

3.3 FAMILY AND MEDICAL LEAVE ACT POLICY

A. The Ohio Turnpike Commission provides eligible employees with up to twelve (12) weeks unpaid family and medical leave of absence from work in the following circumstances:

- The birth of a child and in order to care for such child;
- The adoption or placement of a child for foster care;
- To care for a child, spouse or parent who has a serious health condition (an illness, injury, impairment or physical or mental conditions that involves inpatient care or continuous treatment by a health care provider);
- If the employee's own serious health condition renders the employee unable to perform the essential functions of his or her position;
- **To care for the employee's spouse, child or parent who has been called to active duty in support of a contingency operation ("qualifying exigency"); or**
- **To care for an injured service member, in which the employee may be eligible for up to a combined twenty-six (26) weeks of leave.**

For the purposes of this policy, "Child" refers to children under 18 years of age as well as those age 18 and older who are incapable of self-care because of a mental or physical disability; "spouse" does not include an unmarried domestic partner and "parent" does not apply to in-laws.

B. APPROVAL

Family and medical leave applications will be reviewed by the Director of Human Resources. An employee wishing to take leave based upon a serious health condition of the employee or the employee's spouse, child or parent, must provide a completed "Certification of Physician or Practitioner" form issued by the health care provider stating:

1. The date on which the serious medical condition began;
2. The probable duration of the condition;
3. The appropriate medical facts within the doctor's knowledge regarding the medical condition;
4. That the employee is needed to care for his or her son, daughter, spouse or parent, and an estimate of the time necessary to provide the care, if applicable;
5. That the employee is unable to work or to safely and substantially perform the essential functions of the employee's position, if the leave is for a serious health condition of the employee;

6. If intermittent leave or a reduced leave schedule is requested for planned medical treatment, the dates on which the treatment is expected to be given and the duration of the treatment;
7. If intermittent leave or a reduced leave schedule is requested due to the employee's serious health condition, that it is medically necessary for the employee to be given that type of leave and the expected duration of the intermittent or reduced leave schedule; and
8. If intermittent leave or a reduced leave schedule is requested to care for a family member, that the leave is necessary for the care of the employee's son, daughter, parent or spouse with a serious health condition or will assist in the family member's recovery, and the expected duration and schedule of the necessary intermittent leave or reduced leave schedule.

A copy of the certification must be provided by the employee in a timely manner, and, if practicable, prior to taking the leave.

C. ARRANGEMENTS

All family and medical leave absences will be arranged through the department head and the Director of Human Resources subsequent to the completion of the "Request for Family and Medical Leave" form.

D. ELIGIBLE EMPLOYEES

To be eligible for leave under the Family and Medical Leave Act of 1993 (FMLA), an employee must be employed by the Commission for at least twelve months at the time the leave is requested (these twelve months need not have been consecutive) and have worked for at least 1,250 hours during the twelve-month period preceding the leave request.

E. BENEFIT CONTINUATION

Group health insurance will continue while an employee is on family or medical leave under the same terms as if the employee continued to work. Any premium contribution for which the employee is responsible must continue to be paid by the employee while on leave. If the employee fails to return to work at the expiration of his or her leave period, the employee will be required to reimburse the Commission for any and all premium payments made on the employee's behalf during the unpaid leave. Such reimbursement will not be required if the employee fails to return due to his or her own continuing serious health condition or circumstances beyond the employee's control.

F. LEAVE DURATION

FMLA leave is based on a total of 12 weeks of leave within a 12 month period. The Commission will calculate leave eligibility based on a "rolling" twelve month period measured backward from the date an employee uses any FMLA leave.

G. LEAVE CONDITIONS:

1. Birth of a Child, Adoption, to Care for Foster Child.

Leaves for such purposes are generally to be taken in the consecutive workweeks and leave must be completed within the twelve-month period following birth of the child or placement of the child with the employee for adoption or foster care. Married employees are entitled to a combined total of twelve (12) weeks, subject to FMLA time previously used.

Employees requesting leave for one of these purposes must provide the Commission with thirty (30) days advance notice of leave, except if the birth or placement requires leave to begin in less than thirty (30) days, employees should provide as much advance notice as practical. Leave pursuant to this policy is available to employees regardless of their gender.

2. Leave to Care for a Child, Spouse, and Parent or for the Employee's Own Serious Health Condition.

When medically necessary, leave may be taken intermittently or on a reduced workweek or reduced workdays.

