

City of New London Family Medical Leave Act Policy		
Issue Date: Nov 20, 2008	Revision Update(s): October 8, 2014	Total Pages: 5
Policy Source: Cities and Villages Mutual Insurance Company Federal and Wisconsin Family and Medical Leave Act		
Special Instructions: Revise as law changes or court interpretations warrant.		

I. PURPOSE

This policy outlines the provisions of the federal and Wisconsin Family and Medical Leave Acts and the rights and obligations of employees and employers under both laws.

II. POLICY

The Family and Medical Leave Act provides eligible employees with up to 12 work weeks of unpaid protected leave each calendar year for specified family and medical reasons. The eligibility and entitlements are defined differently under federal and state law.

A. ELIGIBILITY

Employees are entitled to FMLA benefits if they:

- **Federal** - Have been employed by the City of New London for at least 12 months (not necessarily consecutive); and have worked at least 1,250 hours during the 12 months prior to the start of the FMLA leave.
 - Time spent on paid or unpaid leave does not count in determining the 1,250 hour eligibility
- **State** – Have been employed by the City of New London for at least 52 consecutive weeks and have worked for at least 1,000 hours during the 52 weeks prior to the start of the FMLA leave.

QUALIFYING EVENT & AMOUNT OF LEAVE

Eligible employees may take unpaid FMLA leave in a calendar year for the following qualifying events:

1. The birth or placement of a child for adoption or, under the federal FMLA, for foster care;
 - State: 6 unpaid work weeks may commence prior to, on or after the birth or adoption. The 6 weeks of leave must commence within 16 weeks before or after the adoption.
 - Federal: 12 unpaid work weeks may commence prior to, on or after the birth of adoption. The 12 weeks of leave must conclude no later than 12 months after the birth or placement of adoption.
2. To care for the employee's spouse, child, or parent (includes a parent-in-law and domestic partner under the Wisconsin FMLA only) with a serious health condition;

- State: provides eligible employees up to 2 work weeks of unpaid leave
 - Federal: provides eligible employees up to 12 work weeks of unpaid leave
3. For the employee's own serious health condition that meets the definition under state and federal law.
 - State: provides eligible employees up to 2 work weeks of unpaid leave
 - Federal: provides eligible employees up to 12 work weeks of unpaid leave
 4. The FMLA also provides certain military family leave entitlements. You may take FMLA leave for specified reasons related to certain military deployments. Additionally, an employee may take up to 26 weeks of leave in a single 12-month period to care for a covered servicemember with a serious injury of illness.

Leave qualifying for both Wisconsin and federal FMLA leave will count against the employee's entitlement under both laws and will run concurrently. Qualified leave taken under Worker's Compensation also will run concurrently with Wisconsin and federal FMLA leave.

Under the federal FMLA, spouses employed by the City are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent (but not a parent-in-law) who has a serious health condition.

FMLA does not necessarily need to be initiated by the employee. Should the City become aware of an employee meeting a qualifying event, the City has a right to place the employee on FMLA.

B. NON-CONTINUOUS OR INTERMITTENT LEAVE

Employees are permitted to take leave on an intermittent (blocks of time) or reduced work schedule (1) when it is medically necessary to care for a family member with a serious health condition or because of the employee's serious health condition; (2) to care for a newborn, adopted or foster child. Federal FMLA leave for the birth or placement of a child for adoption or foster care may not be taken in non-continuous increments unless approved by the City. Under the Wisconsin FMLA, the last increment of leave for the birth or placement of a child for adoption must begin within 16 weeks of that birth or placement.

Medical or family caretaking leave should be planned so as not to unduly disrupt the City's operations. Employees requesting non-continuous federal FMLA leave that is foreseeable based on planned medical treatment for purposes of providing care to a child, spouse or parent with a serious health condition or for the employee's own serious health condition may be required to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than the regular employment position of the employee. An employee temporarily transferred will receive the same pay and benefits, but may be assigned different duties.

The City allows for intermittent leave to be taken in no less than one hour increments. The employee may not take, or be required to take, more leave than medically necessary to address the circumstances that caused the need for the leave.

For chronic or long term illnesses exceeding the allowed leave timeframe, the City may ask the employee to recertify with their physician. This would be no more often than every 6 months or only in connection with an absence.

C. PAYMENTS ON FMLA LEAVE:

In general, both Wisconsin and federal FMLA leaves are unpaid. The City will require employees to substitute paid leave for which they are eligible (such as vacation days, personal leave, comp time or sick leave) for unpaid leave available under the federal FMLA; or employees may choose to substitute available accrued leave for unpaid Wisconsin FMLA.

The City will require that any leave provided by a City collective bargaining agreement be substituted for federal FMLA leave.

As with all leaves of absence, no employee may pursue or engage in employment when on FMLA leave.

