

HACKETTSTOWN COMMUNITY HOSPITAL
Administrative Policy and Procedure

SECTION: HUMAN RESOURCES

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TITLE: FEDERAL FAMILY & MEDICAL LEAVE ACT OF 1993

PURPOSE:

This policy is intended to ensure that Hackettstown Community Hospital (“Hospital”) is fully in compliance with the provisions and requirements of the federal Family and Medical Leave Act and the New Jersey Family Leave law.

EFFECT OF INTEGRATING THE STATE AND FEDERAL LAW:

These guidelines are intended to implement both the state and federal Family/Medical Leave laws. It is specifically understood that where the employee is eligible under both state and federal laws, he/she is entitled to receive the most beneficial of the two provisions. However, nothing in these guidelines is to be interpreted or construed as providing a benefit or provision under either state or federal law to which that employee is not entitled under the particular law. Employees must meet the eligibility of each law independently in order to receive coverage under that law.

EFFECTIVE DATE:

The provisions of the federal Family and Medical Leave Act (“FMLA”) and the New Jersey Family Leave law are in effect as of the date of these guidelines.

ELIGIBILITY:

To be eligible for leave under the FMLA, employees must have worked for the Hospital for at least twelve (12) months and for at least 1,250 hours in the past twelve (12) months. (All hours actually worked by the employee are counted.)

To be eligible for leave under the New Jersey Family Leave law, employees must have worked for the Hospital for at least twelve (12) months and for at least 1,000 hours (excluding overtime hours) during the preceding twelve (12) month period.

Exempt employees who have worked for the Hospital for at least the preceding twelve (12) months will be deemed to have worked their 1,250 hours under federal law, if actual time records are not kept, unless it can be proven otherwise.

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AMOUNT OF LEAVE:

Under the FMLA, eligible employees may take up to twelve (12) weeks' leave during a rolling twelve (12) month period measured backward from the date leave is first used.

Under the New Jersey law, employees may take up to twelve (12) weeks' leave during a twenty-four (24) month period measured from the date such leave is first taken.

LEAVE IS UNPAID:

Leave granted under either the state or federal Family/Medical Leave laws is without pay from the Hospital, except as an employee uses available paid time off as part of the leave of absence, as provided for under these guidelines.

REASONS FOR LEAVE:

If eligible, employees may take family/medical leave for any of the following reasons:

1. The birth of a son or daughter and in order to care for such child;
2. The placement of a son or daughter with the employee for adoption and in order to care for the newly placed son or daughter (Federal law provides for placement in foster care as well.);
3. To care for spouse, son, daughter or parent ("covered relation") with a serious health condition (The parents-in-law of the employee are also covered under New Jersey law.); and
4. Because of the employee's own serious health condition which renders him/her unable to perform the essential functions of his/her job. (This reason for leave is available under federal law only.)

DEFINITIONS:

For the purposes of this policy, the following definitions apply:

1. ***Spouse*** is defined in accordance with New Jersey law as a person to whom an employee is lawfully married.
2. ***Parent*** is one who is a biological parent, adoptive parent, foster parent, stepparent, parent-in-law or legal guardian, having a parent/child relationship with a child as defined by law, or having sole or joint legal or physical custody, care, guardianship or visitation with a child, including parents-in-law under New Jersey law only.
3. ***Son, daughter or child*** includes biological, adopted, foster children, stepchildren, legal wards and other persons for whom an employee acts in the capacity of a parent.

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4. ***Serious health conditions*** means any illness, injury, impairment or physical or mental condition which involves 1) *inpatient care*, meaning an overnight stay in a hospital, hospice or residential care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or 2) *continuing treatment by a health care provider*, meaning an incapacity of more than three (3) consecutive calendar days; and 3) two or more treatments by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders or referral of a health care provider, or one (1) treatment by a health care provider which results in a regimen of continuing treatment under the supervision of the health care provider (e.g., prescription medication). Any period of incapacity because of pregnancy or prenatal care (even without treatment by a health care provider during the absence and even if the absence is less than three (3) days; e.g., morning sickness); or any period of incapacity because of a chronic serious condition (even without treatment by a health provider during the absence and even if the absence is less than three days; e.g., asthma attack, migraine headaches, etc.); or any period of absence to receive multiple treatments by health care providers or provider of health care services (under order or referral of a health care provider) for reconstructive surgery after an accident, injury or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days, if untreated; e.g., cancer (chemotherapy), severe arthritis (physical therapy), kidney disease (dialysis).
5. ***Health care provider*** means 1) an MD or DO licensed by the state or country in which he/she practices; 2) podiatrists, dentists, clinical psychologists, optometrists, chiropractors (limited treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice under the state law; 3) nurse practitioners and nurse-midwives authorized under state law; 4) Christian Science practitioners (may be required to submit to second or third certification through examination, not treatment of a health care provider); 5) certified social workers; 6) a health care provider who practices in a foreign country in accordance with the laws of that country; and 7) any other health care provider from whom the employer or the employee's group health plan benefits manager will accept certification of the existence of a serious health condition or substantiate a claim for benefits.)
6. ***Needed to care for*** a family member encompasses 1) physical and psychological care of a child, spouse or parent with a serious health condition, and 2) where the employee is needed to fill in for others providing care or to arrange for third-party care of a child, spouse or parent who is receiving inpatient or home care.

