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| Family & Medical Leave | **Last Revision:** | May 2020 |
| **Last Reviewed:** | May 2020 |
| **Applies to the following THA Group of Companies** | * THA Services, Inc. * Island Health Care * Island Hospice * Independent Life at Home * RightHealth® * PalliationChoices |
| **Included in the following THA Manual:** | Administrative Policies & Procedures  Talent Management |

# POLICY

THA Group recognizes that an employee may need time away from work because of certain major life events, such as becoming a parent, experiencing a serious health condition that causes incapacity or requires continuing treatment, caring for a family member who has a serious health condition or a service member with a serious injury or illness, or needing time with a family member called upon for or on active duty in the Armed Forces. To balance these needs with the company’s needs to have employees available to work, THA Group has established the following Family and Medical Leave Policy in accordance with the Family and Medical Leave Act of 1993 (FMLA). This policy summarizes employees’ rights and responsibilities under THA Group’s Family and Medical Leave Policy.

**Employee Eligibility**

Unless using military caregiver leave, an employee eligible for FMLA leave can take up to 12 weeks of unpaid leave during a rolling 12-month period. THA Group uses a rolling 12-month period measured backward from the date the employee uses any FMLA leave (“the 12-month leave year”) for purposes of counting and tracking leave. For military caregiver leave, an eligible employee can take up to 26 weeks of unpaid FMLA leave during a single 12-month period that begins on the first day of military caregiver leave.

To be eligible for FMLA leave, an employee must satisfy three conditions:

* Reports to a facility that employs 50 or more employees or is located within a 75-mile radius of other THA Group facilities that have a combined total of 50 or more employees.
* Has been employed by THA Group for at least 12 months.
* Has worked at least 1,250 hours in the 12 months before FMLA leave begins. (When determining whether this eligibility requirement has been met for an employee returning from military obligations, the employee will be credited with hours of service that would have been performed but for the period of military service.

**Circumstances Qualifying for Leave**

The following circumstances qualify for FMLA leave:

* Parental leave related to a child’s birth, placement for adoption or foster care and to care for the child. Eligible employees may take up to 12 weeks of unpaid FMLA leave during the 12-month leave year to bond with and care for a newborn or a child placed with the employee for adoption or foster care. This leave also covers activities related to an adoption or foster placement, such as counseling sessions, court appearances, consultations with lawyers or doctors, and/or travel. Spouses employed by THA Group are entitled to a combined total of 12 weeks of leave for this purpose. The leave(s) must be completed within the first 12 months after the child’s birth or placement.
* Medical leave for employee’s own serious health condition. Eligible employees may take up to 12 weeks of unpaid FMLA leave during the 12-month leave year if a serious health condition leaves them unable to perform essential job functions. As defined by FMLA, a “serious health condition” includes any illness, injury, impairment, or physical or mental condition that requires either in-patient care in a medical facility or continuing treatment by a health-care provider. These terms are construed by the Company in accordance with applicable federal laws and regulations.
* Family leave for a family member with a serious health condition. Eligible employees may take up to 12 weeks of unpaid FMLA leave during the 12-month leave year to care for a spouse, son, daughter or parent with a serious health condition, as defined above. A son or daughter must be younger than age 18, unless incapable of self-care because of a mental or physical disability. In-laws are not family members for this purpose. Spouses employed by THA Group are entitled to a combined total of 12 weeks of family leave to care for sick parents.
* Military family leave for qualifying exigencies. Eligible employees may take up to 12 weeks of FMLA leave during the 12-month leave year for one or more of the following qualifying exigencies related to a spouse, son, daughter or parent called to covered active duty as a member of the Regular Armed Forces, the National Guard, or the National Reserves as defined by FMLA, “covered active duty” includes any deployment of an Armed Service member to a foreign country and any deployment of an Armed Service reservist to a foreign country under a call or order to active duty:
  + military events and related activities (including official activities sponsored by the military, a military service organization or the American Red Cross and related to the covered military member’s active duty or call to active duty);
  + childcare and school activities (including arranging alternative childcare, providing childcare on an urgent or immediate-need basis, enrolling or transferring a child to a new school or day care facility, or attending meetings with staff at a school or day care facility);
  + financial and legal arrangements (including making these arrangements because of a covered military member’s absence due to active duty or a call to active duty status);
  + counseling (for benefit of the employee, a covered military member or a child of a covered military member if counseling is needed due to a covered military member’s active duty or call to active duty and is provided by someone other than a health care provider);
  + post-deployment activities (including attending arrival ceremonies and reintegration briefings or addressing issues resulting from a covered military member’s death during active duty); and
  + any other activities THA Group and an employee agree constitute qualifying exigencies.
* Military caregiver leave related to a service member’s serious illness or injury. Eligible employees may take up to 26 weeks of FMLA leave during a single 12-month period beginning on the first day of leave to care for a covered service member with a serious injury or illness. Covered service members include a current member of the Armed Forces, the National Guard or Reserves and a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness if the veteran was a member of the Armed Forces at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
* For a current member of the Armed Forces, the National Guard or Reserves, a serious injury or illness includes a qualifying illness or injury that was incurred on active duty or that existed before the beginning of active duty and was aggravated by service in the Armed Forces. For a veteran, a serious injury or illness includes a qualifying injury or illness that was incurred on active duty (or existed before the beginning of active duty and was aggravated by service in the Armed Forces) and that manifested itself before or after the member became a veteran.
* To take this leave, an employee must be the service member’s spouse, parent, son, daughter or next of kin. An employee may not take more than one 26-week period of leave to care for the same service member, unless it is for a different serious illness or injury. Military caregiver leave, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period. Spouses employed by THA Group are entitled to a combined total of 26 weeks of family leave for this purpose.

