



Human Resource Policy Manual

Subject: Family and Medical Leave Act (FMLA) Policy

HR Policy: 610

Board of Directors Approval: 3-24-11

MSHS Policy Council Approval: 2-19-11

HS/EHS Policy Council Approval: 3-23-11

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1.0 Family and Medical Leave Act (FMLA) Policy Statement

It is the policy of TMC, to comply with the Family and Medical Leave Act (FMLA), which entitles eligible employees to take up to twelve (12) weeks of unpaid job-protected leave each year for specified family and medical reasons and up to twenty-six (26) weeks of unpaid job-protected Servicemember Family Leave (SFL).

Family and Medical Leave Act Procedure

2.0 ELIGIBILITY AND CONDITION FOR LEAVE

- 2.1** To be eligible for FMLA benefits an employee must have worked for TMC for at least twelve (12) months in the prior seven (7) years and at least 1,250 hours during the twelve (12) months prior to the date on which leave is to begin.
- 2.2** An employee intending to take Family or Medical Leave because of an expected birth or placement of a child for adoption/foster care, or because of a planned medical treatment, must submit a Leave of Absence Request at least thirty (30) days before the leave is to begin. If leave is to begin earlier than thirty (30) days, an employee must give notice to TMC as soon as practicable.
- 2.3** An employee requesting leave must provide the requested certification supporting the need for leave. Where such leave is requested with respect to the employee's own serious health condition, second or third medical opinions and periodic re-certification may be requested by TMC and at TMC's expense. Failure to provide a complete and sufficient certification or necessary authorization will result in the delay or denial of the request for leave, as permitted by law.
- 2.4** An employee requesting leave must provide appropriate documentation in support of any request for exigency leave.
- 2.5** The twelve (12) month period used to measure leave entitlement will be a "rolling" twelve months measured backward from the date an employee uses FMLA.
- 2.6** Unless otherwise provided by law an employee requesting leave must complete a "Leave of Absence Request" prior to the date on which leave is to begin. The Request form is available from a supervisor or Human Resources. The completed Leave of Absence Request must state the reason for the leave, the duration of the leave, and the anticipated starting and ending dates of the leave. The completed form should be returned to the HR Manager.
- 2.7** Spouses employed by TMC are jointly entitled to a combined total of twelve (12) work weeks of family leave after the birth or placement of a child for adoption or foster care and to care for a child or parent, (but not a parent-in-law), which has a serious health condition.



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- 2.8** As permitted by law, an employee may only take a combined total of twenty six (26) workweeks of SFL and FMLA during the relevant twelve (12) month period.
 - 2.9** An employee returning to work from leave for his own serious health condition must present a fitness-for-duty certification that specifies either that the employee is able to return to work without restrictions or such restrictions as may apply. Failure to provide the required certification will result in delayed restoration to the employee's position or termination of employment.
 - 2.10** An extension of approved leave must be in writing and supported by the appropriate documentation and/or certification, unless otherwise provided by law.
 - 2.11** A qualified individual with a disability, within the meaning of the Americans with Disabilities Act or applicable state law, may be permitted to a leave of absence that exceeds the times provided in this policy if such extended leave is found to reasonably accommodate the employee and imposes no undue hardship on TMC.

3.0 LEAVE AVAILABLE

- 3.1** Eligible employees will be granted up to a total of twelve (12) work weeks of unpaid leave during any twelve (12) month period for one or more of the following reasons.
 - 3.1.1** To care for the employee's child within twelve (12) months of the child's birth, adoption or foster care placement;
 - 3.1.2** To care for an employee's child, spouse, or parent who is seriously ill;
 - 3.1.3** Because of the employee's own serious illness, which prevents the employee from performing the functions of his or her job; and
 - 3.1.4** In the event of "qualifying exigency" (as defined by law) for a spouse, son, daughter or parent on active duty or called to active duty in the Armed Forces in support of a contingency operation. Reasons for qualifying exigency leave include, but are not limited to:
 - 3.1.4.1** Short-notice deployment (military member receives seven (7) or less days' notice of a call to active duty);
 - 3.1.4.2** Military events and related activities, temporary childcare arrangements and school activities (but not ongoing childcare);



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3.1.4.3 Financial or legal arrangements;

3.1.4.4 Counseling by a non-medical counselor (such as member of the clergy);

3.1.4.5 Rest and recuperation (when the military member is on a temporary rest and recuperation leave); and

3.1.4.6 Post deployment military activities.

3.2 Eligible employees will be granted SFL of up to a total of twenty-six (26) workweeks of unpaid leave during a single twelve (12) month period (measured from the date the first occurrence of leave is taken to care for a family member, including next of kin, who suffers a serious injury or illness in the line of duty while on active military duty. SFL may be taken once for each family member/next of kin and for each separate injury or illness to a family member/next of kin.

