

SUBJECT: FAMILY LEAVE

EFFECTIVE  
DATE: 03-23-98

APPROVED BY:

Area MH/MR/SA Director

Reviewed (no changes): 10-15-98 11-06-00  
09-08-09 05-26-10 03-31-11

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POLICY

It is the policy of McIntosh Trail MH/MR/SA CSB Services to grant Family Leave to all eligible employees provided the conditions set forth in this policy are met.

I. ELIGIBILITY

- A. Classified and unclassified employees who have worked at Least 1,250 hours during the 12 months immediately preceding the commencement of family leave and have been employed 12 consecutive months by the same appointing authority, are entitled to a maximum of 12 work weeks of family leave during a 12 month period.
- B. Employees on temporary appointments and employees on contingent leave of absence are not entitled to family leave.

II. DEFINITIONS

- A. ELIGIBLE EMPLOYEE means an individual who has been employed for a minimum of 12 months by the appointing authority and whose employment totaled at least 1,250 hours during the 12 months immediately preceding the commencement of family leave.
- B. QUALIFYING FAMILY MEMBER means an employee's spouse, child, parent, or spouse's parent.
- C. CHILD means a biological child, adopted child, stepchild, or legal ward of an eligible employee or child of an eligible employee standing in loco parentis (i.e. standing in the place of a parent and charged with a parent's rights, duties and responsibilities:
  - 1. Under 18 years of age; or
  - 2. Eighteen years of age or older and incapable of self-care because of mental or physical disability.
- D. PARENT means the biological or legal parent, stepparent or guardian of a child; or an individual who stood in loco parentis to an eligible employee when such employee was a child. PARENT also means the biological or legal parent or stepparent of an employee or an employee's spouse.

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Definitions (continued)

- E. FAMILY LEAVE means leave taken by an eligible employee in accordance with the provisions of this policy. Such leave shall not be for a period greater than 12 work weeks in any 12 month period.
- F. HEALTH CARE PROVIDER means a doctor of medicine, doctor of chiropractic, doctor of osteopathy, podiatrist, dentist, clinical psychologist, optometrist, nurse practitioner or nurse midwife, legally authorized to practice under state law. The term shall also include a Christian Science practitioner listed with the First Church of Christian Scientist in Boston, Massachusetts.
- G. SERIOUS HEALTH CONDITION means an illness, injury, impairment, or physical or mental condition which involves:
  - 1. Inpatient care in a hospital, hospice, or residential health care facility;
  - 2. A period of incapacity requiring absence from work of more than three calendar days that also involves continuing treatment by a health care provider; or
  - 3. Continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days or for prenatal care.
- H. WORK DAYS for purposes of appeals and responses shall be determined by the schedule of the individual to whom a specified time limit applies.
- I. TWELVE WORK WEEKS means a total of 480 work hours for eligible full-time employees. Appropriate pro rata adjustment shall be made for eligible part-time employees.
- J. TWELVE MONTH PERIOD means a period of 365 consecutive calendar days beginning on the date an employee first becomes eligible for family leave.
- K. INTERMITTENT LEAVE means family leave taken in separate blocks of time due to a single illness or injury, rather than one continuous period of time.

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Definitions (continued)

- L. REDUCED LEAVE SCHEDULE means family leave that reduces the usual number of hours per week or hours per work day of an employee.
- M. APPOINTING AUTHORITY means all organizational units under the authority of the Community Service Board.
- N. APPROVING MANAGER means the appropriate Associate Director authorized to make decisions by the Area Director.

