

## Leave: Family and Medical Leave (General Notice)

Human Resources  
Policy No. 100

Effective: July 1, 2016  
Reviewed by GMEC: April 12, 2016  
Initial Approval by GMEC: January 16, 2009

### Statement

The Family and Medical Leave Act of 1993, as amended, requires covered employers such as Palmetto Health to provide unpaid, job---protected leave to eligible employees for certain family medical and military---related reasons.

### Associated Policy (ies)

Leave

### Responsible Positions (Title)

Residents & Fellows  
Program Director  
Program Coordinator  
DIO  
GME Office  
HR Business Partner

### Equipment Needed

*None*

### Procedure Steps, Guidelines, Rules, or Reference

1. **Eligibility:** Employees are eligible for leave under the Family and Medical Leave Act of 1993 (FMLA) if they have worked for Palmetto Health for at least one year and for 1,250 hours in the twelve (12) months preceding the first day of leave.
2. **Entitlement to Leave:**
  - 2.1 Basic Leave: Eligible employees are entitled up to 12 weeks of unpaid, job---protected leave for the following reasons:
    - 2.1.1 Incapacity due to pregnancy, prenatal medical care or child birth;
    - 2.1.2 To care for the employee's child after birth or placement for adoption or foster care;
    - 2.1.3 To care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
    - 2.1.4 A serious health condition that prevents the employee from performing his or her job.
    - 2.1.5 For purposes of this policy, a serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility or a 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.

- 2.1.6 Subject to certain conditions, the continuing treatment requirement can be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider, one visit and a regimen of continuing treatment, incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may also meet the definition of continuing treatment.

## 2.2 Military Family Leave—Qualifying Exigency

Eligible employees with a spouse, son, daughter or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation can use their 12--week entitlement to address certain qualifying exigencies. Qualifying exigencies include:

- 2.2.1 Short--notice deployment
- 2.2.2 Military events and related activities
- 2.2.3 Childcare and school activities
- 2.2.4 Financial and legal arrangements
- 2.2.5 Counseling
- 2.2.6 Rest and recuperation
- 2.2.7 Post---deployment activities
- 2.2.8 Additional activities

Military Caregiver Leave: FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12---month period. A covered service member is a current member of the Armed Forces (including members of the National Guard or Reserves) who incurs a serious injury or illness in the line of duty on active duty that might render the service member medically unable to perform his/her duties. Such an injury or illness must be one for which the service member is undergoing medical treatment, recuperation or therapy; or is in outpatient status; or is on the temporary disability retired list.

## 3 Notice:

- 3.1 Requests for Family and Medical Leave (FML) must be submitted thirty (30) days in advance when the leave is “foreseeable.” When on intermittent leave, employees are expected to make reasonable efforts to schedule medical treatment so as not to unduly disrupt the business of the department.  
*To apply for FMLA, an employee must contact FMLASource at 1-866-441-3652.*
- 3.2 Palmetto Health requires a Certification to support a request for a leave due to a serious health condition and can request periodic recertification.
- 3.3 Palmetto Health requires a Certification for Serious Injury or Illness of Covered Service member for Military Family Leave or equivalent support for leave to care for a covered service member with a serious injury or illness.
- 3.4 Palmetto Health may require proof that an employee is the “next of kin” and eligible for leave to care for a covered service member (Military Caregiver Leave).
- 3.5 For leave due to a Qualifying Exigency, the following is required:
  - 3.5.1 A copy of the covered military member’s active duty orders or other

documentation issued by the military which indicates the covered military member is on active duty or call-to-active-duty status in support of a contingency operation and the dates of the covered military member's active duty service.

- 3.5.2 A Certification of Qualifying Exigency for Military Family Leave for leave due to a qualifying exigency.
- 3.6 Employees are expected to comply with all departmental call-in or reporting requirements and with Palmetto Health policies concerning reporting requirements for a leave of absence, absences, or tardiness.
- 3.7 When an employee calls in for an absence, he/she must provide sufficient information for Palmetto Health and FMLASource to determine if the leave/absence qualifies for FMLA protection. Employees must also inform Palmetto Health and FMLASource if the requested leave is for a reason for which FMLA leave was previously taken or certified.
- 4 **Approval:**
  - 4.1 Employees will be informed of eligibility and the designation of leave as FMLA.
  - 4.2 If an employee is denied coverage, at least one reason will be provided.
- 5 **Duration:**
  - 5.1 Eligible employees are permitted up to twelve (12) weeks of FML per year, based on a "rolling year" (a 12-month period measured backward from the date an employee uses FML).
  - 5.2 Employees can take FML on an intermittent or reduced-schedule basis when necessary due to the employee's own serious health condition or that of the employee's spouse, child or parent. Intermittent leave can be taken for bonding with a newborn child, or a child accepted for adoption or foster care, only with the consent of Palmetto Health (through the supervisor, in coordination with Human Resources). Intermittent leave can be taken for a Qualifying Exigency.
  - 5.3 Failure to return to work within six (6) months will result in separation of employment (see Leave of Absence Policy #140).
  - 5.4 Eligible employees are entitled to 26 workweeks of leave to care for a covered service member with a serious injury or illness during a single 12-month period beginning on the first day the employee takes FML and ending twelve months after that date.
- 6 **Benefits Status During Leave of Absence:**
  - 6.1 Health, dental and vision insurance will be maintained during FML leave at the same rate as if the employee were actively working.
  - 6.2 Premiums that are not paid during FML leave can cause the benefit to be forfeited; however, should an employee return from FML leave before exhausting the twelve-week FML entitlement period (twenty-six weeks if caring for injured service member), insurance can be reinstated.
  - 6.3 An employee can opt to suspend insurance while on FML. If so, the employee must request reinstatement of insurance before exhausting the twelve-week (twenty-six week if caring for injured service member) FML entitlement period in order to avoid a waiting period. Should the employee return after exhausting FML, the benefit eligibility rules for a new employee will apply.

- 6.4 Other issues such as term life insurance, long-term disability insurance, and compensation are addressed in Palmetto Health's Leave of Absence Policy.
- 6.5 The use of FML will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**7 Return to Work:**

- 7.1 Palmetto Health will return an employee from FML to the same or equivalent position held when the leave began or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FML period.
- 7.2 The Family and Medical Leave Act of 1993 provides that a "key employee" is a salaried FML-eligible employee who is among the highest paid 10% of all the employees employed by the employer within 75 miles of the employer's work site. If the employee is a "key employee," that employee cannot be restored to his former position after FML if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer.

**8 Unlawful Acts:**

FML makes it unlawful for Palmetto Health to:

- Interfere with, restrain, or deny the exercise of any Right provided under FML;
- Discharge or discriminate against any person for opposing any practice made unlawful by FML or for involvement in any proceeding under or related to FML.

**9 Enforcement**

An employee can file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FML does not affect any Federal or State law prohibiting discrimination or supersede any State or local law or specific type agreement which provides greater family or medical leave right