken on an intermittent basis.

#### **5.0 No Work While on Leave**

The taking of another job, or activities related to self-employment while on family/medical leave or any other authorized leave of absence is grounds for immediate discharge, to the extent permitted by law.

#### **6.0 Benefits Coverage During Leave**

During a period of FMLA Leave, the City will maintain the employee's coverage under the City's group health plan that would have been provided if the employee were not on FMLA Leave. However, the employee must continue to make any contributions that he or she made to the plan before taking FMLA Leave to insure group health care coverage. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage.

If the employee fails to return to work after the expiration of the FMLA Leave, the employee will be required to reimburse the City for payment of health insurance premiums during the FMLA Leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job or due to circumstances beyond the employee's control.

An employee is not entitled to the accrual of any seniority or employment benefits which would have accrued if not for the taking of unpaid leave. An employee who takes FMLA Leave will not lose any seniority or employment benefits that accrued before the date unpaid leave began.

In addition, an employee's use of FMLA Leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA Leave, nor be counted against the employee under a "no fault" attendance situation.



## 7.0 Procedures for Requesting Leave

1. Notice of FMLA Leave:

If FMLA Leave is to begin within thirty (30) days, an employee must give notice to his or her supervisor and Department Head as soon as the necessity for the FMLA Leave arises. An employee intending to take FMLA Leave because of the birth or placement of a child, or because of a planned medical treatment must submit an "Application for FMLA Leave" at least thirty (30) days before the FMLA Leave is to begin. If FMLA leave is required because of a medical emergency or other unforeseeable event, the employee must provide such notice as soon as is practicable and possible following the emergency or unforeseen event. If thirty (30) days' notice is not given by the employee, the City may retroactively designate FMLA leave, pursuant to 825.301(d) of the Family and Medical Leave Act.

2. Completion of Application for Family and Medical Leave Form: An Application for Family and Medical Leave must be originated by the employee and may be obtained from Human Resources, or on the Insite employee Intranet site. This form should be completed in detail and signed by the employee, and the Department Head, and submitted to Human Resources. If possible, the form should be submitted thirty (30) days in advance of the effective date of the leave. In the case of a medical emergency or an unforeseeable event, the employee must provide said notice as soon as is possible and practicable after the emergency or event.

3. Completion of Certification Statement: Upon receipt, of an application for FMLA Leave, Human Resources will provide the appropriate Healthcare Certification form to the employee to be completed by the applicable health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition within the knowledge of the health care provider regarding the condition. Forms entitled "Certification Statement" are provided which include all necessary information. There are separate "Certification Statements" for an employee's own serious illness or for the illness of an employee's family member. These forms should be used to ensure the necessary information is included and are available from Human Resources, or the Department of Labor website.

For the purposes of FMLA Leave for an employee's illness, the certificate must state that the employee is unable to perform the essential functions of his or her position. In the case of certification for intermittent FMLA Leave or FMLA Leave on a reduced FMLA Leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment must be stated.

If the employee is needed to care for a spouse, child, or parent, the certification must so state along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her job.

If the received medical certification is incomplete and/or insufficient, the employee shall be notified in writing and shall be told what additional information is needed to make the

certification complete and sufficient. The employee will be given seven (7) days to cure the deficient certification. After providing the employee an opportunity to cure an incomplete and insufficient medical certification, Human Resources may seek additional information from the health care provider for clarification pursuant to 825.307 of the Family and Medical Leave Act.

The City may require periodic reports and/or recertification from an employee on FMLA Leave regarding the employee's status and intent to return to work as described below.

## **8.0 Types of Required Medical Certifications**

Depending on the nature of FMLA leave sought, employees may be required to submit medical certifications supporting their need for FMLA-qualifying leave. As described below, there generally are three (3) types of FMLA medical certifications: an initial certification, a recertification and a return to work/fitness for duty certification.

It is the employee's responsibility to provide the City with timely, complete and sufficient medical certifications. Whenever the City requests employees to provide FMLA medical certifications, employees must provide the requested certifications within 15 calendar days after the City's request, unless it is not practicable to do so despite an employee's diligent, good faith efforts. The City will inform employees if submitted medical certifications are incomplete or insufficient and provide employees at least seven calendar days to cure deficiencies. The City will deny FMLA leave to employees who fail to timely cure deficiencies or otherwise fail to timely submit requested medical certifications.

With the employee's permission, The City through individuals other than an employee's direct supervisor) may contact the employee's health care provider to authenticate or clarify completed and sufficient medical certifications. If employees choose not to provide the City with authorization allowing it to clarify or authenticate certifications with health care providers, the City may deny FMLA leave if certifications are unclear.

