

## Series 4000: District Employment

### 4100 Employee Rights and Responsibilities

#### 4106-AG Family and Medical Leave Act (FMLA)

##### A. FMLA Forms

The District will provide the following forms to the employee requesting FMLA leave, and the employee or District will complete the forms, as applicable:

1. WH-381: Notice of Eligibility and Rights & Responsibilities, absent extenuating circumstances, should be completed by the District and provided within 5 work days after the employee requests leave or when the District has reasonable information that the employee may qualify for leave.
2. WH-380-E: Certification of Health Care Provider for Employee's Serious Health Condition,
3. WH-380-F: Certification of Health Care Provider for a Family Member's Serious Health Condition should be provided at the time of the employee's leave request.
4. WH-384: Certification of Qualifying Exigency for Military Family Leave should be provided at the time of the employee's leave request.
5. WH-385: Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave should be provided at the time of the employee's leave request.
6. WH-385-V: Certification for Serious Injury or Illness of Covered Servicemembers should be provided at the time of the employee's leave request.
7. WH-382: Designation Notice, absent extenuating circumstances, should be completed by the District and provided to the employee within 5 work days after the employee provided sufficient information or certifications that the employee qualifies for leave.

##### B. FMLA Definitions

1. "Serious Health Condition"
  - a. A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves: (1) inpatient care or (2) continuing treatment by a health care provider.

- b. "Inpatient care" means an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., the inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment by a health care provider, or recovery therefrom), or any subsequent treatment in connection with such inpatient care.
- c. "Continuing treatment by a health care provider" includes any of the following:
  - i. *Incapacity and treatment.* A period of incapacity (i.e., the inability to work, attend school, or perform other regular activities due to the serious health condition, treatment by a health care provider, or recovery therefrom) of more than 3 consecutive, full calendar days, and any subsequent treatment period of incapacity relating to the same condition that also involves:
    - A) Treatment 2 or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider. Treatment by a health care provider means an in-person visit, and the first (or only) in-person treatment must take place within 7 days of the first day of incapacity; or
    - B) Treatment by a health care provider on at least 1 occasion which results in a regimen of continuing treatment under the supervision of the health care provider. Treatment by a health care provider means an in-person visit, and the first (or only) in-person treatment must take place within 7 days of the first day of incapacity.
  - ii. *Pregnancy or prenatal care.* Any period of incapacity due to pregnancy or for prenatal care. Absences qualify even if the employee or covered family member does not receive treatment from a health care provider during the absence.
  - iii. *Chronic conditions.* Any period of incapacity or treatment for such incapacity due to a chronic serious health condition which: (1) requires periodic visits (i.e., at least twice per year) for treatment by a health care provider or by a nurse under direct supervision of a health care provider; (2) continues over an extended period of time (including recurring episodes of a single underlying condition); and (3) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences qualify even if the employee or covered family member does not receive treatment from a health care provider during the absence.

- iv. *Permanent or long-term conditions.* A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need receive active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
  - v. *Conditions requiring multiple treatments.* Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider for: (1) restorative surgery after an accident or other injury; or (2) a condition that would likely result in a period of incapacity of more than 3 consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (e.g., chemotherapy, radiation, etc.), severe arthritis (e.g., physical therapy), or kidney disease (e.g., dialysis).
2. "Health Care Provider" means:
- a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or
  - b. Any other person determined by the Secretary of Labor to be capable of providing health care services, which includes only:
    - i. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state and performing within the scope of their practice as defined under state law;
    - ii. Nurse practitioners, nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under state law and who are performing within the scope of their practice under state law;
    - iii. Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts;
    - iv. Any health care provider from whom the District or the District's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and
    - v. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his or her practice as defined under such law.
3. "Spouse" means a husband or wife. It includes any other person with whom an individual entered into marriage as defined or recognized under state law for

purposes of marriage in the state in which the marriage was entered into or, in the case of a marriage entered into outside of any state, if the marriage is valid in the place where entered into and could have been entered into in at least one state.

4. "Parent" means a biological, adoptive, step, or foster father or mother, or any other individual who stood *in loco parentis* to the employee when the employee was a son or daughter (as defined below). This definition does not include parents "in law."
5. "Son or daughter" for purposes of leave taken for birth or adoption or to care for a family member with a serious health condition means a biological, adopted, step, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18 or age 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.

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Revised date: