

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE	EFFECTIVE DATE 11/26/07	NUMBER 02.02.102
	SUBJECT LEAVE OF ABSENCE	
SUPERSEDES 02.02.102 (12/26/97)		AUTHORITY MCL 791.203; 29 USC 2654, <i>et seq.</i> ; Civil Service rules 2-11 through 2-14
ACA STANDARDS 4-4048; 4-4093; 4-ACRS-7E-07; 2-CO-1D-09		PAGE 1 OF 5

POLICY STATEMENT:

Classified employees who have successfully completed their initial probationary period may take a leave of absence as authorized by Civil Service rules and regulations and the Family and Medical Leave Act (FMLA).

POLICY:

DEFINITIONS

- A. Health Care Provider - Physician, osteopath, podiatrist, dentist, psychiatrist, clinical psychologist, optometrist, chiropractor providing information regarding manipulation of the spine to correct subluxation, nurse practitioner, nurse midwife, social worker (M.S.W. or C.S.W), or other health care practitioner covered under the State Health Plan who is authorized to practice under state law and practicing within the scope of his/her training, or a Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts.
- B. Serious Health Condition - Physical or mental illness, injury, impairment, or other condition that involves overnight inpatient care, continuing treatment connected with inpatient care, an absence of more than three calendar days from work with continuing treatment by a health care provider, or continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or so serious that it would likely result in more than three days of incapacity if not treated.
- C. Parent - The employee's biological mother or father, an individual who stood *in loco parentis* to the employee when the employee was under 18 years of age, and, except for FMLA, the employee's mother-in-law and father-in-law.
- D. Child - The employee's biological, adopted, or foster son, daughter, step-son, or step-daughter, a legal ward of the employee, and an individual for whom the employee stands *in loco parentis* who is either under 18 years of age or incapable of self-care due to a mental or physical condition.

GENERAL INFORMATION

- E. Leaves of absence are governed by the FMLA and Civil Service rules and regulations. The intent of this policy is to provide an overview of FMLA, Civil Service, and Department requirements regarding leaves of absence for full-time classified employees. Specific questions regarding the applicability of the FMLA or Civil Service rules and regulations regarding leaves of absence are to be directed to the appropriate Human Resource office.
- F. Exclusively represented employees are governed by their collective bargaining unit agreement where in conflict with this policy.
- G. To request a leave of absence for a foreseeable condition, an employee shall submit a completed Leave of Absence Application (CAJ-518) to the appropriate Human Resource office not less than 30 calendar days prior to the beginning of the leave. If the condition is not foreseeable, the completed application must be provided as soon as practicable; for an FMLA leave, however, notice shall be provided no later than two business days after the employee's return to work and the completed application submitted within 15 calendar days after the employee's return to work.

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 11/26/07	NUMBER 02.02.102	PAGE 2 OF 5
-----------------------------------	----------------------------	---------------------	-------------

- H. Except for a military, educational, or waived rights leave of absence, an employee requesting a leave of absence shall submit with the Leave of Absence Application a completed Certification of Health Care Provider (WH-380), which shall include satisfactory medical certification from the appropriate treating or referring health care provider, and an FMLA Employee Request and Employer Response form (CS-1790). Any additional information required by the Human Resource office to process the leave of absence request shall be provided by the employee in a timely manner; failure to do so may result in the leave request being denied.
- I. The Department may require a second medical opinion or job analysis at any time at its own expense when the employee's medical certification or subsequent ability to return to work is questioned. The Department may require a third medical opinion at its own expense when the employee's medical certification and the Department's medical opinion conflict. The third opinion shall be provided by a mutually agreed upon health care provider and shall be the binding medical opinion.
- J. The appropriate Human Resource office shall ensure that an approved leave of absence without pay is entered into the employee's employment history in the Human Resource Management Network (HRMN), including the beginning and ending dates of the leave. Documentation supporting the leave shall be maintained in accordance with the appropriate Record Retention and Disposal Schedule; this includes records relative to the leave of absence, timekeeping documents, leave documents, medical certification, and records of health care premium payments.