Whenever the City deems it appropriate to do so, it may waive its right to receive timely, complete and/or sufficient FMLA medical certifications.

### **8.1 Initial Medical Certifications**

Employees requesting leave because of their own, or a covered relation's, serious health condition, or to care for a covered service Member, must supply medical certification supporting the need for such leave from their health care provider or, if applicable, the health care provider of their covered family or service member. If employees provide at least 30 days' notice of medical leave, they should submit the medical certification before leave begins. A new initial medical certification will be required on an annual basis for serious medical conditions lasting beyond a single leave year.

If the City has reason to doubt initial medical certifications, it may require employees to obtain a second opinion at the City's expense. If the opinions of the initial and second health care providers differ, the City may, at its expense, require employees to obtain a third, final and

binding certification from a health care provider designated or approved jointly by the City and the employee.

## **8.2 Medical Recertification**

Depending on the circumstances and duration of FMLA leave, the City may require employees to provide recertification of medical conditions giving rise to the need for leave. The City notify employees if recertification is required and will give employees at least 15 calendar days to provide medical recertification.

In general, the City will require recertification no more often than every 30 days and only in connection with an absence by the employee. If a certification indicates that the minimum duration of the serious health condition is more than 30 days, recertification would be requested when duration expires. However, in all cases, including cases where the condition is of an indefinite duration, the City may request a recertification for absences every six months.

The City may request a recertification in less than 30 days if: (1) the employee requests an extension of leave, (2) the circumstances described by the previous certification have changed significantly, or (3) the City receives information that causes it to doubt the employee's stated reason for the absence or the continuing validity of the existing medical certification. In general, the City may ask for the same information in a recertification as that permitted in the original medical certification. However, we may provide the health care provider with a record of the employee's absences and ask if the serious health condition and need for leave is consistent with the leave pattern. The employee is responsible for paying for the cost of a recertification. The City will not require a second or third opinion for a recertification.

## **8.3 Certifications Supporting Need for Military Family Leave**

Upon request, the first-time employees seeking leave due to qualifying exigencies arising out of the covered active duty or call to covered active duty status of a military member, the City may require employees to provide:

1. a copy of the military member's active duty orders or other documentation issued by the military indicating the military member is on covered active duty or call to covered active duty status and the dates of the military member's covered active duty service; and
2. a certification from the employee setting forth information concerning the nature of the qualifying exigency for which leave is requested.

Employees shall provide a copy of new active duty orders or other documentation issued by the military for leaves arising out of qualifying exigencies arising out of a different covered active duty or call to covered active duty status of the same or a different military member. When leave is taken to care for a covered service Member with a serious injury or illness, the City may require employees to obtain certifications completed by an authorized health care provider of the covered service Member. In addition, and in accordance with the FMLA

regulations, the City may request that the certification submitted by employees set forth additional information provided by the employee and/or the covered service Member confirming entitlement to such leave.

#### **8.4 Medical Certification for Care of Healthy Newborn Child or Adoption or Foster Care**

Employees requesting time off under the (FMLA) to bond with a healthy newborn child or a child placed for adoption or foster care are not required to provide a physician' certification, but is required to complete the Application for Family Medical Leave.

FMLA leave to bond with a newborn or newly adopted or fostered child must be taken within one (1) year of the child's birth or placement for adoption or foster care. Employers may ask for documentation of the child's date of birth or placement date when necessary to determine eligibility for bonding leave.

#### **8.5 Return to Work/Fitness for Duty Medical Certifications**

Unless notified that providing such certifications is not necessary, employees returning to work from FMLA leaves that were taken because of their own serious health conditions that made them unable to perform their jobs must provide Human Resources with medical certification confirming they are able to return to work and the employees' ability to perform the essential functions of the employees' position, with or without reasonable accommodation before being returned to active status.

The employee should present the certifying physician with the job description, which includes the essential and physical requirements of the job for reference.

If an employee wishes to return to work prior to the expiration of an FMLA Leave, notification must be given to Human Resources with supporting medical documentation at least five (5) working days prior to the employee's planned return.

The City may delay and/or deny job restoration until employees provide return to work/fitness for duty certifications.

#### **9.0 Cooperate in the Scheduling of Planned Medical Treatment (Including Accepting Transfers to Alternative Positions) and Intermittent Leave or Reduced Leave Schedules**

When planning medical treatment, employees must consult with their supervisor and make a reasonable effort to schedule treatment so as not to unduly disrupt the City's operations, subject to the approval of an employee's health care provider. If employees providing notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglect to fulfill this obligation, the City may require employees to attempt to make such arrangements, subject to the approval of the employee's health care provider.

