

**City of Waterbury
Family and Medical Leave Policy Statement**

General Provisions

It is the policy of the City of Waterbury to grant up to 12 weeks of family and medical leave during any 12-month period to eligible employees, in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid, unpaid, or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

Eligible Employees

In order to qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

- 1) The employee must have been employed by the City for 12 months, or 52 weeks.* The twelve months, or 52 weeks, need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on an authorized leave during the week.
- 2) The employee must have worked at least 1250 hours during the twelve-month period immediately before the date when the leave is requested to commence.* The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked (only actual hours at work are counted). Consequently, these hours of leave should not be counted in determining the 1250 hours eligibility test for an employee under FMLA.

* National Guard members and reservists returning to civilian occupations after serving in support of President Bush's post-September 11 national emergency declaration are entitled to have their active duty time counted towards their eligibility to take time off work under the Family and Medical Leave Act (FMLA).

If a husband and wife are employed by the City, the total number of weeks of leave to which both may be entitled shall be the amount allowed to an individual eligible employee (i.e., twelve weeks), unless the leave is a medical leave for the serious illness of a child or the employee, then each spouse shall be entitled to the maximum individual leave provided in such period.

Type of Leave Covered

In order to qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- 1) the birth of a child and in order to care for that child;
- 2) the placement of a child for adoption or foster care, and to care for the newly placed child;
- 3) to care for a spouse, child, or parent with a serious health condition;
- 4) the serious health condition (described below) of the employee.

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition which requires continuing care by a licensed health care provider.

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition, which, if left untreated, would result in a period of incapacity of more than three days, would be considered a serious health condition.

An eligible employee can take up to 12 weeks of leave under this policy during any 12-month period. The City will measure the twelve-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

Employee Status & Benefits During Leave

While an employee is on leave (for up to a maximum of twelve (12) weeks in a twelve (12) month period), the City will maintain coverage under any group health plan for the duration of the leave at the same level and under the same conditions as if the employee had continued to work. If the employee does not return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premiums during the leave period.

Currently, the employee pays a portion of the health care premium. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Human Resources –

Benefits Department by the seventh day of each month. Health care coverage will be dropped for the duration of the leave, following a thirty-day grace period, if payment is not received. The employee will be notified 15 days before health care coverage is dropped. Employees may request to discontinue health care benefits during the FMLA period.

Life insurance coverage will be continued for the duration of an employee's leave under the same circumstances as if the employee were not on leave. Supplemental life insurance and disability coverage will also be continued during family medical leave, subject to receipt of employee contributions.

Accumulated seniority, retirement, fringe benefits and other service credits the employee had at the commencement of such leave will be maintained. However, unless otherwise permitted pursuant to City policy or bargaining agreement, during the leave period the employee shall not accrue employment benefits, such as vacation time, sick time, service time for pension purposes, etc.

Use of Paid and Unpaid Leave

If the employee has accrued or earned paid leave, the employee must use paid leave first and take the remainder of the twelve weeks as unpaid leave. The City will notify the employee within two business days in writing or orally (to be confirmed in writing by no later than the employee's next regular payday), whether or not the leave will be designated as FMLA leave.

An employee who is taking leave because of the employee's own serious health condition, must use all paid vacation, personal or sick leave prior to being eligible for unpaid leave, except where an employee is on a worker's compensation leave that is FMLA qualified. A worker's compensation injury that qualifies as FMLA will be designated as such.

An employee who is taking leave for the serious health condition of a spouse, child or parent, or for the adoption or foster care of a child, must use all paid vacation or personal leave prior to being eligible for unpaid leave

Impact of Other Leave Benefits

Federal law determines the maximum number of weeks an eligible employee may be absent. To the extent that the employee is entitled to any other leave or benefits, such as maternity leave, the amount of leave granted under the family and medical leave statute shall be reduced by the amount of such other leave or benefits.

Intermittent Leave

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year), or under certain circumstances may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks over a 12-month period.

The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, for leave for the employee or employee's family member that is foreseeable.

For the birth, adoption or foster care of a child, intermittent leave or working a reduced number of hours is not permitted unless approved by the City.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the City before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary. The City may require certification of the medical necessity as discussed in the next section of this policy.

Certification of the Serious Health Condition

The City shall ask for certification of the serious health condition. The employee should try to respond to such a request within 15 days of the request, or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification may be provided by using the Certificate of Health Care Provider form prescribed by the Director of Human Resources. Request for a medical certificate must be made in writing as part of the employer response to employee request for leave.

Certification of the serious health condition shall include: the date when the condition began, its expected duration, and a brief statement of treatment. For medical leave for the employee's own medical condition, the certification must also include a statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of the employee's position. For a family member who is seriously ill, the certification must include a statement that the patient, the family member, requires assistance and that the employee's presence would be beneficial or desirable.

If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent leave or working a reduced schedule.

The City may require an additional medical opinion, at its expense, verifying the need for the medical leave. If the first and second opinions differ, a third medical opinion, also at the City's expense, is final and binding on the City and the employee. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

The City may require periodic recertification of a serious health condition while an employee is on leave, which includes a report on his or her medical status and expected date of return. An employee returning from a leave for his or her own serious health condition will be required to provide a fitness-for-duty certification. This fitness-for-duty certification is also subject to verification by the City. In addition, where certain periodic medical treatment is required, employees are required to make a reasonable effort to schedule such treatment so as not to disrupt the operation of the City.

Procedure for Requesting Leave

All employees requesting leave under this policy must provide verbal notice with an explanation of the reason(s) for the needed leave to the Director of Personnel. If the leave is foreseeable, the City may require the employee to provide a written request for leave, including reason(s) for the request, on a form prescribed by the Director of Human Resources. Failure of the employee to provide a written request for leave cannot be grounds to deny or delay the taking of FMLA leave.

The City will provide individual notice of rights and obligations to each employee requesting leave within two business days or as soon as practicable. For employees on intermittent or recurring leave for the same incident, this notice will be provided every six months.

When an employee plans to take leave under this policy, the employee must give the City 30 days notice. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable, usually within no more than one or two working days of learning of the need for leave. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the company's operations.

If an employee fails to provide 30 days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date the employer received notice. While on leave, employees are requested to report periodically to the City regarding the status of the medical condition, and their intent to return to work.

An employee returning from a leave of absence should provide the Director of Human Resources with at least two (2) week's notice of intent to return to work, where possible.

An employee who returns to work from family leave of absence within or on the business day following the expiration of the leave period shall be entitled to return to the employee's original job from which the leave of absence was provided, or, if not available, to any equivalent position with equivalent pay and other conditions of employment. (Note: If an employee is laid off and would have been even if he/she did not take a leave, the employee is not entitled to restoration.) Reinstatement may only be denied for salaried key employees who are among the highest paid ten percent (10%) of the work force, and whose leave of absence would cause substantial and grievous economic injury to the City.

Failure to return to work upon the expiration of the leave will be considered a voluntary termination of employment.

NOTE: This policy constitutes an overview of the Federal Family Medical Leave Act as currently interpreted by the federal department of labor. Nothing in this policy should be construed as altering or reducing negotiated benefits provided in applicable collective bargaining agreements. Questions regarding this law or the City's policy should be directed to the Director of Human Resources.