SPECIFIC FMLA PROVISIONS

- K. The FMLA entitles an eligible employee to take a leave of absence for up to a total of 12 weeks (i.e., 480 hours) during a 12 month period for the following:
 - 1. The birth of the employee's child;
 - 2. The adoption of a child by the employee;
 - 3. The foster care placement of a child with the employee;
 - 4. Care of the employee's parent, spouse, or child due to a serious health condition;
 - 5. The employee's own serious health condition.
- L. An employee is eligible to take a leave of absence under the FMLA if s/he meets all of the following criteria:
 - 1. Has been employed by the State for at least 12 months;
 - 2. Has worked a minimum of 1,250 hours during the preceding 12 months;
 - 3. Has not exhausted his/her 12 week FMLA entitlement during the preceding 12 month period.

PARENTAL LEAVE OF ABSENCE

- M. An eligible employee may take a parental leave of absence under Civil Service rules and regulations for up to six months (i.e., 1,040 hours) after the birth or adoption of a child or up to 12 weeks (i.e., 480 hours) after the foster care placement of a child with the employee. The FMLA also authorizes a parental leave for up to 12 weeks (i.e., 480 hours) after the birth or adoption of a child or the foster care placement of a child with the employee. If both parents are employed by the Department, the Human Resource officer shall determine the total number of weeks of leave to which both are entitled under the FMLA; however, the combined leave of both parents under the FMLA is limited to a total of 12 weeks (i.e., 480 hours) during any 12 month period. The employee must provide certification of birth, adoption, or foster care placement upon request.

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 11/26/07	NUMBER 02.02.102	PAGE 3 OF 5
-----------------------------------	----------------------------	---------------------	-------------

- N. A parental leave of absence must begin and end within 12 months after the birth, adoption, or foster care placement of the child. The total combined leave under Civil Service rules and regulations and the FMLA may not exceed the total amount authorized under Civil Service rules and regulations.

FAMILY CARE LEAVE OF ABSENCE

- O. An eligible employee may take a family care leave of absence under the FMLA and applicable Civil Service rules and regulations for up to 12 weeks (i.e., 480 hours) to care for his/her spouse, parent, or child with a serious health condition.

MEDICAL LEAVE OF ABSENCE

- P. An eligible employee may take a medical leave of absence under the FMLA and applicable Civil Service rules and regulations for his/or her own serious health condition if s/he is reasonably expected to be able to return to work at the expiration of the leave and has not received worker's compensation benefits for 50 or more weeks during the preceding 12 month period.

MILITARY LEAVE OF ABSENCE

- Q. An eligible employee may take a military leave of absence under applicable Civil Service rules and regulations to fulfill a military obligation in the armed forces of the United States. In addition to the leave of absence application required pursuant to Paragraph G, the employee must submit a copy of his/her military orders to the appropriate Human Resources office as soon as possible but no later than two business days after receipt.

EDUCATIONAL LEAVE OF ABSENCE

- R. An eligible employee may take an educational leave of absence under Civil Service rules and regulations to take classes related to the field of Corrections or the employee's job. In addition to the leave of absence application required pursuant to Paragraph G, the employee must submit proof of full-time student status and documentation that the area of study relates to the field of Corrections or the employee's job.
- S. An employee is eligible to take an educational leave of absence only if his/her current performance management and competence ratings are satisfactory and s/he intends to return to employment with the Department at the end of the leave of absence.

WAIVED RIGHTS LEAVE OF ABSENCE

- T. An eligible employee may take a waived rights leave of absence under Civil Service rules and regulations to protect his/her continuous service record when it is necessary for the employee to terminate his/her employment with the State for reasons beyond his/her control. A waived rights leave of absence is without pay; the employee has no right to return to the position formerly occupied or to an equivalent position upon expiration of the leave.