When employees take intermittent or reduced work schedule leave for foreseeable planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition or to care for a covered service member, the City may temporarily transfer employees, during the period that the intermittent or reduced leave

schedules are required, to alternative positions with equivalent pay and benefits for which the employees are qualified and which better accommodate recurring periods of leave.

When employees seek intermittent leave or a reduced leave schedule for reasons unrelated to the planning of medical treatment, upon request, employees must advise the City of the reason why such leave is medically necessary as substantiated by the appropriate health care provider.

## **10.0 Pay Employee's Share of Health Insurance Premiums**

During FMLA leave, employees are entitled to continued group health plan coverage under the same conditions as if they had continued to work. Unless the City notifies employees of other arrangements, whenever employees are receiving pay from the City during FMLA leave, the City will deduct the employee portion of the group health plan premium from the employee's paycheck in the same manner as if the employee was actively working.

If FMLA leave is unpaid, employees must pay their portion of the group health premium through a "pay-as-you-go" method.

The City's obligation to maintain health care coverage ceases if the employee's premium payment is more than 30 days late. If the employee's payment is more than 15 days late, the City will notify the employee that coverage will be dropped on a specified date unless the co-payment is received before that date.

If employees do not return to work within 30 calendar days at the end of the leave period (unless employees cannot return to work because of a serious health condition or other circumstances beyond their control), they will be required to reimburse the City for the cost of the premiums for maintaining coverage during their unpaid FMLA leave.

## **11.0 Maternity Leave**

**The Tennessee family leave law provides specifically as follows:**

Tennessee Code Ann. § 4-21-408

- (a) Employees who have been employed by the same employer for at least twelve (12) consecutive months as full-time employees, as determined by the employer at the job site or location, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing an infant, where applicable, referred to as "leave" in this section. With regard to adoption, the four-month period shall begin at the time an employee receives custody of the child.
- (b) (1) Employees who give at least three (3) months' advance notice to their employer of their anticipated date of departure for such leave, their length of leave, and their intention to return to full-time employment after leave, shall be restored to their previous or similar positions with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of their leave.

(2) Employees who are prevented from giving three (3) months' advance notice because of a medical emergency that necessitates that leave begin earlier than originally anticipated shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) months' advance notice.

(3) Employees who are prevented from giving three (3) months' advance notice because the notice of adoption was received less than three (3) months in advance shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) month's advance notice.

(c) (1) Leave may be with or without pay at the discretion of the employer. Such leave shall not affect the employees' right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which the employees were eligible at the date of their leave, and any other benefits or rights of their employment incident to the employees' employment position; provided, that the employer need not provide for the cost of any benefits, plans or programs during the period of such leave, unless such employer so provides for all employees on leaves of absence.

(2) If an employee's job position is so unique that the employer cannot, after reasonable efforts, fill that position temporarily, then the employer shall not be liable under this section for failure to reinstate the employee at the end of the leave period.

(3) The purpose of this section is to provide leave time to employees for adoption, pregnancy, childbirth and nursing the infant, where applicable; therefore, if an employer finds that the employee has utilized the period of leave to actively pursue other employment opportunities or if the employer finds that the employee has worked part time or full time for another employer during the period of leave, then the employer shall not be liable under this section for failure to reinstate the employee at the end of the leave.

(4) Whenever the employer shall determine that the employee will not be reinstated at the end of the leave because the employee's position cannot be filled temporarily or because the employee has used the leave to pursue employment opportunities or to work for another employer, the employer shall so notify the employee.

## **12.0 Extended Medical Leave**

If employees are ineligible for any other leave of absence, the City, under certain circumstances, may grant an extended medical leave of absence without pay.

A written request for the extended leave should be presented to human resources at least two (2) weeks before the anticipated start of the leave. If the leave is requested for medical reasons and employees are not eligible for protected leave under the federal Family and Medical Leave Act (FMLA) or any state or federal leave law, including but not limited to the Americans with Disabilities Act, as amended, medical certification also must be submitted. The request will

be considered based on staffing requirements and the reasons for the requested leave, as well as performance and attendance records.

Normally, a leave of absence will be granted for a period of up to thirty (30) days. However, leave may be extended if, prior to the end of leave, employees submit a written request for an extension to human resources and the request is granted.

During a period of Extended Leave, the City will maintain the employee's coverage under the City's group health plan that would have been provided if the employee were not on Extended Leave. However, the employee must continue to make any contributions that he or she made to the plan before taking Extended Leave to ensure group health care coverage. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage. Any employee on leave greater than one hundred eighty (180) days will be terminated from group coverage and will be offered COBRA continuation coverage for applicable plans.

