



GEORGIA DEPARTMENT OF HUMAN SERVICES Human Resources Policy #1005

FAMILY AND MEDICAL LEAVE

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References: U.S. Department of Labor

29 U.S. Code Chapter 28 — Family and Medical Leave

29 CFR Part 825 — The Family and Medical Leave Act of 1993

Rules of the State Personnel Board 478-1-23 — Family and Medical Leave

The Family and Medical Leave Act (FMLA) provides job-protected leave without pay to eligible employees for the birth and care of their newborn child, placement of a child for adoption or foster care, to care for an immediate family member with a serious health condition, or for their own qualifying serious health condition. The FMLA also provides job-protected leave without pay to eligible employees due to a family member's call to active duty in the Armed Services or to care for an injured service member. It is the policy of the Georgia Department of Human Services to grant up to twelve (12) workweeks of FMLA leave during any rolling 12-month period to eligible employees or up to twenty-six (26) work weeks of military caregiver leave to care for a covered service member with a serious injury or illness.

SECTION A: USE OF PAID LEAVE

1. The Department of Human Services (DHS) permits employees to use available annual, sick, compensatory and/or personal leave while on FMLA leave in order to remain in pay status. The employee's need for leave must warrant use of sick leave if sick leave is requested. See DHS Policy #1006: Absence from Work for guidance regarding sick leave usage.

SECTION B: USE OF FMLA

1. Authorized officials cannot deny the use of FMLA leave when the provisions of this policy have been met. It is unlawful to interfere with, restrain, or deny the exercise of (or attempts to exercise) any right provided by the FMLA. Further, it is unlawful to discharge or discriminate against employees for opposing any practice made unlawful by the FMLA or for involvement in any proceeding relating to the FMLA. This policy does not, however, insulate any employee from disciplinary action based on conduct or performance deficiencies.

FAMILY AND MEDICAL LEAVE

SECTION C: QUALIFYING REASONS

1. Employees are eligible for FMLA leave for any of the following reasons:

- a. Pregnancy and/or birth of the employee's child.

Note: Pregnancy is considered a serious health condition under FMLA, and all pregnancy related absences from work [e.g., morning sickness, prenatal examinations, birth, etc.] qualify for FMLA leave and sick leave.

- b. Care of the employee's newborn child.
- c. The placement of a child with the employee for adoption or foster care, and to care for the child after placement.
- d. A serious health condition which makes the employee unable to perform the essential functions of the position; or,
- e. Care of the employee's child, spouse, stepchild, or parent who has a serious health condition.

2. A qualifying exigency arising out of a covered family member's active duty or call to active duty in the Armed Services in support of a contingency operation.

- a. An employee whose spouse, (also including same-sex spouse), son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reason related to or affected by the family member's call-up or service when it constitutes a qualifying exigency.
- b. Qualifying exigencies include: (1) short notice deployment, (2) military events and related activities, (3) childcare and school activities, (4) financial and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post-deployment activities, and (8) additional activities to address other events that arise out of the covered service member's active duty or call to active duty status, provided that DHS and employee agree that such leave shall qualify as an exigency and agree to both the timing and duration of the leave. The leave may commence as soon as the individual receives the call-up notice.

3. Care of an injured service member who is the employee's family member or nearest blood relative.

- a. An employee may take up to 26 weeks of FMLA in a 12-month period to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member.

