

## NORTHCARE NETWORK

<b>POLICY TITLE:</b> Family Medical Leave Act (FMLA)	<b>CATEGORY:</b> Personnel	
<b>EFFECTIVE DATE:</b> 1/1/15	<b>BOARD APPROVAL DATE:</b> 12/10/14	
<b>REVIEW DATE:</b> 8/17/23	<b>REVISION(S) TO POLICY STATEMENT:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>OTHER REVISION(S):</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>RESPONSIBLE PARTY:</b> HR Specialist	<b>CEO APPROVAL DATE:</b> 9/5/23 Megan Rooney, Interim CEO	

### **APPLIES TO**

NorthCare Network Personnel

### **POLICY**

NorthCare Network will comply with the Family Medical Leave Act (FMLA).

### **PURPOSE**

The purpose of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

### **DEFINITIONS**

(Included in procedure where applicable)

### **REFERENCES**

- United States Department of Labor (DOL)

### **HISTORY**

NEW POLICY – 1/1/15

REVISION DATE: 10/21/15, 4/23/18, 2/19/19, 12/1/19, 10/29/20, 8/17/23

REVIEW DATE: 12/3/14, 10/21/15, 8/24/16, 4/23/18, 2/19/19, 12/1/19, 10/29/20, 1/27/22, 8/17/23

CEO APPROVAL DATE: 12/3/14, 12/1/5, 9/6/16, 5/10/18, 3/14/19, 12/3/19, 11/3/20, 2/1/22, 9/5/23

BOARD APPROVAL DATE: 12/10/14

### **PROCEDURES**

If you have any questions, concerns, or disputes with these procedures you must contact the HR Specialist in person or writing.

### **General Provisions:**

Under the Family Medical Leave Act (FMLA) NorthCare Network will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member) with a serious injury or illness during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid/unpaid time, depending on the circumstances of the employee's employment situation. See the section below entitled Use of Paid and Unpaid Leave for further clarification. The 12-month period is measured forward from the first date an employee takes FMLA leave. The next 12-

month period would begin the first time FMLA leave is taken after completion of the prior 12-month period.

**Employee Eligibility Criteria:**

To be eligible for FMLA leave, an employee must have been employed by NorthCare Network:

- For at least 12 months or 52 weeks (which need not be consecutive);
- For at least 1,250 actual hours worked during the last 12-month period immediately preceding the commencement of the leave; and
- At a work location where the employer is a public agency.

**Events Which May Entitle an Employee to FMLA Leave:**

**BASIC LEAVE ENTITLEMENT:**

FMLA leave may be taken for anyone, or for a combination of, the following reasons:

- For incapacity due to pregnancy, prenatal medical care and childbirth.
- To care for the employee's child after birth, or placement for adoption or foster care.
- To care for the employee's spouse, son, daughter or parent who has a serious health condition.
- For a serious health condition that makes the employee unable to perform the employee's essential functions of his or her job.

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continued treatment by a healthcare provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or daily activities. For a more detailed definition of "serious health condition" and further clarification on the events that qualify for FMLA leave time, please see the U.S. Department of Labor's website.

**MILITARY LEAVE ENTITLEMENT:**

- Eligible employees with a spouse, son, daughter or parent on active duty or called to active status in the National Guard or Reserves in support of a contingency operation.
- Employees may use their 12 weeks leave entitlement to address a broad range of events and activities which are considered "qualifying exigencies" including short-notice deployment, childcare and school activities, counseling, as well as military events and related events.
- Eligible employees who qualify for this type of leave will also be entitled to qualifying exigency leave when a family member who is in the regular armed forces is deployed to a foreign country.

**CAREGIVER LEAVE**

- FMLA also includes caregiver leave that permits eligible employees to take up to 26 weeks to care for a covered service member who was injured while on active duty in the military.
- Such leave may be taken while the injured family member is a current member of the Armed Forces, including members of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty, or up to five (5) years after the injured family member's separation from the military.

- In addition, Caregiver leave will be granted to eligible employees whose injured family member suffers from a preexisting serious injury or illness that was aggravated by his or her active duty service in the Armed Forces, including members of the National Guard or Reserves.