When the employee anticipates returning to work, he or she should notify Human Resources of the expected return date. This notification should be made at least one week before the end of the leave. A return to work physical exam may be required before being allowed to work.

Extended leaves are not granted until all unused paid and unpaid days, such as Sick, Vacation, FMLA, etc. have been exhausted, and may not be substituted for any other available leave. The City may also, at its discretion, grant leaves of absence in conjunction with Americans with Disabilities Act when considering the need for reasonable accommodations. Different rules may apply in such situation. Employees should consult with Human Resources for more information.

Because of the nature of our operations, reinstatement cannot be guaranteed to employees returning from extended leave. However, the City endeavors to place employees returning from personal leave in their former position or in a position comparable in status and pay, subject to budgetary restrictions, the need to fill vacancies, and the ability to find qualified temporary replacements.

Failure to advise Human resources of availability to return to work, failure to return to work when notified or a continued absence from work beyond the time approved by the City will be considered a voluntary resignation of employment.

### **Questions and/or Complaints about FMLA Leave**

If you have questions regarding this FMLA policy, please contact Human Resources. The City is committed to complying with the FMLA and, whenever necessary, shall interpret and apply this policy in a manner consistent with the FMLA.

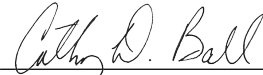
### **The FMLA makes it unlawful for employers to:**

1. interfere with, restrain, or deny the exercise of any right provided under FMLA; or
2. discharge or discriminate against any person for opposing any practice made unlawful by FMLA or involvement in any proceeding under or relating to FMLA.

If employees believe their FMLA rights have been violated, they should contact the Human Resources Director immediately. Human Resources will investigate any FMLA complaints and take prompt and appropriate remedial action to address and/or remedy any FMLA violation. Employees also may file FMLA complaints with the United States Department of Labor or may bring private lawsuits alleging FMLA violations.

**RESPONSIBILITY:** The Human Resources Director is responsible for the administration and communication of this policy.

APPROVED:

  
\_\_\_\_\_  
Cathy D. Ball  
City Manager

Original: 03/04/1993  
Revisions: 02/22/2008, 6/01/2024



CITY OF JOHNSON CITY

**Application for Family or Medical Leave**

Date of FMLA Application: \_\_\_\_\_ Department \_\_\_\_\_

Employee's Name: \_\_\_\_\_ Employee ID #: \_\_\_\_\_

Start Date of Anticipated Leave: \_\_\_\_\_

Expected Date of Return to Work: \_\_\_\_\_

Reason for Leave (check one):

- For the *birth* of your child, or *placement* of a child with you for adoption or foster care;
- Your *own serious health condition*;
- To *care for* your  spouse;  child; or  parent due to his/her serious health condition;
- A *qualifying exigency* arising out of the fact that your  spouse;  son or daughter; or  parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.
- Military caretaker* leave (up to 26 weeks) – You are the  spouse;  son or daughter;  parent or  next of kin of a covered service member with a serious injury or illness.

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- I must provide 30 days advance notice of intent to take leave under FMLA when the leave is foreseeable.
  - To be eligible for leave under FMLA, at the time I apply, I must have worked at least 1,250 hours during the previous 12 months.
  - Within 15 calendar days of leave commencing under FMLA for a serious health condition, I must provide written medical verification from the attending physician on the FMLA "Certification of Health Care Provider" form verifying the serious health condition of the employee, spouse, child or parent.
  - A maximum of 12 weeks of leave may be taken in each rolling 12-month period.
  - If eligible for FMLA, accrued paid sick leave will be used first, following with floating holidays, comp and vacation leave, at the employee's preference. All paid leave runs concurrently with FMLA leave.
  - If I have no accrued paid leave available to me or my accrued paid leave exhausts during the period of leave granted under FMLA, (remaining) leave under FMLA will be unpaid.
  - For periods of leave under FMLA that run concurrently with accrued paid leave, my share of insurance premiums for continued insurance coverage will be deducted by payroll deduction.
  - For periods of leave under FMLA that are unpaid, the City will maintain my insurance benefits as long I continue to make insurance premium payments in a timely manner as described in FMLA policy HR-100.