FAMILY AND MEDICAL LEAVE

4. For the qualifying reasons for taking FMLA leave the following definitions apply:
- a. “Child” means a biological child, adopted or foster child, stepchild, regardless of whether the *in loco parentis* requirement of providing day-to-day care or financial support for the child is met, legal ward, or a child of an employee standing in *in loco parentis* who is either under age 18 or is age 19 or older and incapable of self-care because of mental or physical disability. This age limit does not apply for purposes of military Family and Medical Leave.
 - b. “Family member” means the employee’s spouse, child, or parent.
 - c. “Parent” means a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a child under age 18. “*In loco parentis*” means having day-to-day responsibility ties to care for and financially support a child. “Parent” does not include parents-in-law.
 - d. “Spouse” means a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a common law marriage or same-sex marriage. The place where the marriage was entered into (referred to as a “place of celebration” rule) rather than the law of the employee’s state of residence.
 - e. Common Law Marriage: The new proposed rule would also extend FMLA to common law spouses in all 50 states, as long as the relationship is legally recognized in at least one state. This includes live-in relationships between same sex and opposite sex couples.
 - f. “Next-of-kin are the closest blood relative of the injured or recovering service member other than the covered service member’s spouse, parent, or children.
 - g. “Covered active duty” means deployment to a foreign country as a member of the regular Armed Forces or as a result of a federal call to active National Guard or Reservist military duty in support of a contingency operation.

SECTION D: ELIGIBILITY

1. In order to be eligible for FMLA, employees must:
- a. Have been employed with **State government** for a minimum of twelve (12) months, whether consecutive or non-consecutive, within the past seven (7) years.
 - b. Time worked for the State of Georgia in any employment capacity will count toward meeting the eligibility requirements. Such employment includes full-time, part-time, temporary, seasonal, and sporadic employment, whether paid on a

FAMILY AND MEDICAL LEAVE

salaried or hourly basis, and previous employment with a temporary services agency on assignment with the state.

- c. Have been **present at work** for a minimum of 1,250 hours during the twelve (12) months immediately preceding the beginning of the FMLA leave (does not include holidays or time away from work on paid or unpaid leave); and
 - d. Have a qualifying reason for taking FMLA leave.
- 2. Eligibility for FMLA leave to care for a newborn child begins on the date of birth and ends twelve (12) months after the date of birth.
 - 3. Eligibility for FMLA leave due to the placement of a child with the employee for adoption or foster care may begin prior to the date of placement if absence from work is needed for the placement to proceed. Eligibility ends twelve (12) months after the date of placement.
 - 4. FMLA leave for a serious health condition is limited to the time determined to be medically necessary by the attending health care provider.
 - a. FMLA leave to care for a family member with a serious health condition ends if the family member dies. The date of death is the last day that qualifies for FMLA leave.
 - b. Authorized officials may approve leave after the date of death of an employee's family member in accordance with DHS Policy #1006: Absence from Work.
 - c. A leave of absence without pay may also be considered in accordance with DHS policy.
 - 5. In accordance with Federal regulations, **when married individuals are both eligible State employees**, they are limited to a combined total of twelve (12) work weeks of FMLA leave for the following reasons:
 - a. Bonding with the employee's newborn child within twelve (12) months from date of birth; or
 - b. Placement of a child with the employee for adoption or foster care, or to care for the child within twelve (12) months after placement; or
 - c. Care of an individual who stood in loco parentis or the employee's biological parent who has a serious health condition.
 - d. Each spouse is entitled to use the difference between the amount of FMLA leave each has taken individually for one of the above reasons.

FAMILY AND MEDICAL LEAVE

SECTION E: SERIOUS HEALTH CONDITION

1. A “serious health condition” is defined as an illness, injury, impairment or physical or mental condition that involves:
 - a. Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or any further treatment in connection with inpatient care.
 - b. Continuing treatment by a health care provider which includes one (1) or more of the following:
 - i. A period of incapacity of more than three (3) consecutive calendar days, and any additional treatment or period of incapacity relating to the same condition that also involves:
 - ii. Treatment two (2) or more times by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or other referred health care services provider; or,
 - iii. Treatment by a health care provider at least once that results in a regimen of continuing treatment (e.g., prescription medication) under the supervision of the health care provider.
2. Any period of incapacity due to pregnancy, or for prenatal care.
3. Any period of incapacity or treatment due to a chronic serious health condition that requires periodic treatment, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity.
4. Any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer’s disease).
5. Any period of absence to receive multiple treatments (including recovery period) either for restorative surgery after an accident or other injury or for a condition that would likely result in incapacitation of more than three (3) calendar days if not treated (e.g., chemotherapy for cancer, dialysis for kidney disease, etc.)
6. Substance abuse may meet the criteria for a serious health condition. FMLA leave may be taken for substance abuse treatment or to care for a child, spouse or parent who is receiving substance abuse treatment. FMLA leave for substance abuse treatment does not prevent the Department from taking appropriate disciplinary action against an employee for conduct or performance deficiencies.

