

SANILAC COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE POLICY

NUMBER: BA105

NAME: FAMILY MEDICAL LEAVE ACT (FMLA)

INITIAL APPROVAL DATE:	12/02/2020	BY: Administrative Committee
(LAST) REVISION DATE:	07/26/2023	BY: HR Manager
(LAST) REVIEW DATE:	08/15/2024	BY: Policy Committee
DISCONTINUED DATE:	N/A	REPLACE BY: N/A

I. PURPOSE

To inform Employees of their requirements and rights under FMLA and the potential for a Leave of Absence with the Agency.

II. APPLICATION

Populations: **NA**

Programs: **Direct - ALL**
Contracted - ALL

III. FAMILY MEDICAL LEAVE (FMLA)

The Family Medical Leave Act allows for a leave of absence from work for the following circumstances: the birth of a child and in order to care for such child; in the event of an adoption of a child or to care for a foster child; to care for a child, spouse, or parent who has a serious health condition; because of the Employee's own serious health condition that renders the Employee unable to perform the essential functions of his or her position; because of a family member receiving an impending call or order to active military duty OR who is already on active duty, and/or to care for an injured or ill service member.

A serious health condition is defined as a period of incapacity of more than three (3) consecutive, full calendar days and any subsequent treatment or a period of incapacity related to the same condition. Employees will need to contact HR in the event an FMLA event has been triggered. FMLA will be extended and certifying documents will then be distributed. The following link outlines further details on FMLA eligibility: [https://www.dol.gov/agencies/whd/opinion-letters/fmla/fmla-87#:~:text=Section%20101\(11\)%20of%20FMLA,by%20a%20health%20care%20provider.%E2%80%9D](https://www.dol.gov/agencies/whd/opinion-letters/fmla/fmla-87#:~:text=Section%20101(11)%20of%20FMLA,by%20a%20health%20care%20provider.%E2%80%9D)

A. PROCESS

Employees are required to complete certifying FMLA documents for a leave of absence under qualifying circumstances if they will be off for ten (10) days or more, regardless of available leave time. The time off for the condition is not required to be consecutive days off, rather time off for the same condition. Employees requesting leave must notify the Human Resources Department and complete FMLA forms within fifteen (15) days of issuance. If an Employee is having difficulty completing paperwork, they must communicate with Human Resources and request an extension. In the event of an emergency leave, the Employee must notify the Supervisor and the Supervisor will have the responsibility to notify the Human Resources Department. Staff are required to keep their Supervisor informed of all time taken under FMLA, including intermittent days off needed and emergency leaves. All forms must be completed with appropriate supporting documentation. Leaves of absence should be requested thirty (30) days in advance when applicable.

B. ELIGIBLE EMPLOYEES

To be eligible for a leave under the Family Medical Leave Policy, an Employee must be employed by Sanilac CMH for at least twelve (12) months at the time the leave is requested to commence (these 12 months need not have been consecutive); and have completed at least 1,250 hours of service during the twelve (12)-month period preceding the leave request (rolling calendar). Any amount of leave taken in the twelve (12) months prior to the leave request will be considered FMLA time already taken and deducted from the twelve (12) weeks of FMLA time available.

C. LEAVE DURATION AND CONDITIONS

Leave may be taken for up to twelve (12) workweeks during any twelve (12)-month period for birth, adoptions, or serious health conditions (self or family member). Where two spouses are both employed by the Employer, their aggregate leave will be limited to twelve (12) workweeks during any 12-month period, except in the case of their own serious health condition, or to care for their spouse or child, in which case both spouses will be eligible for the full twelve (12) weeks of leave during the twelve (12)-month period.

Individuals applying for leave due to a Service Member will be allowed to take up to twelve (12) weeks of leave for reasons related to or affected by the family member's call up or service. This leave may be extended for up to twenty-six (26) weeks of unpaid leave for the above circumstances in a twelve (12)-month period for an Employee whose spouse, son, daughter, parent or next of kin is injured or recovering from an injury suffered while on active military duty and who is unable to perform the duties of the service member's office, grade, rank, or rating. Where two spouses are both employed by the Employer, their aggregate leave will be limited to twenty-six (26) workweeks during any twelve (12)-month period.

Employees may take leave for these purposes on a consecutive basis, intermittently, or may request to be placed on a reduced workweek or reduced workdays. Employees must note on their time sheet the hours that are used as Family Medical Leave Time by coding the timesheet with "FMLA" codes and using available paid time off (they may elect to save three (3) paid time off days). Note, the FMLA/leave of absence codes will skew the hours on an employee's timesheet, this is an unpaid code that tracks hours towards the leave of absence only.

If an employee requests intermittent or reduced schedule leave, the Employer 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 pay and benefits equivalent to that of their regular position.

Employees requesting leaves 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 unduly the Employer's operations (i.e., after hour appointments, breaktimes, or before hours). The Employee should endeavor to secure the approval of his or her own or covered family member's health care provider to reasonably schedule the treatment to avoid such disruption.