If an employee requires an intermittent or reduced leave schedule that is foreseeable based on planned medical treatment, the Commission may require the employee to transfer temporarily to an available alternative position, for which the employee is qualified, to better accommodate the recurring periods of leave that the employee will require. Employees transferred in such circumstances will receive equivalent pay and benefits.

Employees requesting leave for these purposes must make a reasonable effort to schedule the treatment, either for themselves or for their child, spouse, or parent, so as not to disrupt the Commission operations. In this regard, the employee should endeavor to secure the cooperation of his or her or the covered family member's health care provider to reasonably schedule the treatment to avoid such disruption.

Employees requesting leave for these purposes must provide thirty (30) days advance notice of leave, or if treatment is required in less than thirty (30) days, as much advance notice as practicable, **of the leave either the same day (if the employee becomes aware of the need for leave during work hours) or the next business day (if the employee becomes aware of the need for leave after work hours). FMLA may be denied or delayed if the employee fails to comply with the Commission's call-in procedure, as outlined in this Employee Manual or the appropriate article sections of the collective bargaining agreement.**

3. Leave for a "Qualifying Exigency".

Eligible employees may be granted up to twelve (12) weeks of leave during the 12 month period for FMLA leave for qualifying exigencies. Arising out of the fact that the employee's spouse, son, daughter or parent is on active duty, or has been

notified of an impending call or order to active duty, in support of a contingency operation. "Qualified Exigency" includes:

- a. short notice deployment (limited to seven calendar days from the date of deployment notification);
- b. military events and related activities such as official ceremonies, programs or events sponsored by the military or family support or assistance programs, and informational briefings sponsored or promoted by the military, military service organizations or the American Red Cross;
- c. child care and school activities such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- d. financial and legal arrangements;
- e. counseling;
- f. rest and recuperation (limited to five days);
- g. post-deployment activities including arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member; and
- h. additional activities agreed to by both employer and employee.

Qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves; it does not extend to family members of military members in the Regular Armed Forces or retired or former military members.

4. Leave to Care for an Injured Servicemember.

Eligible employees are entitled to take up to 26 weeks of leave in a single 12-month period to care for a spouse, child, parent or next of kin who is a covered servicemember. A covered servicemember is a member of the Armed Forces, National Guard or Reserves who has a "serious health illness or injury that occurred while on active duty and that rendered the servicemember unable to perform the duties of his or her office, grade, rank or rating." Serious health illness or injury means the covered servicemember is: (1) undergoing medical treatment, recuperation, or therapy; (2) otherwise an outpatient; or (3) on the temporary disability retired list. Servicemembers on the permanent disability retired list are not covered.

Leave to care for an injured servicemember is for a single 12-month period; the period being measured from the first day the eligible employee takes FMLA leave to care for an injured or recovering servicemember.

"Next of kin" is defined as the nearest blood relative other than the covered servicemember's spouse, parent, son or daughter in the following order: blood relatives who have been granted legal custody of the servicemember by court

decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles and first cousins. A covered servicemember may choose and specifically designate in writing another blood relative as his/her next of kin for purposes of military caregiver leave. When such designation is made, the designated individual will be considered the covered servicemember's only next of kin.

Spouses employed by the Commission are limited to a combined total of 26 weeks in a single 12-month period.

H. CERTIFICATION

1. Certification for Serious Health Condition of Employee or Qualified Family Member.

Employees requesting leave for their own or a covered family member's serious health condition will be required to provide medical certification to substantiate the leave request. Such certification must be provided within fifteen (15) days of the leave request. Failure to provide certification will result in denial of FMLA leave until such time as the certification is received.

The Commission reserves the right to have an employee or covered family member examined by a health care provider of its choice for a second opinion at any time at its discretion. The Commission shall pay for any such examination.

In the event of a conflict between the medical opinion of the employee's or covered family member's health care provider and that of the Commission in the second opinion examination, a third examination may be required by a health care provider mutually agreed upon by the Commission and the employee and paid for by the Commission. The opinion of the third health care provider shall be final and binding on the Commission and the employee.

2. Certification for Military Leave.

a. **For exigency leave, employees are to provide a copy of the covered military member's active duty orders or other documentation issued by the military that indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service. Certification supporting leave for qualifying exigency includes:**

- **appropriate facts supporting the need for leave, including any available written documentation supporting the request;**
- **the date on which the qualifying exigency commenced or will commence and the end date;**
- **where leave will be needed on an intermittent basis, the frequency and duration of the qualifying exigency; and**
- **appropriate contact information if the exigency involves meeting with a third party.**

Employees are to use the DOL Form WH-384 Certification Form for Exigency Leave.