Under federal family/medical leave, the phrase *unable to perform the functions of his/her job* means an employee is 1) unable to work at all, or 2) unable to perform any one of the essential functions of his/her position at the time notice is given or leave commenced, whichever is earlier. The term *essential functions* is borrowed from the Americans with Disabilities Act ("ADA") to mean "the fundamental job duties of the employment position," but does not include the marginal functions of the position.

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SUBSTITUTION OF PAID LEAVE:

Family/medical leave may be paid on unpaid leave. Employees granted family/medical leave must first use all their accrued Paid Days Off (PDO) hours, in accordance with the Paid Days Off policy. Employees must use their paid leave according to their normally scheduled hours. After exhausting any accrued paid leave, the remainder of the leave will be unpaid. Such paid leave time which is utilized will be counted as part of the total twelve (12) weeks of leave and does not extend the twelve (12) week period.

MEDICAL AND OTHER BENEFITS:

During an approved family/medical leave, the Hospital will maintain health benefits including medical insurance, life insurance and dental benefits, as if the employee continued to be actively employed. If an approved leave is unpaid, the employee must pay his/her portion of the premium. The employee must make such payment by check or in cash to the Human Resource Department by the 1st of each month. Health care coverage will cease if the premium payment is more than thirty (30) days late. If the employee elects not to return to work, he/she will be required to reimburse the Hospital for the cost of premiums paid by the Hospital for maintaining such insurance coverage during the leave, unless he/she cannot return to work because of a serious health condition or other circumstances beyond his/her control.

Employees will retain seniority and benefits which they had accrued prior to their leave beginning, except as used thereafter, but shall not accrue seniority or benefits during the leave, except for that portion of the leave where the employee is utilizing paid time.

EXEMPTION FOR HIGHLY COMPENSATED EMPLOYEES:

Highly compensated employees, as defined under federal law (i.e., highest paid ten percent (10%) of employees at a work site or within seventy-five (75) miles of the work site) or New Jersey law (i.e., the top five percent (5%) or one of the top seven (7) highly paid employees) may not be eligible for such leave or may not be returned to their former or equivalent position following a leave if it would result in a substantial and grievous economic injury to the operation of the Hospital. Therefore, highly compensated employees should contact the Human Resources Department to discuss whether they are eligible for leave or will be restored to their former or equivalent position. This fact-specific determination will be made by the Hospital on a case-by-case basis.

PROCEDURE FOR REQUESTING LEAVE:

Employees should contact the Human Resources Department and complete all applicable forms as soon as they become aware of the need for a leave. Forms are available at the Human Resources Department. The employee will be given the proper forms to be filled out depending on the nature of his/her leave request which may include the FMLA Request for Leave form, FMLA Return to Work Medical Certification form, and the Certification of Health Care Provider form. All appropriate forms must be filled out and submitted to the Human Resources Department for approval.

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1. **Notice to Employer of Leave.** If the need for leave is foreseeable (i.e., birth or placement of a child), employees must give thirty (30) days' prior written notice or as much notice as possible to the Human Resources Department. If this is not possible, they must at least give notice as soon as practicable (within one or two business days) of learning of the need for leave. Failure to provide such notice may be grounds for postponing the commencement of the leave. Under New Jersey leave, employees must give the Hospital at least fifteen (15) days' notice of the need for leave for a serious health condition of a family member except in emergency circumstances. If the need for leave is because of a planned medical treatment, employees must consult with the Hospital first regarding the dates of such treatment and attempt to schedule the treatment so as not to unduly disrupt the Hospital's operations. In the event the need for leave is not foreseeable, employees are expected to contact the Human Resources Department within one or two business days of learning of their need for leave, except in extraordinary circumstances. Failure to provide timely notice can be grounds for delaying the requested leave.