III. GENERAL PROVISIONS

- A. Family leave is an entitlement and cannot be denied as long as the provisions of this policy are met.
- B. The approving manager shall not interfere with, restrain, or deny the exercise of or attempt to exercise any right provided in this policy.
- C. Each location shall post and keep posted, where notices to employees are customarily displayed, a notice summarizing the entitlement to family leave and information pertaining to the filing of appeals. (See Attachment No.1)
- D. Family leave may be used for:
  - 1. The birth of a child of the employee;
  - 2. The placement of a child with the employee for adoption or foster care;
  - 3. Care of the employee's child, spouse, parent, or spouse's parent who has a serious health condition;
  - 4. A serious health condition which makes the employee unable to perform the essential functions of the employee's position.
- E. Utilization of family leave for any combination of circumstances identified in "D" is limited to a total of 12 work weeks in any twelve month period.
- F. Family leave shall be without pay unless the employee obtains approval from the approving manager to utilize accrued leave as authorized by Policy 310-9 and/or compensatory time for any portion of the 12 week period.

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General Provisions (Continued)

- G. If any other form of paid or unpaid leave is granted in conjunction with family leave, the paid or unpaid leave will be included in the 12 work week maximum period available for family leave.
  - H. Any combination of unpaid family leave, regular leave without pay, for the same qualifying condition, may not exceed 12 continuous months. Extensions for leave without pay may be requested in accordance with the provisions of Area Policy 310-20.
  - I. An employee on family leave without pay will have health care benefits (including flex) continued as if the employee was continuously employed. The employee must complete the State Health Benefit Plan Request to continue Health Benefits during Leave of Absence Without Pay from (MS66-003) and if appropriate the Disability Certification form (MS66-005). Employees on family leave (without pay) must pay State Health Benefit Plan and Flexible Benefits directly.
  - J. If an employee requests family leave on an intermittent or reduced leave schedule that is foreseeable based on planned medical treatment, the manager may require the employee to transfer temporarily to an available equivalent position that better accommodates recurring periods of absence.
- IV. CHILD BIRTH OR ADOPTION
- A. Entitlement to family leave for the birth, adoption or foster care of a child begins:
    - 1. The date the child is born;
    - 2. The date the employee's presence is necessary for the placement process to begin in cases of adoption or foster care; and
    - 3. Must be completed within 12 months of the date of birth or placement.
  - B. Family leave for child birth, adoption, or foster care may be taken intermittently or on a reduced leave schedule upon agreement between employee and the approving manager. The manager may require the employee to transfer temporarily to an available equivalent position that better accommodates recurring periods of absence.

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Child Birth or Adoption (continued)

- C. If both parents are eligible employees and are employed by the same appointing authority, the aggregate number of work weeks of family leave for child birth, adoption, or foster care to which both may be entitled may be limited to 12 work weeks during any 12 month period.
  - D. If family leave for child birth, adoption, or foster care is foreseeable, the eligible employee must provide written application and certification within a reasonable period of time prior to the desired effective date. (See Attachment No. 2.)
- V. SERIOUS HEALTH CONDITION - FAMILY
- A. Entitlement to family leave for a serious health condition of a qualifying family member begins on the date the employee's presence is necessary to care for the qualifying family member.
  - B. When requesting family leave for the serious health condition of a qualifying family member, certification of the serious health condition is required, as provided in Section VII of this policy.
  - C. The approving manager reserves the right to request documentation from the employee proving the relationship between employee and family member.
  - D. Family leave for a serious health condition of a qualifying family member may be taken on an intermittent or reduced leave schedule when medically necessary. If family leave is foreseeable based on planned medical treatment, the manager may require the employee to transfer temporarily to an available equivalent position that better accommodates recurring periods of absence.
  - E. If both husband and wife are employed by the same appointing authority, the aggregate number of work weeks of family leave to care for a sick parent or spouse's parent to which both may be entitled may be limited to 12 work weeks during any 12 month period.

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Serious Health Condition - Family (continued)

- F. If family leave is foreseeable based on planned medical treatment or supervision, the employee must:
  - 1. Make a reasonable effort, subject to the approval of the appropriate health care provider, to schedule the treatment or supervision so as not to unduly disrupt the operations of the work unit; and,
  - 2. Provide written application and certification a reasonable period of time prior to the desired effective date.