SECTION F: HEALTHCARE PROVIDER

1. “Healthcare provider” means the following:
 - a. Doctor of Medicine or osteopathy.

FAMILY AND MEDICAL LEAVE

- b. Podiatrists, dentists, clinical psychologists, optometrists.
- c. Chiropractors.
- d. Nurse practitioners, nurse-midwives, clinical social workers.
- e. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.
- f. Any health care provider from whom the Department or the State Health Benefit Plan will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and,
- g. Health care providers listed above who practice in a country other than the United States.

SECTION G: TIME FRAMES

1. Eligible employees are entitled up to twelve (12) workweeks of FMLA leave during any rolling 12-month period to eligible employees or up to twenty-six (26) work weeks of military caregiver leave to care for a covered service member with a serious injury or illness.
 - a. The twelve (12) or twenty-six (26) workweeks of FMLA leave are based on an employee's regular work schedule. If a holiday(s) occurs during a week of FMLA leave, the holiday(s) counts toward FMLA leave as if it were a workday.
 - b. Under the rolling twelve-month period, each time an employee takes FMLA leave for any reason except military caregiver leave, DHS will measure the 12-month period backward from the date the employee uses any FMLA leave. Each time the employee takes FMLA leave, DHS will compute the amount of leave the employee has taken within the current FMLA year and subtract it from the 12 weeks of available leave, and the balance remaining is the amount of leave available to the employee for the duration of the eligibility year.
 - c. For military caregiver leave only, DHS will measure the rolling 12-month period going forward. The leave year is based on a single 12-month period and begins with the first day the employee takes leave. Any FMLA already taken for other FMLA circumstances will be deducted from the total twenty-six (26) weeks available.

SECTION H: INTERMITTENT/REDUCED LEAVE SCHEDULE OPTION

1. FMLA may be taken intermittently or on a reduced leave schedule under certain circumstances. FMLA cannot exceed 480 hours for that given year.
 - a. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason (e.g., morning sickness, prenatal examinations).

FAMILY AND MEDICAL LEAVE

- b. A reduced leave schedule reduces employees' normal work hours per work week or per workday.
- 2. FMLA may be taken intermittently or on a reduced leave schedule when medically necessary or to provide care or psychological comfort to a qualifying family member with a serious health condition. A medical statement is not required for each absence when FMLA is taken intermittently. Documentation may be required initially, and recertification may be required no more often than every thirty (30) calendar days.
- 3. FMLA may be taken intermittently or on a reduced leave schedule to care for a newborn child or for placement of a child for adoption or foster care **ONLY** with supervisory approval unless the absence involves a qualifying serious health condition.
- 4. Employees who request FMLA on an intermittent or reduced leave schedule basis may be required to temporarily transfer to an available alternative position that better accommodates recurring periods of absence.
 - a. The alternative position must have equivalent pay and benefits but is not required to have equivalent duties.
 - b. Employees must not be transferred to alternative positions in order to discourage the use of FMLA or to positions that represent a hardship (e.g., employees may not be transferred to a less desirable shift.)
 - c. When the need for intermittent leave or a reduced leave schedule ends and employees are able to return to their normal work schedules, they must be returned to their former positions or equivalent positions.
- 5. Only the amount of leave actually taken on an intermittent or reduced leave schedule basis may be counted toward the twelve (12) work weeks of FMLA. For example, employees who normally work five (5) days per work week and take off one (1) day for intermittent FMLA will be charged 1/5 work week of FMLA. Similarly, full-time employees who reduce a work week from forty (40) to twenty (20) hours are charged ½ work week of FMLA.

