

\*\*Any employee is out more than three (3) consecutive days with a serious medical issue or caring for an immediate family member with a serious medical issue must fill out the *Request for FMLA Leave* form located under Forms on the HR web page.

Once HR receives a Request for FMLA form from an employee, an HR team member will work with that employee on completing the needed documentation and will notify the employee's supervisor of the status of their leave as status updates become available.

## Who can take FMLA Leave?

In order to be eligible to take leave under the FMLA, an employee must:

- work for a covered employer (Mid);
- have worked 1,250 hours during the 12 months prior to the start of leave;
- work at a location where the employer has 50 or more employees within 75 miles; and
- have worked for the employer for 12 months. The 12 months of employment are not required to be consecutive in order for the employee to qualify for FMLA leave. In general, only employment within seven years is counted unless the break in service is (1) due to an employee's fulfillment of military obligations, or (2) governed by a collective bargaining agreement or other written agreement.

## When does an employee need to use FMLA leave?

Mid must grant an eligible employee up to a total of 12 workweeks of unpaid, job-protected leave in a 12 month period for one or more of the following reasons:

- for the birth of a son or daughter, and to bond with the newborn child;
- for the placement with the employee of a child for adoption or foster care, and to bond with that child;
- to care for an immediate family member (spouse, child, or parent – but not a parent “in-law”) with a serious health condition;
- to take medical leave when the employee is unable to work because of a serious health condition; or
- for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on covered active duty or call to covered active duty status as a member of the National Guard, Reserves, or Regular Armed Forces.

The FMLA also allows eligible employees to take up to 26 workweeks of unpaid, job-protected leave in a “single 12-month period” to care for a covered service member with a serious injury or illness.

## Is FMLA leave paid or unpaid?

The FMLA only requires unpaid leave. However, the law permits an employee to elect, or the employer to require the employee, to use accrued paid vacation leave, paid sick or family leave for some or all of the FMLA leave period.

**\*\*BOARD POLICY 407.01:** Mid's policy requires employees to use sick, vacation, and personal time to be used before leave without pay becomes available. When paid leave is used for an FMLA-covered reason, the leave is FMLA-protected.

### **Does an employee have to take leave all at once or can it be taken periodically or to reduce the employee's schedule?**

When it is medically necessary, employees may take FMLA leave intermittently – taking leave in separate blocks of time for a single qualifying reason – or on a reduced leave schedule – reducing the employee's usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.

Leave to care for or bond with a newborn child or for a newly placed adopted or foster child may only be taken intermittently with the employer's approval and must conclude within 12 months after the birth or placement.

### **Can an employer change an employee's job when the employee takes intermittent or reduced schedule leave?**

Employees needing intermittent/reduced schedule leave for foreseeable medical treatments must work with their employers to schedule the leave so as not to disrupt the employer's operations, subject to the approval of the employee's health care provider. In such cases, the employer may transfer the employee temporarily to an alternative job with equivalent pay and benefits that accommodate recurring periods of leave better than the employee's regular job.

### **FMLA Definition of Serious Health Condition.**

Under the FMLA, a serious health condition is an illness, injury, impairment or physical or mental condition that involves *inpatient care* (defined as overnight stay in a hospital, hospice or residential medical care facility; any overnight admission to such facilities is an automatic trigger for FMLA eligibility) or *continuing treatment* by a health care provider. Examples include the following:

- Continuing treatment by a health care provider that results in an incapacity (inability to work, attend school or participate in other daily activities) of more than three consecutive calendar days with either two or more in-person visits to the health care provider within 30 days of the date of incapacity OR one in-person visit to the health care provider with a regimen of continuing treatment, such as prescription medication, physical therapy, etc. In either situation, the first visit to the health care provider must occur within seven days of the first date of incapacity. Examples include pneumonia, surgery or broken/fractured bones.
- Chronic conditions that require periodic visits to a health care provider, continue over an extended period of time and may cause episodic rather than continuing periods of incapacity of more than three days. Examples of chronic conditions include asthma, diabetes and epilepsy.
- Incapacity for pregnancy or prenatal care (any such incapacity is FMLA-protected regardless of the period of incapacity). For example, a pregnant employee may be unable to report to work due to severe morning sickness.
- Permanent or long-term conditions such as Alzheimer's, severe stroke or terminal disease.
- Conditions requiring multiple treatments and recovery from treatments, such as cancer, severe arthritis and kidney disease.
- Treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider.

The FMLA regulations specifically exclude the following conditions, unless inpatient care or complications develop that would meet the above criteria: cosmetic treatments, common colds, flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, and periodontal disease.