6. **Medical Certification for a Serious Health Condition.** If the employee is requesting leave because of his/her own or a covered relation's serious health condition, he/she and the relevant health care provider must supply appropriate medical certification. The Medical Certification forms that must be completed are available in the Human Resources Department. Failure to provide requested medical certification in a timely manner might result in denial of leave until it is provided.

The Hospital, at its own expense, may require an examination by a second health care provider designated by the Hospital if it reasonably doubts the medical certification initially provided. If the second health care provider's opinion conflicts with the original medical certification, the Hospital, at its expense, may require a third, mutually agreeable health care provider to conduct an examination and provide a final and binding opinion. The Hospital may require subsequent medical recertification on a reasonable basis, but not more frequently than every thirty (30) days. The employee will be advised where such recertification is required.

REPORTING WHILE ON LEAVE:

Employees taking leave because of their own serious health condition, or to care for a covered relation with a serious health condition, must contact the Human Resources Department once a month regarding the status of the condition and their intention to return to work. In addition, they must give notice as soon as practicable (within two business days if feasible) if the dates of leave change or are extended or were initially unknown.

RETURNING TO WORK FROM LEAVE FOR THE EMPLOYEE'S OWN SERIOUS HEALTH CONDITION:

Employees taking leave because of their own serious health condition, except if they are taking an intermittent leave, are required to provide medical certification from their health care provider that they are fit to resume work. Employees failing to provide medical certification will not be permitted to resume

work until it is provided.

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RETAINING EMPLOYMENT BENEFITS WHILE ON LEAVE:

Employees taking family/medical leave do not lose any employment benefits which they earned prior to their leave, except for paid time which may be used in connection with the leave. However, seniority and further benefit accrual will not continue to accrue during the leave period, unless paid benefit time is being used as part of the leave.

RESTORATION OF EMPLOYMENT TO SAME OR EQUIVALENT POSITION:

An employee who has been on a family/medical leave under state or federal law and who is ready and able to return to work prior to or at the end of such leave is entitled to be reinstated to the same position held before the leave or to an equivalent position which has the same pay, benefits and working conditions, including privileges, prerequisites and status; which involves the same or substantially similar duties and responsibilities; which entails substantially equivalent skill, effort, responsibility, and authority; the same geographic work site and the same shift or equivalent work schedule. However, if the Hospital suffered a reduction in force or layoff, that would have affected the employee on family leave, the employee is entitled to be treated only as if he/she would have been had he/she not been on a leave.

INTERMITTENT AND REDUCED SCHEDULED LEAVE:

Employees granted leave due to their own serious health condition or the serious health condition of a covered relation may take the leave on an intermittent or reduced basis provided such leave is 1) medically necessary, 2) the employee gives reasonable notice of the need for intermittent or reduced leave, and 3) the employee make reasonable efforts to schedule the leave in a manner that does not unduly disrupt the employer's operations. Employees granted leave for the birth or placement of a child may take intermittent or reduced schedule leave only with the consent of the hospital. Reduced schedule leave for the serious health condition of *parents-in-law*, however, must be completed within twenty-four (24) weeks of the first day of the leave. The Hospital asks that employees consult with the Human Resources Department prior to scheduling the reduced leave.

If either leave is unpaid, the Hospital will reduce the employee's salary, based on the amount of time actually worked. In addition, while the employee is on an intermittent or reduced schedule leave, the Hospital may transfer him/her to an available alternative position which better accommodates his/her recurring leave and which has equal pay and benefits.

1. **Intermittent Leave** is taken in separate blocks of time due to a single health condition, rather than for one continuous period of time, and may include leave periods from an hour or more to several weeks. Intermittent leave could be used, for example, where leave is needed on a once-a-week basis for a prolonged period of time for treatment such as physical therapy or chemotherapy.
2. **Reduced Leave** is a leave schedule that reduces an employee's usual number of working hours per week or hours per work day; for example, where an employee is not able to return to full work because of his/her serious health condition, but is able to work some of his/her work

schedule.

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The hospital will be required to enforce the provisions of the Family and Medical Leave Act and the New Jersey Family Leave Law and the regulations governing such acts. If any action is prohibited or allowed under the statutes or their regulations, in contradiction of these guidelines, the act or regulations shall govern and the hospital can be required only to enforce the applicable statute and regulations. The hospital reserves the right to amend any position or section of these guidelines at any time, in its sole discretion.