

Category: 300

Number: 361

Policy: Family Medical Leave, Short Term Disability, Long Term Disability

Purpose: The purpose of this policy is to define and serve as primary document for leave of absence. The policy establishes procedures for employees who request a leave of absence.

Authority: St. Clair County Board of Commissioners. Administrative policies shall be subject to revision or termination by the Board of Commissioners at its discretion. This policy replaces and supersedes any prior policy on this subject matter.

Application: This policy speaks primarily to County Officials and Confidential and Non-Union Employees (CANUE). Employees who are members of Unions should consult the applicable collective bargaining agreement. Where a collective bargaining agreement is silent, this policy will apply.

Responsibility: The Human Resources Director or designee shall be responsible for the administration and enforcement of this policy.

Definition:

Family Medical Leave Act (FMLA): Federal law which safeguards employment for eligible employee(s) to take an unpaid leave of absence for medical reasons for self or specified family.

Short Term Disability (STD): County provided salary continuation for qualified full time employees of 66.67% of the employee's basic monthly earnings for a non-work related medical leave of absence for up to 180 calendar days.

Long Term Disability (LTD): County provided salary continuation for qualified full time employees of 66.67% of the employee's basic monthly earnings for a non-work related medical leave of absence in excess of 180 calendar days.

FAMILY MEDICAL LEAVE ACT (FMLA)

An employee may request in writing and may be eligible for a medical leave of absence under the Family Medical Leave Act of 1993 (FMLA). FMLA is a federal law that permits eligible employees to take leaves of absence for specified family and medical reasons that safeguard continued employment. In order to be eligible an employee must have been employed with the County for at least the last twelve (12) months and worked at least twelve-hundred-and-fifty (1,250) hours during the preceding twelve (12) month period. The employee is legally obligated to give their department head and/or supervisor thirty (30) days advance notice of a need for a FMLA leave or as much advance notice as possible or practical. An employee may be entitled to FMLA leave when his or her absence is for three (3) or more workdays, even if the work days are intermittent or not consecutive but related to the same circumstance or cause. Intermittent means a combination of actual work hours and time off work, not necessarily consecutive.

An eligible employee may be entitled for a leave for the following personal family and/or medical reasons:

- Birth of a child. Both mother and father are eligible for leave.
- Adoption of a child. Leave is available to both the adopting mother and father.
- Placement of a child in the employee's home through foster care, as a step child, legal ward or where the employee serves in loco parentis.
- Serious illness of the employee's spouse, child or parent.
- Serious illness of the employee.

An eligible employee is entitled to twelve (12) weeks of leave in a twelve (12) month period. The twelve (12) month period, also known as the entitlement period, begins with the first day of the employee's absence and runs concurrent with disability leave and Workers Compensation, which can be found in the *St. Clair County Policy 387-Workers Compensation*. An employee is entitled to no more than twelve (12) weeks of leave in a twelve (12) month period regardless of the number of incidents that arise.

In the event of birth, adoption or placement of a child in the employee's home, the employee is entitled to twelve (12) weeks of leave within the first twelve (12) months of the child's birth, adoption or placement. The leave must be consecutive days and hours and may only be intermittent if agreed by the County.

In the event of the employee's personal serious illness or the serious illness of a spouse, child or parent, the employee is entitled to twelve (12) weeks of leave within the entitlement period. The employee must provide the County with a medical statement from the attending physician or practitioner stating the medical diagnosis in order for the FMLA leave to be considered. The leave may be intermittent if supported by the medical statement.

The employee must provide the County with a medical statement from the attending physician or practitioner in order for the FMLA leave to be considered. The leave may be intermittent if supported by the medical statement. The FMLA states that an illness, whether to the employee or the employee's spouse, child or parent must be a serious health condition in order to be approved.

A serious health condition must meet at least one of the following definitions.

- The inpatient care is being provided in a hospital, hospice or residential medical facility.
- The inpatient care is due to an illness, injury, impairment or a physical or mental condition that involves continuing treatment by a health care provider.
- The patient has an inability to care for his or her own basic hygienic or nutritional needs or safety.

When the Human Resources department is made aware of an employee's absence of three (3) or more days, the employee will be sent an FMLA Packet. The FMLA Packet includes forms to be completed by the employee and the attending physician. Once completed and returned to Human Resources department, the employee will be notified of their eligibility for FMLA.

FMLA is intended to work in coordination with an employer's policies or the terms and conditions of a collective bargaining agreement. Should the FMLA and the employer's policies or the terms and conditions of a collective bargaining agreement be in conflict, the FMLA regulations take precedence. Where the employer's policies or the terms and conditions of a collective bargaining agreement are more liberal but not in conflict with the FMLA, the employee is entitled to the more liberal policy.

The employee is entitled to the following protections while on FMLA leave:

- The employee is entitled to continuation of their group health, dental, vision and life benefits during the FMLA leave.
- The employee is entitled to return to the same or equivalent position with equivalent

pay, benefits and other terms and conditions of employment upon returning from a FMLA leave.

The FMLA regulations grant the County the following rights:

- The County may require an employee to submit to a second medical opinion at the County's cost.
- The County may require an employee to take an intermittent leave or to transfer to a different job or job location consistent with meeting the disability, limitations or restrictions imposed by the employee's attending physician when the illness is to the employee.
- The County requires the employee to use any accrued sick time and compensatory time for first twenty-eight (28) days of the leave in accordance with the policy and practice of the County. Employees can also choose to use accrued vacation time for the elimination period.
- The FMLA leave shall be concurrent with other terms, conditions and policies of the County or a collective bargaining agreement.
- The County requires certification of the employee's ability to return to work with or without limitations or restrictions prior to scheduling the employee to actually return to work.
- When a husband/father and wife/mother are both employed by the County the combined total leave of each shall not exceed twelve (12) weeks leave in the event of childbirth, adoption or placement of a child in the home of the employees.
- The County will charge the employee retroactive premium costs for health and dental care should the employee fail to return from an unpaid FMLA leave in accordance with conditions outlined in the Act.