VI. SERIOUS HEALTH CONDITION - EMPLOYEE

- A. Entitlement to family leave for a serious health condition begins on the date the employee becomes unable to perform the essential functions of the employee's position.
- B. Certification of the serious health condition is required as provided in Section VII of this policy.
- C. Family leave for a serious health condition of the employee may be taken on an intermittent or reduced leave schedule when medically necessary. If family leave is foreseeable based on planned medical treatment, the manager may require the employee to transfer temporarily to an equivalent position that better accommodates recurring periods of absence.
- D. If family leave is foreseeable based on planned medical treatment or supervision, the employee must:
  - 1. Make a reasonable effort, subject to the approval of the appropriate health care provider, to schedule the treatment or supervision so as not to unduly disrupt the operations of the work unit; and,
  - 2. Provide written application and certification a reasonable period of time prior to the desired effective date.

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VII. CERTIFICATION OF SERIOUS HEALTH CONDITION

- A. When requesting family leave for the serious health condition of a qualifying family member or the employee, certification of the serious health condition from the appropriate health care provider is required using the Certification of Health Care Provider Form. (See Attachment No. 3.)
- B. The certification must include:
  - 1. The date the serious health condition began;
  - 2. The probable duration of the condition;
  - 3. The appropriate medical facts within the health care provider's knowledge; and,
  - 4. The estimated amount of time the employee is needed to care for the qualifying family member or a statement of the extent to which the employee is unable to perform the essential functions of the employee's position.
- C. The approving manager may require that the employee obtain subsequent recertification on a reasonable basis, but usually not more frequently than every thirty days.
- D. Medical information gathered as a result of the serious health condition or other related medical information will be kept in a file separate from the employee's personnel file in accordance with provisions of the Americans with Disabilities Act.

PROCEDURE

I. PROCESS FOR FILING APPLICATION

- A. Application for family leave must be in writing and in accordance with this policy, using the Family Leave Request Form. (See Attachment No. 4.)
- B. Applications should be sent to the Area Personnel Office for verification of eligibility and to ensure appropriate forms have been completed. The Personnel Manager will forward to the appropriate Associate Director.
- C. The approving manager must approve or deny the request within three work days following the receipt of an application for family leave. An alternate approving manager should always be available to expedite the decision if the appropriate disability coordinator is absent.

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PROCEDURE (continued)

- D. Approval of family leave must be in writing and must specify the terms and conditions of the family leave and the employee's rights to return to duty. (See Attachment No.5.)
- E. Denial of family leave must be in writing and must specify the reason(s) for denial. (See Attachment No.6.)
- F. The approving manager shall submit the approval or denial letter to the Personnel Manager by 5:00 on the second work day for review. The Personnel Manager will then forward to the employee.
- G. It is presumed that the employee will use paid leave or compensatory time as appropriate unless family leave without pay is requested and approved by the manager.
- H. When the approving manager is aware that any type of requested leave qualifies as family leave, the approving manager will designate such leave as family leave and will advise the employee of the terms and conditions and employee's right to return to duty.
- I. An absence which is not originally designated as family leave, but later is learned to qualify as family leave, will be retroactively designated as family leave and notice provided to the employee. However, the designation must take place before the leave has ended.
- J. As a condition to return to duty, the employee will be required to provide certification from their health care provider that the employee is able to resume work.
- K. Upon expiration of a period of family leave, the employee must be returned to the former position or to a position of equal grade and pay without loss of any rights, provided the employee has complied with the terms of the leave.
- L. Upon return to duty status, an employee who has been absent due to family leave shall be treated the same as an employee who returns from regular leave without pay or any form of leave with pay.