- b. **For military caregiver leave, employees must complete DOL Form WH-385. A private health care provider can complete certifications for military caregiver leave if the health care provider is either a DOD TRICARE network authorized private health care provider or a DOD non-network TRICARE authorized private health care provider. Department of Defense health care providers and Veteran Affairs health care providers can also complete a certification for military caregiver leave.**

In the event that a family member is requested or required to fly outside the country to attend to the covered servicemember's catastrophic injury, the Commission will accept submission of the "invitational travel order" (ITO) or "invitational travel authorization" (ITA), in lieu of the DOL certification form as sufficient certification of a request for military caregiver leave during the time period specified in the ITO or ITA.

3. **When a Medical Certification is incomplete or insufficient, the employee will be given seven (7) calendar days to complete and return the form. Human Resources maintains the right to directly contact an employee's healthcare provider to authenticate and clarify information provided on a Medical Certification form. When this occurs, the employee will be requested to complete a HIPAA authorization form. If an employee refuses to provide Human Resources with HIPAA authorization and fails to clarify a certification, the Commission may deny FMLA leave.**
4. **The Commission may request recertification at any time if (1) the employee requests an extension, (2) circumstances described by the previous certification have significantly changed, or (3) the Commission receives information that casts doubt on the certification. The Commission also maintains the right to give the healthcare provider a record of the employee's absence pattern and ask the health care provider if the condition and need for leave are consistent with the pattern of absence.**

I. USE OF ACCRUED LEAVE TIME

Employees will be required to use available sick leave, in the event of a leave for the birth of the employee's child, or for the employee's or covered family member's serious health condition. Employees will be required to use available personal leave first for the placement of a child for adoption or foster care and may use available sick leave subsequent to utilizing the personal leave.

Any accrued unused sick leave must be used in the event of a leave for the employee or covered family member's serious health condition. **Non-bargaining unit employees must also exhaust any available vacation leave if they have exhausted paid sick leave and/or personal time. Pursuant to the collective bargaining agreement, Bargaining unit employees are not required to exhaust available vacation time; however, "H" days will be exhausted before being approved for leave without pay.**

For leave for the employee's own serious health condition, employees may also be eligible to receive other benefits such as short-term disability or workers' compensation, in accordance with Ohio state law and the terms of any applicable benefit plan.

J. REINSTATEMENT AFTER LEAVE

Eligible employees taking leave under this policy will be reinstated to their former position, or to an equivalent position with equivalent benefits and other terms and conditions of employment. However, no employee is entitled under this policy to any right, benefit or position other than that to which the employee would otherwise have been entitled had he or she not taken leave. Thus, for example, if a reduction-in-force or some other business condition arises which affects the employee's position, reinstatement may not be possible.

Key employees are those individuals within the highest paid 10% of the Commission employees. Key employees may not be entitled to reinstatement upon expiration of family and medical leave in certain circumstances. The Commission will notify an employee whether he or she is considered to be a key employee under this provision.

A key employee may forego the requested leave or immediately return from a leave already commenced once advised that he or she would not be entitled to reinstatement. A decision regarding reinstatement must be approved by the Executive Director.

K. RETURN TO WORK EXAMINATION

Before being permitted to return to work from a medical leave due to the employee's own serious health condition, the employee may be required to provide certification from his or her health care provider that the employee is able to return to work and perform all functions of the job.

L. PERIODIC NOTIFICATION and RECERTIFICATION DURING LEAVE

Employees will be required while on family or medical leave to contact their supervisor every (30) thirty days (or as otherwise required) to report on their status and intentions to return to work at the end of their leave period as well as providing Recertification paperwork during the timeframe requested for recertifying the leave.

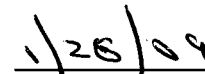
M. FALSIFICATION OF RECORDS

Employees who falsify any FMLA leave request form, certification or related information are subject to disciplinary action, up to and including termination. The Ohio Turnpike Commission reserves the right to take disciplinary action against any employee based upon information that the employee misused or requested FMLA leave for a reason other than the reason stated in the request for FMLA leave.

Approved:



L. George Distel, Executive Director



Date