SECTION I: REQUEST

- 1. Employees are responsible for notifying supervisors or authorized officials of the need for FMLA.
 - a. Employees must give supervisors or authorized officials adequate notice (usually thirty [30] calendar days) when FMLA is foreseeable.
 - b. When thirty (30) calendar days advance notice is not possible, employees must give supervisors or authorized officials notice as soon as they become aware that FMLA is necessary. FMLA may be delayed when adequate notice is not provided.

FAMILY AND MEDICAL LEAVE

- c. If FMLA is foreseeable based on planned medical treatment, employees must make a reasonable effort to schedule the FMLA, subject to the approval of the attending health care provider, when the operations of the work unit will not be unduly disrupted.
2. When requesting FMLA, employees are to provide a completed Certification of Health Care Provider for Employee's Serious Health Condition to their designated FML Specialist or authorized officials (e.g., Human Resources Representative), unless submitting this form is not possible. The following information must be provided:
 - a. Beginning and ending dates of requested FMLA.
 - b. Request for use of annual, sick and/or personal leave or leave without pay; and,
 - c. Reason for the FMLA. The reason for the absence must be explained in order to determine whether the absence qualifies for FMLA.

Note: If employees request to use paid leave while on FMLA, they are to submit the appropriate leave request forms in addition to the Certification of Health Care Provider for Employee's Serious Health Condition.

3. Employees requesting FMLA due to adoption or foster care are to provide to their designated FML Specialist or authorized officials (e.g., Human Resources Representative) the completed Certification of Adoption or Foster Care Form or similar form, whichever is appropriate. Separate FMLA request forms and certification forms are not needed to cover each absence. These forms need to be submitted only one time, unless the circumstances regarding placement change to the extent that updated information is needed.
4. Employees requesting FMLA due to a serious health condition (including pregnancy/childbirth) must provide to their designated FML Specialist or authorized officials (e.g., Human Resources Representative) a Certification of Serious Health Condition Form, or other medical statement with similar information, completed by the attending health care provider. When a single serious health condition requires multiple absences (e.g., asthma, chemotherapy, etc.), a separate medical statement is not required for each absence.
 - a. When FMLA for a serious health condition is foreseeable, this certification should be provided before the absence begins.
 - b. When it is not possible to provide this certification before the absence begins, employees must provide the certification within fifteen (15) calendar days of the date it is requested.

FAMILY AND MEDICAL LEAVE

SECTION J: RESPONSE-ELIGIBILITY, RIGHTS & RESPONSIBILITIES NOTICE

1. Once an employee requests Family and Medical Leave, or once the Department becomes aware that an employee's leave may qualify for Family and Medical Leave, the Department must notify the employee, within five (5) workdays (unless extenuating circumstances occur, such as an emergency office closure) of the following:
 - a. Whether the employee meets the employment eligibility criteria for Family and Medical Leave.
 - b. Whether the employee has any remaining Family and Medical Leave available.
 - c. The employee's rights and responsibilities for taking Family and Medical Leave.
 - d. If the employee did not submit supporting documentation with a request for Family and Medical Leave OR if sufficient information is not available to determine whether FMLA should be approved, the Department should include in this notice any requirement to provide the necessary documentation and give a deadline for submission that is at least fifteen (15) calendar days after the notice is provided to the employee. During this period of time, authorized officials may conditionally approve the FMLA contingent upon receiving the required documentation.
2. If there is a question as to the validity of the certification for FMLA, and **ONLY** with the approval of the Office of Human Resource Management and Development, the employee may be required to obtain a second opinion from a health care provider chosen by the Department and paid for by the Department.
3. Supervisors or authorized officials who do not comply with the requirements of this policy are subject to disciplinary action up to and including separation.

SECTION K: DESIGNATION NOTICE

1. Once the Department has sufficient information to determine whether the leave qualifies for Family and Medical Leave Protection (e.g., after receiving supporting documentation), the Department must notify the employee within five (5) workdays (unless extenuating circumstances occur, such as an emergency office closure) whether the leave will be designated as Family and Medical Leave and count against the employee's entitlement.
2. The Designation Notice can be combined with the Eligibility, Rights, & Responsibilities Notice if the agency has sufficient information to designate the leave as Family and Medical Leave at the time it becomes aware of the employee's need for leave.
3. A Family and Medical Leave denial must include at least one reason for denial.