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II. APPEAL PROCESS WITHIN MCINTOSH TRAIL MH/MR/SA

- A. An employee whose application for family leave has been denied in whole or in part or who does not receive a timely response has the right to appeal through this process only.
- B. The appeal must be filed with the Area Director, McIntosh Trail MH/MR/SA CSB, 1501-A Kalamazoo Drive, Griffin, Georgia 30223, or P.O. Box 1320, Griffin, Georgia 30224, phone 770-229-3069, by using one of the following options:
  1. Hand deliver.
  2. Fax to 770-229-3223.
  3. Express mail.
  4. Other expedited methods.
- C. The appeal, including the request for leave and all supporting documentation, must be filed within three work days of receipt of the initial decision or the expiration of the approving manager's response period.
- D. The Area Director will review the information provided in the appeal jointly with the Personnel Manager.
- E. If the Area Director has reason to believe the medical certification is inconclusive or otherwise not supportive of the requested leave, the employee may be required to obtain a second opinion of a health care provider approved by the Area Director. The second opinion will be obtained at the expense of McIntosh Trail MH/MR/SA CSB, but may not be obtained from a health care provider employed by the same appointing authority.
- F. If the second opinion differs from the original certification, the Area Director may require that the employee obtain a third opinion of a health care provider designated or approved jointly by the Area Director and the employee. The third opinion will be at the expense of McIntosh Trail and may be obtained from a health care provider employed by the same appointing authority.
- G. The opinion of the third health care provider is final and shall be binding on the approving manager and the employee.

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APPEAL PROCESS WITHIN MCINTOSH TRAIL MH/MR/SA (continued)

- H. Second and third opinions may only be required if the initial request for family leave is denied and appealed according to this section.
- I. The Area Director will, within three work days, issue a final determination which includes:
  - 1. The final decision either approving or denying family leave and the reasons therefore;
  - 2. For unclassified employees who are denied family leave, a statement that this is the final step in the appeal process;
  - 3. For classified employees who are denied family leave, a statement advising of the right to appeal to the Merit System Commissioner and that failure to appeal within three work days will result in forfeiture of any further right of appeal. (See Attachment #7.)

III. APPEAL TO THE STATE MERIT SYSTEM

- A. A classified employee whose application for family leave has been denied in whole or in part by the Area Director or who does not receive a timely response has the right to appeal to appeal to the Merit System Commissioner. The appeal must be requested within three work days of the receipt of final determination. The employee must request the Area Director to immediately transmit the complete family leave record to the Commissioner.
- B. The Merit System Commissioner will review the written record and issue a determination within three work days of receipt. The decision of the Commissioner is final and binding on McIntosh Trail and the employee and is not appealable to the State Personnel Board under any other provisions of the Rules of the State Personnel Board.

IV. TIME EXTENSIONS

- A. The time limits specified in III and IV above may be extended if the Area Director or the Merit System Commissioner deem the acquisition of additional supporting documentation to be necessary.

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V. REPORTING PROVISIONS

A. McIntosh Trail MH/MR/SA CSB must report to the State Personnel Board on the impact of family leave on our agency and employees. The annual report will include, but not be limited to, the following:

1. The total number of employees who have taken leave according to the family leave policy;
2. The average length of family leave taken;
3. The reasons for family leave taken;
4. The compensation level of the employees who have taken family leave;
5. The number of employees who were denied restoration of family leave, and,
6. The number and result (yes, no or modified) of appeals filed with the Area Director.

VI. United States Department of Labor Requirements

A. Records must be kept for no less than three (3) years and made available upon request by the U.S. Department of Labor. The records include:

1. Employment records in accordance with the Fair Labor Standards Act.
2. The dates and hours of family leave taken.
3. Employee and employer correspondence regarding family leave.
4. Any documents describing employee benefits or department policies and practices regarding the taking of paid and unpaid leave.
5. Premium payments of employee benefits.
6. Records of any dispute regarding designation of leave as family leave.

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United States Department of Labor Requirements (continued)

- B. Employees who believe that their rights under the Family and Medical Leave Act of 1993 have been violated may:
1. File a complaint with the U.S. Department of Labor,  
or
  2. File a private law suit.

Attachments:

1. Notice of Availability of Family Leave
2. Documentation of Child Birth or Adoption
3. Health Care Provider Certification of Serious Health Condition for Family Leave Utilization
4. Family Leave Request Form
5. Family Leave Approval Letter
6. Family Leave Denial Letter
7. Family Leave Response to Appeal (Merit System)