SHORT TERM DISABILITY (STD)

County shall provide salary continuation for qualified full time employees of 66.67% of their normal pay, before all payroll deductions including taxes and F.I.C.A., for a non-work related medical leave of absence. STD salary continuation shall be reduced by any compensation from the County's Retirement Plan, and/or Social Security.

Any employee who has less than one year full time employment with the County is ineligible for short term disability. Once one year of full time employment is reached, the employee may be eligible for short term disability, which will run concurrent with FMLA. STD may be supplemented with accrued time off.

The period of time between the first day of non-work related injury or illness and the commencement of STD benefit payments, also known as the elimination period, is twenty-eight (28) calendar days. A holiday occurring within this period shall be considered a day worked. The employee is required to use available accrued sick days, vacation days and compensatory time for the elimination period consistent with the policies and practices of the County.

The employee is entitled to leave bank accruals and retirement plan credit when they elect to supplement the leave with available accrued time off. If the employee does not elect to supplement the leave with accrued time off, they shall not accrue vacation time, sick days, compensatory time, retirement credit, or gain from any other fringe benefit during the leave. STD begins on the 29th calendar day of leave.

The County shall provide the eligible employee STD salary continuation from the twenty-ninth (29th) calendar day to the one hundred and eightieth (180th) calendar day from the first day of leave. During the period that the County provides the employee salary continuation, the employee shall be entitled to continuation of some of the fringe benefits enjoyed immediately prior to

disability, as reflected below:

- The employee will continue to accrue vacation and sick time.
- The employee's compensation will include his or her contributions to the retirement system, which provides credit toward his or her annual multiplier upon retirement. The County will contribute its portion of the employee's compensation into the retirement system.
- The employee will continue to receive health and dental care and life insurance enjoyed at the time of disability at the same premium cost share as when actively employed.
- The employee eligible for Service Recognition shall receive compensation as though regularly scheduled to work.
- The employee shall not be entitled to paid holidays.

Fringe benefits that are based on a percentage of salary, such as retirement, shall be provided consistent with the employee's reduced salary. In other words, all benefits based upon salary shall be computed upon the reduced salary and thereby produce a reduced benefit.

STD salary continuation may be for a maximum period of one hundred and eighty (180) calendar days contingent upon continuing disability. Verification of a continuing medical disability is required by the County in order to provide salary continuation. The frequency of providing medical verification shall be at reasonable and appropriate intervals determined exclusively by the County.

The County requires certification of the employee's ability to return to work with or without limitations or restrictions prior to scheduling the employee to actually return to work. The employee may be ineligible for salary continuation for refusing to accept an offer of work in a reasonably equivalent classification to the classification held at the time of disability. Reasonably equivalent shall mean duties within the scope of the employee's skills, abilities and education, as well as, wages within fifteen percent (15%) of the employee's pay at the time of disability.

LONG TERM DISABILITY (LTD)

County shall provide salary continuation of 66.67% of the employee's basic monthly earnings, to a maximum monthly benefit of \$4,000, for a non-work related medical leave of absence in excess of one hundred and eighty (180) calendar days. LTD commences on the one hundred and eighty first (181st) calendar day of a medical leave of absence.

At such time the employee shall not be eligible for fringe benefits. Be it provided, however, that the disabled employee shall be entitled to obtain group health insurance through the County in accordance with the following safeguards and conditions:

- The disabled employee shall be entitled to six (6) months of health care coverage provided the employee pays fifty percent (50%) of the premium costs.
- An employee purchasing dental care coverage shall continue to pay one hundred (100%) of the premium cost as provided *St Clair County Policy 382-Consolidated Omnibus Budget Reconciliation (COBRA)*.
- After six (6) months of LTD, County employment will terminate and the former employee will be notified of his or her COBRA rights.
- The County shall require prepayment of all premium costs. Failure to provide timely payment will result in the loss of coverage.

LTD is provided by an insurance carrier of the County's choosing. The maximum benefit period is outlined in the Plan Policy. At a cost to the employee, they have the option to Buy-Up the LTD payment benefit to 70% of basic monthly earnings.

All leaves based upon illness shall be supported by a statement from the attending physician, when requested by the Employer. In all cases of illness extending beyond three (3) calendar days,

the employee shall provide, upon request by the Employer and at reasonable intervals, physician statements evidencing the employee's inability to return to normal work duties. Supporting documentation can be sent directly to the Human Resources Director or a Human Resources designee. The Employer may waive the right, but such waiver shall not form the basis for submitting a grievance when such waiver is not granted.

The preceding employee benefits and rights are in general and may not apply in each and every situation. The employee is encouraged to review the County's policies or the terms and conditions of a collective bargaining agreement personally, with their department head and/or supervisor, Union representative or the Human Resources department to ascertain a more specific application for his or her situation. The Human Resources Director or designee is recognized as the official spokesperson of the County in providing an interpretation and application of the County's employment policies or the terms and conditions of a collective bargaining agreement.

For further information, an employee may contact the Human Resources Department by telephone at (810) 989-6910 or by email at humanresources@stclaircounty.org.

Review: The Administrator/Controller has reviewed and approved this policy as to substance and Corporation Counsel has reviewed and approved as to legal content. The Human Resources Director shall periodically review this policy and make recommendations for changes as needed.

Adopted: May 7, 2020