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Department Head Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Human Resources Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**HIPAA COMPLIANT AUTHORIZATION FOR THE RELEASE OF PATIENT  
INFORMATION PURSUANT TO 45 CFR 164.508**

TO: \_\_\_\_\_  
Name of Healthcare Provider/Physician/Facility/Medicare Contractor

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State and Zip Code

RE: Patient Name: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

I authorize and request the disclosure of all protected information for the purpose of review and evaluation in connection with FMLA leave. I expressly request that the designated record custodian of all covered entities under HIPAA identified above disclose full and complete protected medical information including the following:

- All pertinent medical records, meaning every page in my record, including but not limited to: office notes, face sheets, history and physical, consultation notes, inpatient, outpatient and emergency room treatment, all clinical charts, reports, order sheets, progress notes, nurse's notes, social worker records, clinic records, treatment plans, admission records, discharge summaries, requests for and reports of consultations, documents, correspondence, test results, statements, questionnaires/histories, correspondence, photographs, videotapes, telephone messages, and records received by other medical providers.
- All physical, occupational and rehab requests, consultations and progress notes.

This protected health information is disclosed for the following purposes: \_\_\_\_\_

This authorization is given in compliance with the federal consent requirements for release of alcohol or substance abuse records of 42 CFR 2.31, the restrictions of which have been specifically considered and expressly waived.

You are authorized to release the above records to the following representatives of defendants in the above-entitled matter who have agreed to pay reasonable charges made by you to supply copies of such records:

\_\_\_\_\_  
Name of Representative

\_\_\_\_\_  
Representative Capacity (e.g. attorney, records requestor, agent, etc.)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State and Zip Code

I understand the following: See CFR §164.508(c)(2)(i-iii)

- a. I have a right to revoke this authorization in writing at any time, except to the extent information has been released in reliance upon this authorization.
- b. The information released in response to this authorization may be re-disclosed to other parties.
- c. My treatment or payment for my treatment cannot be conditioned on the signing of this authorization.

Any facsimile, copy or photocopy of the authorization shall authorize you to release the records requested herein. This authorization shall be in force and effect until two years from date of execution at which time this authorization expires.

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Signature of Patient or Legally Authorized Representative  
(See 45CFR § 164.508(c)(1)(vi))

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Date

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Relationship of Legally Authorized Representative to Patient  
(See 45CFR §164.508(c)(1)(iv))

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Witness Signature

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Date



**City of Johnson City  
Work Readiness Form**

Employee: \_\_\_\_\_ Today's Exam Date: \_\_\_\_\_  
 Date of Injury/Event: \_\_\_\_\_ Next Exam Date: \_\_\_\_\_  
 Employee's job title: \_\_\_\_\_

The above-named employee is under my care. I release him/her to return to work as specified below:

**FULL DUTY**, usual job, no restrictions, as of: \_\_\_\_\_ (date.)

**Transitional Work** - with the **following Work Restrictions/Capacities**, as of \_\_\_\_\_ (date), to be adhered to at work and at home **until their next appointment on** \_\_\_\_\_ (date).

\_\_\_\_\_ Work FULL-TIME; \_\_\_\_\_ Work PART-TIME only: \_\_\_\_\_ hours per day, \_\_\_\_\_ days per week

**Employee can safely perform these functions: (please check below)**

Lift /Carry	No restriction	Up to 5 lbs	10 lbs	25 lbs	50 lbs	Not at all
Push /Pull	No restriction	Up to 5 lbs	10 lbs	25 lbs	50 lbs	Not at all
Stand/walk			No restriction	Frequently	Occasionally	Not at all
Stoop/Bend at Waist			No restriction	Frequently	Occasionally	Not at all
Kneel/Squat			No restriction	Frequently	Occasionally	Not at all
Climb			No restriction	Frequently	Occasionally	Not at all
Sit			No restriction	Frequently	Occasionally	Not at all
Other			No restriction	Frequently	Occasionally	Not at all
Reach Above Shoulder with Left arm/right Arm (circle one or both)			No restriction	Frequently	Occasionally	Not at all
Repetitive use of Left hand/ right hand (circle one or both)			No restriction	Frequently	Occasionally	Not at all
Keyboard/mouse			No restriction	Frequently	Occasionally	Not at all
Drive (to work / while at work (Circle one or both.))			No restriction	Frequently	Occasionally	Not at all

**Comments** \_\_\_\_\_

**OFF WORK** because of **Medical Necessity** due to: \_\_\_\_\_ Hospitalization; \_\_\_\_\_ bed rest; \_\_\_\_\_ work or commute is medically contraindicated (will worsen condition or delay recovery)

**Explain** (please do not include medical diagnoses) \_\_\_\_\_

**Estimated date** Employee may be released: Transitional Work / Full Duty (circle) on \_\_\_\_\_ (date)

\_\_\_\_\_  
Healthcare Provider (SIGNATURE)

\_\_\_\_\_  
Date