Employees requesting leave for their own or a covered family member's serious health condition will be required to provide medical certification to substantiate their leave request. Such certification must be provided to the Employer thirty (30) days in advance of the leave request, or as far in advance of the leave as practicable. Certifications need to be recertified by the physician every thirty (30) days or as listed by the physician on the original certification. Certification provided by the Employee must consist of the following:

1. Date on which the serious health condition commenced.
2. Probable duration of the condition.

3. Appropriate medical facts within the knowledge of the health care provider regarding the condition.
4. Where the leave is required because of the serious health condition of a son, daughter, parent or spouse, a statement that the eligible Employee is needed to care for the covered individual and the amount of time necessary for such care.
5. Where the leave is necessitated by the Employee's own serious health condition, a statement that the Employee is unable to perform the essential functions of his or her position.

Employees requesting leave must provide the Employer with thirty (30) days' advance notice. Leaves necessitated by emergency circumstances must be requested as far in advance of the requested leave commencement date as practicable. Leaves necessitated by an illness or injury must be requested as soon as practicable after an illness develops or injury occurs.

Medical (including pregnancy) leaves must be supported by medical certification acceptable to the Employer. The Employer retains the right to ask for a second opinion. The Employer also retains the right to ask for clarification regarding certifications that have been submitted. Clarification may be requested through the Employee or directly from the health care physician.

Employees requesting leave under the service member FMLA must provide proof of the qualifying family member's call up or active military service. A copy of the military orders or other official military communication will serve as certification. To care for an injured service member, a copy of the injury, recovery or need for care information must be provided. This may include medical information, orders for treatment, or official military communications regarding the injury/illness.

While an Employee is on FMLA leave, Sanilac CMH will continue the health benefits at the current levels during the leave period. Once FMLA has been exhausted, the ACA Policy (BA154) will be used to determine further benefit eligibility. For any benefits that are paid (in part or fully) by the Employee, payroll deductions will continue until all paid time has been exhausted. When paid time is exhausted, Employees will be responsible for making payment arrangements for optional benefits at the beginning of the month. When an Employee terminates employment instead of returning from leave, any benefits that were paid by the Employer, during the duration of the leave, may be billed to the Employee at the Employer's discretion.

D. USE OF ACCRUED LEAVE TIME

Employees will be required to exhaust all accrued paid time off, less three (3) paid time off days (if elected) while on leave of absence. The total weeks of paid and unpaid FMLA time will not exceed twelve (12) weeks.

Time during which an Employee is receiving worker's compensation, short term disability or long-term disability benefits may also be charged against an Employee's FMLA twelve (12)-workweek entitlement.

Employees may request a sick/PTO bank donation while on a leave of absence, see procedure DA1091, Sick/PTO donations.

E. NOTIFICATIONS DURING LEAVE AND REINSTATEMENT AFTER LEAVE

Employees will be required at least once every thirty (30) days while on leave to contact their Supervisor and Human Resources to report on their status and intentions with respect to returning to work at the end of their leave period/upon expiration of the certification.

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 have been entitled had him or her not taken leave. Thus, for example, if a layoff or some other extenuating circumstance or business condition arises that affects the Employee's position, reinstatement may not be possible.

Employees are required to provide the Employer with medical certification, evidencing their ability to return to work and perform the essential functions of their positions, with or without reasonable accommodations. An Employee is eligible to return to work once a physician clears them to return to work. They are not permitted to return before medical clearance is received. Any restrictions and accommodations must be cleared by Human Resources prior to the Employee's return to work. Restrictions/Accommodations must be clear and specific and addressed in the fitness for duty details. Further clarification may be requested if details are not included, and this may delay a return to work. At no time shall a staff be permitted to return to work with a 5-pound or less lifting restriction. Access will be shut down to all Agency systems and buildings while an employee is on an extended full-time leave of absence.

If an Employee does not return from leave or notify Sanilac CMH of extending their leave, this will be considered a voluntary resignation. Failure to return to work after a leave of absence may result in full benefits reimbursements being owed to the Agency, retro to the last day worked. If an Employee is unable to return to work after his or her FMLA time expires or after a non-FMLA leave expires, the Employee may file a request for a leave extension in the same manner as he or she filed the initial leave request. For medical-leave extension requests, Employees must submit additional medical certification to support the leave extension request.

When an employee is off work on a medical leave of absence for 90 days or more, they are encouraged to apply for long term disability benefits as soon as they become aware of the need for extended time off. Information can be found with HR or on the internal webpage.

An Employee may consider requesting ADA accommodation while requesting a leave or in lieu of a leave request. Review policy BA107 (ADA Policy) for further information.

F. GENERAL LEAVES OF ABSENCE FOR FMLA INELIGIBLE EMPLOYEES

Employees who are not eligible for FMLA leave may apply for a general leave of absence for medical disabilities (including work-related injuries or illnesses, pregnancy, disability, etc.) or for personal reasons. Other leaves, including educational leaves of absence, may be requested under the Union contract. Employees must note on their time sheet the hours that are taken under a non-FMLA leave of absence by coding the timesheet with "LOA" codes and using available paid time off. Note, the LOA code will skew the hours on an employee's timesheet; this is an unpaid code that tracks hours towards the leave of absence only.

G. EMPLOYMENT WHILE ON LEAVE

Employment while on an authorized leave of absence is prohibited unless required as part of a remedial therapy program under Employer medical direction.

IV. ATTACHMENTS

V. REFERENCES

ACA Policy – BA154

Sick /PTO Donations Procedure- DA1091