

## FAMILY AND MEDICAL LEAVES OF ABSENCE (FMLA)

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### **POLICY:**

It is the policy of the Town of Longmeadow to comply with the provisions of the Family and Medical Leave Act (FMLA) of 1993 and the Massachusetts Maternity Leave Act (MMLA). These laws entitle eligible employees to take unpaid, job-protected leave for specified family and medical reasons.

### **DEFINITIONS FOR FMLA:**

Eligible Employee: A full-time or regular part-time employee who has worked for the Town for one year. Employee must have worked at least 1,250 hours during the 12-month period that immediately precedes the start of the FMLA leave.

Covered Family Member: Employee's spouse, child or parent.

The 12 Month Period: The eligible period for leave shall be measured by rolling backward from the date an employee uses any FMLA leave.

- An employee granted Family Medical Leave must first use available sick leave followed by vacation leave then available comp time. The employee may reserve personal time and up to one week of vacation for later use. (The use of this leave is not **required** for employees covered under a collective bargaining agreement that has not bargained the mandated use of this time.)
- The Town retains the right to apply FMLA leave concurrent with any other leave that an employee may qualify for because of the same condition or event.

Qualifying Events: The law provides for four circumstances under which an eligible employee is entitled to family leave.

1. Birth of a child and in order to care for the child;
2. Placement of a child with the employee for adoption or foster care;
3. To care for a family member with a serious health condition; or
4. The employee's own serious health condition.

Limitation: Entitlement to leave for the birth or placement of a child (1 and 2 above), expires at the end of the 12-month period beginning on the date of such birth or placement.

Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves:

- Inpatient care; or
- Any period of incapacity requiring absence from work for more than three (3) calendar days **AND** that involves continuing treatment by a health provider; or health condition that is or which, if left untreated, would likely result in a period of incapacity of more than three (3) calendar days; or
- Prenatal care by a licensed health care provider.

## **FAMILY AND MEDICAL LEAVES OF ABSENCE (FMLA) continued...**

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### **DEFINITIONS FOR FMLA (continued):**

#### Continuing Treatment:

- Two or more visits of a licensed health care provider as defined pursuant to Federal regulations; or
- Two or more treatments by a licensed health care practitioner on referral form, or under the direction of, a licensed health care provider, or
- A single visit to a licensed health care provider, that results in a regimen of continuing treatment; or
- In the case of a serious, long-term or chronic condition or disability that cannot be cured, being under the continuing supervision of, but necessarily being actively treated by, a licensed health care provider.

#### Intermittent or Reduced Leave:

- An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of their own serious health condition when medically necessary. Medically necessary means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.
- Intermittent leave for the birth and care of a newborn or placement of a child for adoption or foster care is subject to the Town's approval.
- The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.
- For part-time employees and those who work variable hours, the family and medical leave entitlement is calculated on a pro rata basis. A weekly average of the hours worked over the 12 weeks prior to the beginning of the leave should be used for calculation the employee's normal workweek.

### **PROCEDURE:**

#### Notice Requirement:

- An employee is required to give 30 days notice in the event of a foreseeable leave. A Request for Family and Medical Leave form (see attached) should be completed by the employee and returned to their immediate supervisor. In unexpected or unforeseeable situations, an employee should provide as much notice as is practicable, usually verbal notice within one or two business days of when the need for leave becomes known, followed by a completed Request for Family/Medial Leave form.
- If an employee fails to give 30 days notice for a foreseeable leave with no reasonable excuse for the delay, the leave may be denied until 30 days after the employee provides notice.

## **FAMILY AND MEDICAL LEAVES OF ABSENCE (FMLA) continued...**

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### **PROCEDURE (continued):**

#### Medical Certification or a Serious Health Condition:

- For leaves taken because of a serious health condition (either the employee's own or a covered family member's) the employee must submit a completed Certification of Health Care Provider form (see attached) and return the certification to their immediate supervisor within fifteen (15) days of the leave request, or as soon as reasonably possible.
- The Town of Longmeadow *may* require a second or third opinion (at employer's expense), periodic reports on the employee's status to include a new Certification of Health Care Provider form every thirty (30) days and intent to return to work, and a fitness-for-duty report to return to work.
- All documentation related to the employee's or family member's medical condition will be held in strict confidence and maintained separate from the employee's Personnel file.

