

Chancellor's Memorandum

CM-50 – Family and Medical Leave Policy

To: Vice Chancellors, Deans, Administrative Staff, Department Heads, and Students.

From: LSU Health Sciences Center New Orleans Chancellor

May 27, 2002

General

The Family and Medical Leave Act (FMLA) requires that eligible employees be granted up to 12 weeks a year (LSU Health Sciences uses a rolling year) of unpaid, job-protected leave for certain family and medical reasons (which shall be referred to as "qualifying events").

Employees who have worked for at least one (1) year, and have worked for at least 1,250 hours during the preceding 12-month period are eligible for Family and Medical Leave. For employees not eligible for Family and Medical Leave, LSU Health Sciences Center will review business considerations and the individual circumstances involved. Employees will be returned to the same or to an equivalent position upon their return from leave.

Family or medical leave will consist of, and run concurrently with, appropriate accrued paid leave and unpaid leave. If leave is requested for an employee's own serious health condition, the employee must first use all of his or her accrued paid sick and annual leave. If leave is requested for any of the other reasons listed below, an employee must first use all of his or her accrued annual leave. The remainder of the leave period will then consist of unpaid leave. All leave, whether paid annual, paid sick, or unpaid annual or sick, will also be recorded as FMLA.

Qualifying Events

All employees who meet the applicable work time requirements may be granted family or medical leave consisting of appropriate accrued annual or sick leave and unpaid leave, for a period of twelve (12) weeks during a fiscal year for the following reasons:

1. The birth of the employee's child and in order to care for the child;
2. The placement of a child with the employee for adoption or foster care;
3. To care for a spouse, child or parent who has a serious health condition;
4. A serious health condition that renders the employee incapable of performing the functions of his or her job.
5. When the husband and wife work for the same employer, the total amount (combined total) of leave they may take is limited to 12 weeks if they are taking leave for the birth or adoption of a child or to care for a sick parent.

The entitlement to 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.

Procedure for Requesting Leave

In all cases, an employee requesting leave must complete an "Application for Leave" form, indicating "FMLA" in the remarks section of the form. Additionally, an employee is required to complete a "Certification of Physician or

Practitioner" form. If the request is for leave without pay, the employee is also required to complete a "Continuation of Benefits" form. The completed application for leave must state the reason for the leave, the duration of the leave, and the starting and ending dates of the leave. The application for leave should be returned to the Department Head or designee. The forms should then be sent to the Department of Human Resource Management for determination of eligibility and final approval.

An employee intending to take family or medical leave because of an expected birth or placement, or because of planned medical treatment, must submit an application for leave at least thirty (30) days before the leave is to begin. If leave is to begin within thirty (30) days, an employee must give notice to his or her Department Head or designee as soon as the necessity for the leave arises.

When it is impossible, or impracticable due to medical necessity to provide advance notice, the leave will be granted conditionally and verbally based upon the information provided by the employee. The employee will still be required to provide the appropriate certification within fifteen calendar days to Human Resource Management.

Such emergency requests shall be revoked should the certification not support the reasons originally provided. Should the request be removed, the employee may be required to repay the leave and/or health coverage premiums, if applicable, and may be subjected to disciplinary action.

Intermittent or Reduced Leave

If leave is taken for birth or placement of a child for adoption or foster care, intermittent leave or a reduced work schedule may only be taken by mutual agreement between the employee and the supervisor.

In all other cases, intermittent leave or a reduced work schedule may only be taken when it is medically necessary.

An employee on an intermittent leave or a reduced work schedule may be required to transfer to an equivalent position if that position would better accommodate the leave schedule.

Medical Certification

An application for leave based on the serious health condition of the employee or the employee's spouse, child or parent must also be accompanied by a "Certification of Physician or Practitioner" completed by a 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. 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 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.

Departments may require medical recertification of medical condition when:

1. The employee requests an extension of the leave
2. Circumstances described by the original certification have significantly changed (e.g., the duration of the illness, the nature of the illness, complications)
3. The employer receives information that casts doubt upon the continuing validity of the certification
4. When an employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of a serious health condition, thereby preventing LSU Health Sciences Center from recovering its share of health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave

Departments may require medical certification prior to allowing the employee to return to their essential duties and are encouraged to do so if the reason for the leave is the employee's own disability.

Medical Certification or Recertification forms should be sent to the Department of Human Resource Management.

Benefits Coverage During Leave

During a period of family or medical leave, an employee will be retained on medical health plans under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to make any contributions that he or she made to the plan before taking leave.

In the case of leave without pay for FMLA purposes, LSU Health Sciences Center shall continue to pay the employer portion of the employee's premium. The employee is responsible for paying the employee portion of the premium.

If the employee will be on unpaid Family and Medical Leave, a "Continuation of Health Coverage" form must be completed by the employee to arrange for continued payment of employee's share of the health coverage premium during the period of leave.

When on leave without pay, if an employee's premium is more than 30 days late, all obligations of LSU Health Sciences Center as to such coverage cease. Under these circumstances, LSU Health Sciences Center has the right to recoup any payments it has made.

If, under these circumstances, the employee's health insurance coverage is canceled the employee will be reinstated to full health coverage upon their restoration to duty at the same level that was provided prior to the leave. An employee may not be required to meet any qualification requirements imposed by the health plan, including any new preexisting-condition waiting period, to wait for open enrollment or to pass a medical examination to obtain reinstatement of coverage.

Restoration to Employment Following Leave

An employee eligible for Family and Medical Leave will be restored to his or her original position or to a position with equivalent pay, benefits, and other terms and conditions of employment. LSU Health Sciences Center cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an "equivalent position" will be made by LSU Health Sciences Center.

Medical Records

Medical records are protected by Federal Law and may not be maintained in the employee's personnel file. Additionally, information pertaining to an employee's medical condition may not be released to any individual without the employee's express written consent. All medical information supporting the employee's FMLA request shall be maintained with the employee's FMLA request housed in the Office of Human Resource Management.

Unlawful Acts

It is unlawful for LSU Health Sciences Center to interfere with, restrain, or deny the exercise of any right provided under FMLA; or to discharge or discriminate against any person for opposing or complaining about any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Any employee who believes they have been denied a right under the FMLA should contact the Director of the Department of Human Resource Management or the Labor Relations Manager, who will be responsible for resolving such disputes.

Enforcement Agency

The U.S. Department of Labor, Wage and Hour Division, is authorized to investigate and resolve complaints of FMLA violations.

Signed: Mary Ella Sanders, M.D., Interim Chancellor of New Orleans