FAMILY AND MEDICAL LEAVE

4. It is the employee's designated FML Specialist or authorized officials (e.g., Human Resources Representative) responsibility to designate FMLA as appropriate. If FMLA is determined appropriate, employees are to be placed on FMLA **even when they do not submit a request**. The employee's designated FML Specialist or authorized officials (e.g., Human Resources Representative) may learn that an absence or part of an absence, from work qualifies for FMLA either during or after the period of absence. In these circumstances, FMLA should be designated as follows:
 - a. When the employee's designated FML Specialist or authorized officials (e.g., Human Resources Representative) learn that an employee is eligible for FMLA during a period of absence, any portion of the absence from work that qualifies for FMLA should be designated as such. When FMLA is designated, medical certification is still required to confirm that the absence qualifies as FMLA.
 - b. Generally, absences from work may not be retroactively designated as FMLA after an employee has returned to work. However, FMLA may be designated retroactively under the following circumstances:
 - i. When the employee was absent for a FMLA reason, and the Department did not learn of the reason for the absence until the employee's return. The retroactive designation must be made within fifteen (15) calendar days of the employee's return to duty unless extenuating circumstances occur, such as an emergency office closure etc.
 - ii. When the Department knows the reason for leave but has not been able to confirm that the leave qualifies under FMLA. In such cases, the FMLA designation must be made promptly upon receipt of appropriate certification.
 - c. When the reason for the absence is known beforehand by the Department (e.g., pregnancy/childbirth), employees are not to be retroactively placed on FMLA after they return to work. However, if the Department does not timely designate FMLA leave, the Department may retroactively designate the absence as FMLA leave if the employer provides appropriate notice to the employee and the retroactive designation does not cause harm or injury to the employee.

SECTION L: EXHAUSTION OR INELIGIBLE FOR FMLA

1. Definitions

- a. **Catastrophic Injury or Illness** – Means a life-threatening injury or illness of an employee or member of an employee's immediate family, including only a child, parent, spouse or "next of kin" for covered service member which totally incapacitates the employee from work, as verified by a licensed physician, beyond the allotted six (6) months of LOA and three (3) months of Contingent Leave.

FAMILY AND MEDICAL LEAVE

- b. **Contingent Leave** - In order to qualify an employee or member of an employee's immediate family, including only a child, parent, spouse or "next of kin" for covered service member must be experiencing an illness which prevents the employee from working, as verified by a licensed physician. Leave of absence without pay is similar to a regular leave of absence, but only allows the employee to take three (3) months of unpaid leave (six (6) months if catastrophic illness/injury applies) and does not guarantee a position will be available for the employee's return.
- c. **Leave of Absence** - In order to qualify an employee or member of an employee's immediate family, including only a child, parent, spouse or "next of kin" for covered service member must be experiencing an illness which prevents the employee from working, as verified by a licensed physician. Allows an employee who has been employed with State government for a minimum of six (6) continuous months immediately prior to requesting a Leave of Absence (LOA) to take paid/unpaid time off for up to six (6) continuous months and be granted return to work if the employee returns within the terms of the leave approval.

2. Exhaustion of FMLA

- a. Designate LOA then Contingent Leave
 - i. Compliance Management determines an employee has exhausted their 12-week Family Medical Leave (FML) entitlement and will notify the employee of appropriate next steps via written correspondence.
 - ii. Compliance Management will work collaboratively with the employee's HR Representative to designate a LOA, if appropriate.
 - iii. Upon exhaustion of the allotted six (6) month LOA period, Compliance Management will work collaboratively with the employee's HR Representative to designate a contingent leave of absence, if appropriate.
 - iv. Upon utilization of the allotted three (3) month contingent leave of absence period, Compliance Management will review updated documentation to determine the employee's eligibility for an extended contingent leave of absence under the Catastrophic Illness exception, when appropriate.