APPROVAL OF A LEAVE OF ABSENCE

- U. A leave of absence under the FMLA shall be approved, including an extension of an approved FMLA leave of absence, if the employee meets all requirements for the leave and provides all required documentation. A medical leave of absence which does not exceed a total of six months in a five year period and a military leave of absence under Civil Service rules and regulations also shall be approved if the employee meets all requirements of the leave and provides all required documentation. Approval of all other leaves of absence under Civil Service rules and regulations is discretionary. The following factors shall be considered in approving or denying such a request:

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 11/26/07	NUMBER 02.02.102	PAGE 4 OF 5
-----------------------------------	----------------------------	---------------------	-------------

1. Operational needs;
 2. The employee's length of service;
 3. The employee's employment record;
 4. For a medical leave of absence, the employee's medical condition and the likelihood that the employee will be able to return to work at the conclusion of the extension;
 5. The employee's leave of absence history.
- V. An educational leave of absence shall be granted only with prior written approval of the Director.
- W. A waived rights leave of absence shall be granted for no more than one year without written approval of the State Personnel Director.
- X. If a leave of absence was not approved under the FMLA prior to the leave being taken, it will be approved as FMLA leave after the employee's return to work only under one of the following circumstances:
1. The employee was absent for an FMLA qualifying reason and the Department does not learn of the reason for the leave until the employee's return to work. In such cases, the leave may be designated as FMLA leave within two business days after the employee's return to work.
 2. If the leave was provisionally designated as FMLA until satisfactory medical certification or other documentation is received.
- Y. The appropriate Human Resource office shall notify both the employee requesting the leave and the employee's supervisor in writing as to whether the leave is approved or denied. If the leave is denied, the Human Resource office shall include the reason for the denial. If the leave is approved under the FMLA, the appropriate Human Resource office also shall notify the employee in writing that the leave will be counted toward the 12 week FMLA entitlement.
- Z. The Department will continue to pay its share of health care premiums for up to 12 weeks per year for an employee who continues his/her health care coverage while on an approved FMLA leave of absence; however, the employee is responsible for payment of his/her share of the health care premiums.

USE OF LEAVE CREDITS

- AA. An employee may elect to use accrued annual or sick leave credits for a medically related leave of absence under the FMLA. For medically related leaves of absence and family care leaves of absence under Civil Service rules and regulations, the employee may be required to use all accrued sick leave credits; however, sick leave credits are required to be depleted to a balance of 80 hours prior to the start of an unpaid family care leave of absence or the use of annual leave credits in lieu of the unpaid leave under Paragraph BB.
- BB. After sick leave credits have been exhausted as required by Paragraph AA and for parental and military leaves of absence under Civil Service rules and regulations, an employee may elect to use accrued annual leave credits in lieu of an unpaid leave of absence except for an educational or a waived rights leave of absence. Use of accrued leave credits is subject to supervisory approval and applicable Civil Service rules and regulations.

RETURN FROM LEAVE OF ABSENCE

- CC. An employee on an approved leave of absence may request an early termination of the leave through

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 11/26/07	NUMBER 02.02.102	PAGE 5 OF 5
-----------------------------------	----------------------------	---------------------	-------------

the appropriate Human Resource office; the request must be in writing. The appropriate Human Resource office shall notify the employee in writing whether the request is approved or denied.

- DD. Before an employee may return from a medical leave of absence, s/he must provide satisfactory medical certification from a health care provider authorizing the return and identifying any existing medical restrictions.
- EE. At the end of an approved leave of absence, an employee shall be returned to work in the position s/he formerly occupied or to an equivalent position, in accordance with FMLA and Civil Service rules and regulations; this does not apply to a waived rights leave of absence.
- FF. An employee who is unable to return to work at the end of an approved medical leave of absence may request a waived rights leave of absence for up to one year in accordance with Civil Service rules and regulations.
- GG. If an employee does not return to work within three work days after expiration of an approved leave of absence, the employee shall be considered to have vacated his/her position and may be terminated from employment. If the leave was approved under the FMLA, the Department may recover its share of any health care premiums paid from the employee.

OPERATING PROCEDURES

- HH. There are no operating procedures required for this policy.

AUDIT ELEMENTS

- II. There are no audit elements for this policy.

APPROVED – PLC/OLA 11/07/07