#### **Limitations on FMLA Leave:**

Leave to care for a newborn or for a newly placed child must conclude within 12 months after the birth or placement of the child.

- When both spouses are employed by NorthCare Network, they are entitled to a combined total of 12 work weeks of FMLA leave within the designated 12-month period for the birth, adoption, or foster care placement of a child with the employees, for aftercare of the newborn or newly placed child, and to care for a parent (but not in-law) with a serious health condition.
- Each spouse may be entitled to additional FMLA leave for other qualifying reasons (i.e., the difference between the leave taken individually for any of the above reason and 12 work weeks, but not more than a total of 12 work weeks per person).

For example, if each spouse took 6 weeks of leave to care for a newborn child, each could later use an additional 6 weeks due to his/her own serious health condition or to care for a child with a serious health condition.

#### **Intermittent or Reduced Work Schedule Leave:**

Intermittent leave is leave taken in separate blocks of time. A reduced work schedule leave is a leave schedule that reduces an employee's usual number of hours per workweek or hours per workday.

Leave to care for a newborn or for a newly placed child may not be taken intermittently or on a reduced work schedule unless NorthCare Network agrees with respect to an individual leave request.

Leave because of an employee's own serious health condition, or to care for an employee's spouse, child or parent with a serious health condition, may be taken all at once or, where medically necessary, intermittently or on a reduced work schedule.

If an employee takes leave intermittently or on a reduced work schedule basis, the employee must, when requested, attempt to schedule the leave so as not to unduly disrupt the operations of NorthCare Network. When an employee takes intermittent or reduced work schedule work leave for foreseeable planned medical treatment for the employee or a family member, including a period of recovery from a serious health condition, or if the employer agrees, for the birth or adoption of a child, NorthCare Network may temporarily transfer the employee to an alternative position with equivalent pay and benefits for which the employee is qualified and which better accommodates the recurring or intermittent period of leave.

#### **Employee Responsibilities:**

Employees must provide a 30-day notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, the employee must provide notice as soon as practical and generally must comply with the employer's normal call in procedures.

Employees must provide enough information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing duration of the leave. Employees must also inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

**Employer Responsibilities:**

NorthCare Network must inform the employee requesting leave whether they are eligible for leave under FMLA. If they are, the notice will specify any additional information which may be required, as well as the employee's rights and responsibilities. If the employee is not eligible, NorthCare Network will provide the employee with the reason for ineligibility.

NorthCare Network will also inform employees if leave being utilized will be designated as FMLA and the amount of leave which will be counted against the employee's leave entitlement, even if the employee does not formally request the time as FMLA.

**Required Documentation:**

An employee may be required to submit medical certification from a healthcare provider to support a request for FMLA leave for the employee's or a family member's serious health condition. The employer must allow the employee at least **15 calendar days** to obtain the medical certification.

Health care providers who may provide certification of a serious health condition include:

- Doctor of Medicine or osteopathy authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices;
- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice under State law;
- Nurse practitioners, nurse-midwives, and clinical social workers authorized to practice under State law and performing within the scope of their practice as defined under State law;
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts;
- Any health care provider recognized by the employer or the employer's group health plan's benefits manager; and,
- A health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.

If NorthCare Network has reason to doubt the employee's initial certification, NorthCare Network may: (1) with the employee's permission, have a designated healthcare provider contact the employee's healthcare provider to clarify or authenticate the initial certification; and/or (2) require the employee to obtain a second opinion by an independent NorthCare Network designated provider at NorthCare Network's expense. If the initial and second certifications differ,

NorthCare Network may, at its expense, require the employee to obtain a third, final and binding certification from a jointly selected healthcare provider.

During FMLA leave, NorthCare Network may request the employee provide recertification of a serious health condition at intervals in accordance with FMLA. In addition, during FMLA leave, the employee must provide NorthCare Network with periodic reports regarding the employee's status and intent to return to work. If the employee's anticipated return to work date changes and it becomes necessary for the employee to take more or less leave than originally anticipated, the employee must provide NorthCare Network with reasonable notice (i.e., within 2 business days) of the employee's changed circumstances and new return to work date. If the employee gives NorthCare Network notice of the employee's intent not to return to work, the employee will be considered to have voluntarily resigned.

