



## **Your Rights and Obligations under the Federal Family and Medical Leave Act of 1993 (FMLA) and City and Borough of Juneau Administrative Policy 13-01, Family/Medical Leave DRAFT**

It is the policy of the City and Borough of Juneau to provide family and medical leave to eligible employees in accordance with the federal Family and Medical Leave Act of 1993 (FMLA), the Alaska Family and Medical Leave Act (AS 39.20.500–39.20.550), the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181, and City and Borough of Juneau Administrative Policy 13-01, Family/Medical Leave. This notice is an overview of your rights and obligations under these provisions. If you are eligible, and the leave you have requested pursuant to Administrative Policy 03-01R qualifies as Family/Medical Leave, you will receive up to 12 weeks of leave in a 12-month period for a military qualifying exigency, 18 weeks of leave in a 12-month period for qualified medical leave, or up to 26 weeks of leave in a single 12-month period to care for the service member.

Employees do not need to use leave in one block. When it is medically necessary employees may take leave intermittently or on a reduced schedule.

### **Reasons for Leave**

Family/Medical Leave provides up to 18 workweeks for the following reasons:

- An employee's own serious health condition;
- Care of a newborn child, newly adopted child, or care of a child newly placed in foster care;
- The care of a spouse, domestic partner, child, or parent with a serious health condition.

Family/Medical Leave provides up to 12 workweeks for the following reasons:

- Any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent of an eligible employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation.

Family/Medical Leave provides up to 26 workweeks for the following reasons:

- Care of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty if the eligible employee is the spouse, son, daughter, parent, or next of kin.

### **Eligibility Requirements**

An employee must meet one of the eligibility criteria below to be eligible for FMLA leave. In addition to being eligible an employee must have a serious medical condition as defined by the FMLA to qualify.

- Be employed by the CBJ and have been regularly scheduled to work at least 35 hours per week for at least six consecutive months
- Be employed by the CBJ and have been regularly scheduled to work at least 17.5 hours per week for at least 12 months immediately preceding the leave
- Worked for the CBJ for a total of 12 months and includes having worked 1250 hours in the 12 months immediately preceding the need to take leave. The 12 months of work need not be a continuous period of employment. Hours must be the actual hours worked.

**Serious Health Condition** - Employees do not have to share a medical diagnosis, but must provide enough information to the CBJ so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary.

The Certification of Health Care Provider form is required to make this determination. In most cases final authorization will not be granted until receipt of this medical form from the employee's doctor is received. Employers can require a certification or periodic recertification supporting the need for leave. If the

employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

### **Advance Notice**

An employee must give 30 days' advance notice of the need for FMLA leave if the condition is foreseeable. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and reasonable given the circumstances of the situation. This advance notice can be verbal or written.

### **Pay**

Employees requesting family/medical leave are required to exhaust their accrued paid leave (personal or banked medical) before utilizing leave without pay. However, an employee may choose to keep a maximum of the number of hours equal to a normal workweek (e.g., 37.5, 40, 56) for your use upon return to work. When accrued paid leave is exhausted, leave without pay will be authorized for the remainder of the family/medical leave entitlement period.

### **Donations of Leave**

If an employee has exhausted all accrued leave and waived the right to keep one work weeks' worth of leave, the employee may request donated leave from other CBJ employees to help offset costs associated with leave without pay or employee health co-pay premiums.

### **Health Benefits**

Coverage under your group health plan will be maintained during any leave covered by Family/Medical Leave (up to 18 work weeks or 26 work weeks for Military Caregiver Leave) to the extent coverage would be maintained if you had been actively at work during the leave period. You are responsible for timely payment of the employee portion of any premiums that are not fully covered by the City's contribution.

If you do not return to work at the conclusion of your family/medical leave, you will be liable for payment of the health plan premiums paid by the City during any unpaid portion of your leave. The City may recover its share of health plan premiums by taking deductions, to the extent permitted by law, from your unpaid wages, if any, or other pay due you, or by initiating legal action. However, you will not be liable for the premiums if your failure to return to work is due to continuation of your own serious health condition or other reasons beyond your control. You will be considered to have returned to work if you work for at least 30 calendar days commencing with your scheduled return date.

Administrative Policy 05-02, Delegation of Manager's Authorization to Decide Employee Benefit Issues and Appeals, provides the process for an employee to appeal to the City to be released from the reimbursement obligation while on family/medical leave.

### **City Designated Family/Medical Leave**

Even when an employee does not specifically request family/medical leave, the City may designate time away from work as family/medical leave if the leave meets the requirements outlined in the City's policy, as well as federal and/or state law. An example of this may be Workers' Compensation.

### **Family/Medical Leave Coordination**

Leave granted under the Family/Medical Leave Act runs concurrently with Workers' Compensation and other leaves as appropriate and sanctioned by law.

### **Returning to Work**

Under the federal Family and Medical Leave Act (FMLA) you must be reinstated to the same position you had prior to taking the leave, or to an equivalent position, provided that you return to work immediately following the conclusion of the family/medical leave. If your position is unavailable (for example, due to a layoff), you have no greater right to reinstatement than had you been continually employed during the family/medical leave period. If you are in a position that ends prior to your return to work you are not eligible for reinstatement.

You must return to work and work for at least 30 days before your obligation to reimburse the CBJ for the employer's portion of health care and life insurance premiums is eliminated. You will not be liable for that repayment if your failure to return to work results from:

1. The continuous, recurrence, or onset of a serious health condition of the employee and/or immediate family member; or
2. Circumstances beyond the control of the employee.

The City may require periodic notice of your intent to return to work following family/medical leave. Please notify your manager at least 5 days prior to the conclusion of your leave. You must return to work on the date of release provided by your health care provider. In addition, if the family/medical leave you have requested is for your own serious health condition, you may be required to present medical certification upon your return stating that you are able to return to work and perform the functions of your job.

The City's responsibility to continue your health plan coverage ends when your total time off for the Family/Medical Leave reaches the eligibility cut-off or upon notice that you do not intend to return to work at the end of the approved leave, even though you are able to work at that time. You may be eligible to continue your health care coverage through COBRA.

#### **For Additional Information**

For more information about family care and medical leave and related leaves, please call the Human Resources/Risk Management Division at 586-5250.

#### **Protections**

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by FMLA, or being involved in any proceeding under or related to the FMLA.