### **EFFECT ON BENEFITS:**

- An employee granted a leave under this policy will continue to be covered under the Town of Longmeadow's group health insurance plan and life insurance plans under the same conditions as coverage would have been provided if they had been continuously employed during this leave period.
- Employee contributions will be required either through payroll deduction or by direct payment to the Department of Human Resources. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to change in rates that occur while the employee is on leave.
- If the employee's contribution is more than thirty (30) days late, the Department of Human Resources may terminate the employee's insurance coverage.
- If the Town of Longmeadow pays the employee contributions missed by the employee while on leave, the employee will be required to reimburse the Town for delinquent payments (on a payroll deduction schedule) upon return from leave. The employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.
- If the employee fails to return from approved family/medical leave for reasons other than; (1) the continuation of a serious health condition of the employee or a covered family member; or (2) circumstances beyond the employee's control (certification required within thirty (30) days of failure to return for either reason), the Town of Longmeadow may seek reimbursement from the employee for the Town's portion of the insurance premiums paid on behalf of that employee (also known as the employer contribution) for the length of the leave. The Town will recoup these payments through any means necessary.
- An employee is not entitled to seniority or benefit accrual during periods of *unpaid* leave but will not lose anything accrued prior to leave. An employee whose leave extends beyond twelve (12) weeks and goes into an unpaid status will not accrue benefits or seniority for that period.

## **FAMILY AND MEDICAL LEAVES OF ABSENCE (FMLA) continued...**

### **JOB PROTECTION:**

- If the employee returns to work at the end of the approved family/medical leave (up to 12 weeks), he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status and authority.
- The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.
- If the employee fails to return to work at the end of the approved family/medical leave (up to 12 weeks), the employee will be terminated, unless the leave can be extended under some other statute or Town policy.

### **DEFINITIONS FOR MMLA:**

Eligible Employee: A full-time or female employee who has completed an initial probationary period of six months.

Qualifying Event: Leave is for the purpose of giving birth or adopting a child.

Notice: The employee must give two (2) weeks' notice of her anticipated date of departure and of her intent to return.

Length of leave: Eight (8) weeks of leave each time she gives birth or adopts a child.

Effect on benefits: Same as under the FMLA leave.

Job Protection: Same as under the FMLA leave.

### **FAMILY AND MEDICAL LEAVE FORMS TO BE SUBMITTED BY THE EMPLOYEE:**

1. Request for Family and Medical Leave
2. Certification of Health Care Provider (DOL form WH-380)

Updated 12/01/2010 ERG  
Updated 02/09/2011 ERG

**TOWN OF LONGMEADOW  
REQUEST FOR FAMILY AND MEDICAL LEAVE**

Employee Name: \_\_\_\_\_

Date of Request: \_\_\_\_\_

Department: \_\_\_\_\_

Position: \_\_\_\_\_

**I request Family and Medical Leave for the following reason:**

- For the birth and care of my newborn child
- Because of a child placed in my home by adoption or foster care
- To care for an immediate family member (spouse, child, or parent) with a serious health condition, **OR**;
- Because I am unable to work because of a serious health condition.

**I am requesting that my leave begin on:** \_\_\_\_\_  
(Date)

**and continue for** \_\_\_\_\_,  
(Period of Time)

**based on the medical certification I:**

- provided with this request.
- will provide by \_\_\_\_\_.  
(Within fifteen (15) days from the date of request or sooner as reasonably possible)

I understand that my group health insurance will continue for the duration of my approved leave and that I must continue to pay my regular contribution. Please continue to deduct my contribution from any payroll checks I receive while on leave. If I should begin a period of no-pay status during my approved leave, I agree to pay the Department of Human Resources directly for my share of the health insurance premium on a monthly basis. I understand that if I do not pay my portion of the health insurance premium that my coverage may lapse, however, if I return to work at the end of the approved leave, my insurance will be reinstated.

Employee Signature: \_\_\_\_\_

Date: \_\_\_\_\_