



## YOUR RIGHTS UNDER Family Medical Leave Act (FMLA)

Loudoun Medical Group (LMG) complies with the Family and Medical Leave Act implementing Regulations as revised effective October 28, 2009. LMG posts the mandatory FMLA Notice and upon hire provides all new employees with notices required by the U.S. Department of Labor (DOL) on Employee Rights and Responsibilities under the Family and Medical Act.

### FMLA Defined

Under this policy, LMG 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 and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

### Eligibility

To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

- The employee must have worked for LMG for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment may be counted. If there has been a break in service, certain prior periods of employment may not count towards the 12 month employment requirement.
- The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence.

### Type of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

1. The birth or adoption of a child.
2. The placement of a child for adoption or foster care.
3. To care for a spouse, child or parent with a serious health condition (described below).
4. The serious health condition (described below) of the employee.
  - a. An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.
  - b. A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider.

5. Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty.
6. Military caregiver leave (also known as covered service member leave) to care for an injured or ill service member or veteran.

#### Amount of Leave

- An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (5) above under this policy during any 12-month period. LMG will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, LMG will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.
- An eligible employee can take up to 26 weeks for the FMLA circumstance (6) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, LMG will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.
- If a husband and wife both work for LMG and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for LMG and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.

#### Employee Status and Benefits during Leave

- LMG will continue the employee's health benefits during the qualified leave period at the same level and under the same conditions as if the employee had continued to work.
- If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, LMG will require the employee to reimburse LMG the amount it paid for the employee's health insurance premium during the leave period.
- Under current LMG policy, the employee pays a portion of the health care premium. While on paid leave, LMG will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received by the payroll department by the last day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The employer will provide 15 days' notification prior to the employee's loss of coverage.
- If the employee contributes to a life insurance, disability plans or other supplemental benefits, LMG will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums.
- LMG employees will only earn leave time for hours that they work.

#### Employee Status after Leave

An employee who takes leave under this policy *may* be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the employer's response to the FMLA request.

### Use of Paid and Unpaid Leave

- An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation and sick leave prior to being eligible for unpaid leave.
- Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA.
- An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and sick leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by LMG's sick leave policy) prior to being eligible for unpaid leave.

### Intermittent Leave or a Reduced Work Schedule

- The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).
- LMG may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.
- For the birth, adoption or foster care of a child, LMG and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.
- If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with LMG before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.

### Certification for the Employee's Serious Health Condition

- LMG will require certification for the employee's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Employee's Serious Health Condition (<http://www.dol.gov/whd/forms/WH-380-E.pdf>).
- LMG may directly contact the employee's health care provider for verification or clarification purposes. LMG will not use the employee's direct supervisor for this contact. Before LMG makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA

Medical Privacy Rules, LMG will obtain the employee's permission for clarification of individually identifiable health information.

- LMG reserves the right to ask for a second opinion if it has reason to doubt the certification. LMG will pay for the employee to get a certification from a second doctor, which LMG will select. LMG may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, LMG will require the opinion of a third doctor. LMG and the employee will mutually select the third doctor, and LMG will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

#### Certification for the Family Member's Serious Health Condition

- LMG will require certification for the family member's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Family Member's Serious Health Condition (<http://www.dol.gov/whd/forms/WH-380-F.pdf>).
- LMG may directly contact the employee's family member's health care provider for verification or clarification purposes. Before LMG makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, LMG will obtain the employee's family member's permission for clarification of individually identifiable health information.
- LMG has the right to ask for a second opinion if it has reason to doubt the certification. LMG will pay for the employee's family member to get a certification from a second doctor, which LMG will select. LMG may deny FMLA leave to an employee whose family member refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, LMG will require the opinion of a third doctor. LMG and the employee will mutually select the third doctor, and LMG will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

#### Certification of Qualifying Exigency for Military Family Leave

LMG will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave (<http://www.dol.gov/whd/forms/WH-384.pdf>).

#### Certification for Serious Injury or Illness of Covered Service member for Military Family Leave

LMG will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Service member (<http://www.dol.gov/whd/forms/WH-385.pdf>).

---

Your Rights Under Family Medical Leave Act (FMLA)

## Recertification

LMG may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days and only when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, LMG may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. LMG may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

## Procedure for Requesting FMLA Leave

- All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to their Office Manager or Human Resources. Within five business days after the employee has provided this notice, Human Resources will complete and provide the employee with the DOL Notice of Eligibility and Rights (<http://www.dol.gov/whd/forms/WH-381.pdf>).
- When the need for the leave is foreseeable, the employee must provide the employer with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with LMG's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

## Designation of FMLA Leave

Within five business days after the employee has submitted the appropriate certification form, Human Resources will complete and provide the employee with a written response to the employee's request for FMLA leave using the DOL Designation Notice (<http://www.dol.gov/whd/forms/WH-382.pdf>).

## Intent to Return to Work from FMLA Leave

On a basis that does not discriminate against employees on FMLA leave, LMG may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

## Questions

If you have questions regarding your rights under FMLA, please contact:

**Maggie Colucci**  
HR Director  
(703) 737-6033  
[Mcolucci@lmgdoctors.com](mailto:Mcolucci@lmgdoctors.com)