D. HOW TO APPLY FOR FMLA LEAVE

1. The employee must submit a Request for Leave form to the Payroll/HR Specialist at least **30** days, or as soon as practicable, in advance of taking a leave. If circumstances do not permit an employee to give notice in advance of taking leave, the employee must notify their Department Head and submit the Request for Leave form as soon as possible, but no later than two working days after learning of the need for FMLA leave. **Failure to give timely notice may result in the delay or denial of FMLA leave and may subject you to discipline.**
2. If the leave is for a family member's or the employee's serious health condition, the employee must submit a medical certification form from the employee's or the family member's health care provider within 15 days. If an employee does not provide the required certification by the designated deadline, or if the City determines that an employee's absence is not covered as FMLA leave, the leave may not be designated as Wisconsin and/or federal FMLA leave, and the employee may be subject to discipline under City attendance policies unless he or she uses accrued paid leave (like vacation) and/or is granted a non-FMLA leave of absence.
3. Second or third certifications at the City's expense and periodic re-certifications at the employee's expense may be required under certain circumstances. The City requires periodic reports during federal FMLA leave regarding the employee's status and intent to return to work.
4. Forms are available through the Payroll/HR specialist.

E. HEALTH INSURANCE BENEFITS

Group health insurance coverage will be maintained for employees while they are on FMLA leave, on the same terms as if the employee continued to work. The employee will be required to pay his/her regular portion of health insurance premium payments on a schedule established by the City. Other benefits, including cash payments chosen by the employee rather than group health insurance coverage, will not be maintained during periods of unpaid FMLA leave.

The City may recover its share of health insurance premiums paid during a period of unpaid FMLA leave from an employee if the employee fails to return to work (for a minimum of 30 calendar days) after the expiration of the leave. The City may not collect the premiums if the reason the employee does not return is due to continuation, recurrence or onset of a serious health condition that would entitle the employee to leave under FMLA, or other circumstances beyond the employee's control.

The City may discontinue health insurance benefits if the employee fails to make a premium payment within 30 days of the due date after providing written notice to the employee of the cancellation of coverage for non-payment.

F. OTHER BENEFITS

Benefits that accumulate based upon hours worked may not accumulate during the period of FMLA leave. Qualified FMLA leave will not be counted as an absence under the City's attendance policy. In addition, an employee will not be disqualified from an attendance reward program, nor will any reward be reduced for having taken unpaid FMLA leave.

Life insurance coverage and other benefits like AFLAC premiums may be continued during periods of unpaid FMLA leave, and arrangements should be made for employee's portion of the payments with the payroll department.

G. WORKER'S COMPENSATION AND LIGHT DUTY

Federal FMLA will run concurrent with worker's compensation provided that the injury meets the criteria for a "serious health condition", as defined by law. The Employee Handbook describes the interplay of applied sick leave and workman's compensation leave.

If an employee accepts a light duty assignment while on worker's compensation, that time may not count against the employee's FMLA entitlement. If the light duty position is declined and the employee elects to stay on FMLA leave, the employee may give up their worker's compensation benefits.

H. RETURN TO WORK

Upon return from FMLA leave, an employee shall be restored to his or her original position or, if the position is not vacant, to an equivalent position with equivalent pay, benefits and other terms and conditions of employment.

Employees who are unable to perform the functions of their job because of a mental or physical condition and thus unable to return to work following FMLA should contact their Department Head to determine whether a request for a reasonable accommodation is in order or some other position available which has duties they could perform.

I. LEAVE OF ABSENCE

Should an employee exhaust all of their FMLA time along with all accrued paid time off, they may follow the leave of absence without pay directions found in the Employee Handbook.

DEFINITIONS

Incapable of Self-Care

The individual requires active assistance or supervision to provide daily self-care in three or more of the *activities of daily living* (i.e. grooming, hygiene, bathing, dressing, eating) or *instrumental activities of daily living* (i.e. cooking, cleaning, shopping, utilizing public transportation, paying bills, maintaining a residence, using telephones and directories, and using a post office).

Parent

Biological parent, foster parent, adoptive parent, stepparent or legal guardian of an employee or parent-in-law under the Wisconsin FMLA. Under the federal FMLA, “parent” includes an individual who provided day-to-day care to the employee when the employee was a child.

Serious Health Condition

An illness, injury, impairment or physical or mental condition that involves:

1. inpatient care in a hospital, hospice or residential medical care facility; or
2. under Wisconsin FMLA, outpatient care that requires continuing treatment or supervision by a health care provider (generally defined as requiring two direct, continuous and first-hand contacts by a health care provider); or
3. under the federal FMLA:
 - a. a period of incapacity of more than 3 consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:
 - treatment two or more times by or under the orders of a health care provider; or
 - treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of a health care provider.
 - b. any period of incapacity due to pregnancy or for prenatal care;
 - c. chronic conditions requiring periodic treatment by or under the supervision of a health care provider that continue over an extended period of time and may cause an episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
 - d. permanent/long term conditions requiring supervision for which treatment may not be effective (e.g. Alzheimer’s, a severe stroke, or the terminal stages of a disease);
 - e. multiple treatments by or under the supervision of a health care provider either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy), severe arthritis (physical therapy), or kidney disease (dialysis).

Child

Biological, adopted, or foster child, stepchild, legal ward or, under the federal FMLA, the child of a person having day-to-day care of the child, or a child of a person standing “in loco parentis,” who is under 18 years of age or 18 years of age and older and incapable of self-care because of a serious health condition.

Work week

The employee’s usual or normal schedule (hours/days per week) prior to the start of FMLA leave.