3. Ineligible for FMLA

- a. Move to LOA then Contingent Leave
 - i. Compliance Management determines the employee is ineligible for FML.
 - ii. Compliance Management will work collaboratively with the employee's HR Representative to designate LOA for employees who have satisfied the six (6) months of employment requirement with DHS.

FAMILY AND MEDICAL LEAVE

- iii. Upon exhaustion of the allotted six (6) month LOA period, Compliance Management will work collaboratively with the employee's HR Representative to designate a contingent leave of absence, if appropriate.
 - iv. Upon utilization of the allotted three (3) month contingent leave of absence period, Compliance Management will review updated documentation to determine the employee's eligibility for an extended contingent leave of absence under the Catastrophic Illness exception, when appropriate.
- b. Ineligible for LOA then Contingent Leave
- i. Employees who have not satisfied the six (6) continuous months of employment requirement with DHS will be deemed ineligible for a LOA.
 - ii. Compliance Management will work collaboratively with the employee's HR Representative to designate a contingent leave of absence, if appropriate.
 - iii. Upon utilization of the allotted three (3) month contingent leave of absence period, Compliance Management will review updated documentation to determine the employee's eligibility for an extended contingent leave of absence under the Catastrophic Illness exception, when appropriate.

SECTION M: PAY STATUS BENEFITS

1. Employees may use paid leave (annual, sick, or personal), if appropriate, take leave without pay, or use a combination of both to cover the absence from work. Use of paid leave must comply with DHS Policy #1006: Absence from Work.
 - a. Absences due to morning sickness and other pregnancy related absences (including the two [2] weeks immediately before delivery) generally qualify for use of sick leave by female employees.
 - b. The first six (6) weeks following the birth of a child generally qualify for use of sick leave by the employee giving birth. Additional use of sick leave due to the birth of a child must be supported by a medical statement. Fathers would generally be eligible to use sick leave if their presence is needed due to the serious health condition of an eligible family member.
2. Absences related to adoption when the employee's presence is required for health-related reasons qualify for use of sick leave. Other FMLA absences related to adoption qualify for use of annual, personal leave, or authorized leave without pay.
3. Since leave donations are credited to recipients' sick leave balances, employees who are on FMLA can only use donated leave for absences that qualify for use of sick leave.
4. While on FMLA, employees who have health insurance benefits through the State Health Benefit Plan are entitled to maintain this health insurance coverage at the

FAMILY AND MEDICAL LEAVE

employee rate. If premiums change while employees are on FMLA, they are responsible for paying the new premiums.

5. In order to maintain health insurance and any benefits through the Flexible Benefits Program, employees on FMLA **with** pay (those using sick/donated, annual or personal leave) continue to pay premiums through payroll deductions.
6. Employees on FMLA **without** pay will be advised of the cost for maintaining health insurance and any benefits through the Flexible Benefits Program, arrangements for making payments and consequences for not making timely payments.
 - a. Employees on FMLA **without** pay must complete and submit the following forms to their designated Human Resources Representative.
 - i. Request to Continue Health Benefits During Leave of Absence Without Pay.
 - ii. Disability Certification, if appropriate.
 - b. Employees with at least one (1) year of participation in the Group Term Life Insurance Program under the Employees' Retirement System (ERS) may retain coverage while on FMLA without pay. A request to continue coverage must be made in writing to ERS prior to beginning the FMLA without pay. Coverage terminates if this written request is not received.
7. Employees must coordinate with their leadership regarding the use of paid leave. If the employee **exhausts** FML and the employee enters into a leave without pay status, health insurance and flexible benefits may be continued by paying the monthly premiums in a timely manner.

SECTION N: SYSTEM ENTRY

1. Supervisors, authorized officials or designees are to complete the Request for Personnel/Payroll Action Form to place employees on FMLA with and/or without pay. The completed forms are to be submitted to the appropriate transactions center for entry.