Before the employee returns to work from FMLA leave for the employee's own serious health condition, the employee may be required to submit to the HR Specialist, a fitness for duty certification from the employee's healthcare provider, with respect to the condition for which the leave was taken, stating that the employee is able to resume work.

FMLA leave or return to work may be delayed or denied if the appropriate documentation is not provided in a timely manner. Failure to provide requested documentation of the reason for an absence from work may lead to termination of employment.

#### **Use of Paid and Unpaid Leave:**

FMLA provides eligible employees with up to 12 weeks of unpaid leave or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness. If an employee has accrued PTO (paid time off), the employee must use this first. "Qualifying paid leave" is leave that would otherwise be available to the employee for which FMLA leave is taken. The remainder of the entitled time, if any, will be unpaid FMLA leave. Any paid leave used for an FMLA qualifying reason will be charged against an employee's entitlement to FMLA leave. This includes leave for disabilities of worker's compensation injury/illness, provided that the leave meets FMLA requirements. The substitution of paid leave for unpaid leave does not extend the 12 or 26 weeks leave period.

The Department of Labor takes the position that an employee's receipt of worker's compensation or disability payments precludes an employee from electing, and prohibits the employer from requiring, substitution of accrued paid leave for any part of the absence covered by such payments.

#### **Designation of Leave:**

NorthCare Network will notify the employee that leave has been designated as FMLA leave. NorthCare Network may provisionally designate the employee's leave as FMLA leave if NorthCare Network has not received medical certification or has not otherwise been able to confirm that the employee's leave qualifies as FMLA leave. If the employee has not notified NorthCare Network of the reason for the leave, and the employee desires that the leave be counted as FMLA leave, the employee must notify the HR Specialist within 2 business days of the employee's return to work that the leave was for an FMLA reason.

### **Maintenance of Health Benefits:**

During FMLA leave an employee is entitled to continued group health plan coverage under the same conditions as if the employee had continued work. To the extent that the employee's FMLA leave is paid, the employee's portion of health insurance premiums (if applicable) will be deducted from the employee's salary. For the portion of FMLA leave that is unpaid, the employee's portion (if applicable) of health insurance premiums may be paid in accordance with the employer's rules for leave without pay.

If the employee's payment of health insurance premiums is more than 30 days late, NorthCare Network may discontinue health insurance coverage upon notice to an employee.

### **Return from FMLA Leave:**

Upon return from FMLA leave, most employees must be restored to their original or equivalent position with equivalent pay, benefits and other employment terms.

### **Limitations on Reinstatement:**

An employee is entitled to reinstatement only if he/she would have continued to be employed had FMLA leave not been taken. Thus, an employee is not entitled to reinstatement if, because of a layoff, reduction in force or other reason, the employee would not be employed at the time job restoration is sought.

Under limited circumstances where restoration to employment will cause "substantial and grievous economic injury" to its operations, NorthCare Network may refuse to reinstate certain highly paid, salaried "key" employees. To do so, NorthCare Network must notify the employee in writing of his/her status as a "key" employee (as defined by FMLA), the reasons for denying job restoration, and provide the employee a reasonable opportunity to return to work after so notifying the employee. A "key employee" is a salaried, FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employer within 75 miles of the employee's worksite.

### **Failure to Return to Work Following FMLA:**

If the employee does not return to work following the conclusion of FMLA leave, the employee will be considered to have voluntarily resigned. NorthCare Network may recover health insurance premiums NorthCare Network paid on behalf of the employee during any unpaid FMLA leave, except the NorthCare Network's share of such premiums. NorthCare Network may not recover the employee portion of the premium, if the employee fails to return to work because the employee or family member's serious health condition or because of other circumstances beyond the employee's control. In such cases, NorthCare Network may require the employee to provide medical certification of the employee's or their family member's serious health condition.

### **Additional Information:**

For further information, forms, or clarification about FMLA leave, please contact the NorthCare Network HR Specialist.