3.3 FMLA leave may be taken intermittently or on a reduced leave schedule where related to an employee's own serious health condition, to care for a parent, son or daughter with a serious health condition, for a qualifying exigency or to care for a covered servicemember with a serious injury or illness if there is a medical need for leave that can best be accommodated through such intermittent leave or reduced leave schedule.

3.3.1 TMC may temporarily transfer an employee during intermittent leave or reduced schedule leave to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced work schedule.

3.3.2 Intermittent or reduced schedule leave for the birth, adoption or foster care of a child is only permitted if TMC and the employee mutually agree to the schedule prior to the leave.

3.3.3 An employee requesting intermittent or reduced leave schedule for a planned medical treatment must make a reasonable effort to schedule the treatment so as not to disrupt TMC's operations.

4.0 BENEFITS DURING LEAVE

4.1 FMLA and SFL leave is generally unpaid, but you will be required to concurrently use all of your accrued paid leaves as permitted by law, thus providing you with pay for some, if not all, of the FMLA or SFL. Any time period that is considered "paid" will not increase the length



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of which will be paid (as Vacation) and the remaining ten of which will be unpaid. Similarly, to the extent that the reason for leave qualifies you for both FMLA leave and Vacation or Sick Leave, your leaves of absence will run concurrently such that your total available leave of absence – FMLA and Vacation or Sick Leave combined—is twelve weeks, unless otherwise provided by law.

- 4.1.1** If leave is requested for an employee’s own serious health condition, the employee must first use any accrued sick days, followed, if necessary, by accrued vacation; the remainder of the leave period will then consist of unpaid leave. Concurrent use of sick leave and vacation for an employee’s own serious health condition will not be required for any period of time during which an employee receives pay pursuant to a disability benefit plan or workers’ compensation insurance. The aggregate time off on paid and/or unpaid leave may not exceed six (6) months unless the employee obtains an extension from TMC.
- 4.1.2** If leave is requested for the birth of a child or placement for adoption/foster care, or to care for the employee’s spouse, child or parent with a serious health condition, an employee must initially use all of his or her accrued paid vacation. The remainder of the leave period will then consist of unpaid leave. The total aggregate time off on paid and/or unpaid leave for these reasons may not exceed twelve (12) weeks in any calendar year.
- 4.2** Benefits and seniority will not accrue during the period of any approved leave, unless otherwise required by law. Benefits accrued prior to the period of any leave will not be forfeited as a result of approved leave and will be available to the employee upon return from the leave.
- 4.3** TMC will maintain group health insurance coverage for all employees on FMLA and SFL leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee continued to work.

 - 4.3.1** TMC’s obligation to maintain health benefits under FMLA and SFL will stop if and when the employee informs TMC of an intent not to return to work, or if the employee fails to return to work when the FMLA leave entitlement terminates.
 - 4.3.2** If an employee fails to return from leave, TMC may recover health coverage premiums paid during the leave unless the reason for the failure to return is related to a serious health condition or another event beyond the employee’s control.



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4.3.3 TMC's obligation to continue group health benefits ceases if an employee's premium payment is more than thirty (30) days late, and TMC may discontinue such coverage as permitted by law, but such employee shall be entitled to unconditional reinstatement of group health plan benefits upon returning to work.

5.0 OTHER LEAVE REQUIREMENTS

- 5.1** Employees are required to report on at least a monthly basis while on FMLA, including SFL, unless law otherwise prohibits such reporting.
- 5.2** TMC may refuse to reinstate certain highly paid key employees after using FMLA leave. In order to do so, TMC will notify the employee of his or her status as key employee in response to the employee's notice of intent to take FMLA leave. TMC will notify the employee as soon as is practical after the decision is made to deny job restoration and explain the reasons for this decision while giving the employee a reasonable opportunity to return to work from FMLA leave after giving this notice.
- 5.3** While on FMLA and SFL, employees are prohibited from working for any other person or entity. Employees found working for another person or entity while on FMLA or SFL will be removed from the payroll records as a voluntary separation – violation of company policy, unless otherwise prohibited by law.

6.0 REQUIRED FORMS

- 6.1** Employees Serious Health Condition
- 6.2** Certification of Health Care Provider for Family Member serious Health Condition
- 6.3** Military Certification of Qualifying Exigency for Medical Family Leave
- 6.4** Certification for Serious Injury or Illness of Covered Service Member
- 6.5** Notice of Eligibility & Rights and Responsibilities
- 6.6** Designation Notice