SECTION O: RECERTIFICATION

1. Employees on FMLA due to a serious health condition may be required to provide recertification of the serious health condition on a reasonable basis. Recertification cannot be required more often than every thirty (30) calendar days.

SECTION P: RETURN TO WORK

1. Employees who have complied with the terms and conditions in the FMLA approval notice are entitled to return to the same position, or an equivalent position with the same pay and grade, benefits, and comparable working conditions, at the

FAMILY AND MEDICAL LEAVE

expiration of FMLA.

- a. Employees do not retain this entitlement if at the expiration of FMLA they are unable to perform the essential functions of the position, with or without reasonable accommodation, due to physical or mental condition.
 - b. Employees on FMLA do not have greater rights to return to work than they would have if they had continuously remained at work. For example, employees who are on FMLA during a staff reduction do not have a right to return to work if they are laid off due to the staff reduction.
2. Employees returning from FMLA due to their own serious health condition must submit return-to-work documentation from the attending health care provider prior to returning to work. This statement must certify that the employee is capable of performing the essential functions of the position, with or without reasonable accommodation. Employees who do not provide a required statement or have restrictions that cannot be reasonably accommodated should not be allowed to return to work.
 3. Supervisors, authorized officials, or designees are to submit completed Request for Personnel/Payroll Action Form to the appropriate transactions center for entry for employees returning from FMLA.

SECTION Q: POSTING FMLA NOTICE

1. Information regarding FMLA and procedures for filing complaints of violations can be found in Attachment #7 — Employee Rights under the Family and Medical Leave Act.
2. DHS organizational units are to permanently post the notice in prominent locations where notices to employees and applicants are customarily displayed and are to post such revised notices as they become available.

SECTION R: CONCERNS WITH PROCESS

1. Employees who believe that their FMLA requests have not been processed correctly should discuss their concerns with Human Resources.

SECTION S: PAY STATUS BENEFITS

1. Employees may use paid leave (annual, sick, or personal), if appropriate, take leave without pay, or use a combination of both to cover the absence from work. Use of paid leave must comply with DHS Policy #1006: Absence from Work.
 - a. Absences due to morning sickness and other pregnancy related absences (including the two [2] weeks immediately before delivery) generally qualify for use of sick leave by female employees.
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FAMILY AND MEDICAL LEAVE

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2. Absences related to adoption when the employee's presence is required for health-related reasons qualify for use of sick leave. Other FMLA absences related to adoption qualify for use of annual, personal leave, or authorized leave without pay
3. Since leave donations are credited to recipients' sick leave balances, employees who are on FMLA can only use donated leave for absences that qualify for use of sick leave.
4. While on FMLA, employees who have health insurance benefits through the State Health Benefit Plan are entitled to maintain this health insurance coverage at the employee rate. If premiums change while employees are on FMLA, they are responsible for paying the new premiums.
5. In order to maintain health insurance and any benefits through the Flexible Benefits Program, employees on FMLA **with** pay (those using sick/donated, annual or personal leave) continue to pay premiums through payroll deductions.
6. Employees on FMLA **without** pay will be advised of the cost for maintaining health insurance and any benefits through the Flexible Benefits Program, arrangements for making payments and consequences for not making timely payments.
 - a. Employees on FMLA **without** pay must complete and submit the following forms to Human Resources representative.
 - i. Request to Continue Health Benefits During Leave of Absence Without Pay.
 - ii. Disability Certification, if appropriate.
 - b. Employees with at least one (1) year of participation in the Group Term Life Insurance Program under the Employees' Retirement System (ERS) may retain coverage while on FMLA without pay. A request to continue coverage must be made in writing to ERS prior to beginning the FMLA without pay. Coverage terminates if this written request is not received.

SECTION T: CONFIDENTIALITY

1. Medical information related to FMLA is strictly confidential and is available to individuals on a "need to know" basis only. Supervisors should not request FMLA related medical information from employees.

For additional information or assistance, please contact your local Human Resources Representative.