**Reduced Schedule or Intermittent Leave**

When medically necessary to address an employee’s own serious health condition, to care for a family member with a serious health condition, or to care for a service member with a serious illness or injury, an employee may take FMLA leave intermittently or on a reduced-schedule basis. It is requested that the employee make reasonable efforts to schedule medically necessary intermittent leave, so it does not unduly disrupt THA Group’s operations. An employee is also entitled to take reduced-schedule or intermittent leave for qualifying exigencies when necessary.

**Substitution of Paid Benefits for Unpaid FMLA Leave**

THA Group requires the use of all appropriate accrued paid time off during the FMLA leave period, provided the policy requirements for the paid time off are met. An employee may receive short-term disability or workers’ compensation benefits, if applicable, during FMLA leave. An employee’s total FMLA leave, paid or unpaid, may not exceed 12 weeks, or 26 weeks to care for a service member with a serious illness or injury, in the applicable 12-month period.

**Reinstatement After Leave**

THA Group will reinstate the employee returning from FMLA leave to the same or an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

**Notice and Certification Requirements**

When an employee’s need for FMLA leave is foreseeable, the employee must provide THA Group with 30 days’ advance written notice of the requested leave. Otherwise, the employee must provide as much notice as possible – generally within one to two business days of realizing the need for leave. The notice should be made in writing and state the reason for leave and the amount of time requested. If circumstances arise that an employee cannot formally request a leave, then constructive notice of leave necessity will suffice as notification to THA Group.

Whenever possible, employees should schedule medical treatments so as not to unduly disrupt THA Group’s operations. To obtain FMLA leave, an employee needs to follow these basic steps:

Inform the employee’s leader and Talent Management of the requested leave.

Obtain a copy of an FMLA request form and the applicable FMLA certification form from Talent Management. Return the FMLA request form and the FMLA certification form as soon as possible to Talent Management.

Continue to communicate with leader and Talent Management about the progress of the leave and return-to-work date, providing additional medical certifications or obtaining additional medical evaluations as needed to justify the length of absence or as requested by Talent Management.

**Leave-Specific Obligations**

Different notice of obligations apply for different types of leave requests. Consistent with applicable laws, THA Group may ask for additional information to support requests for qualifying exigency or military caregiver leave, including confirmation of family relationship. At minimum, employees should provide the following information when requesting FMLA leave for these purposes:

* An employee’s own or a family member’s serious health condition. To qualify for an FMLA leave related to an employee’s own or a family member’s serious health condition, an employee must provide a written certification issued by a health care provider that includes the approximate date on which the serious health condition began, the probable duration of the condition and the appropriate medical facts about the condition. The information to include in the certification varies depending on the type and reason for leave:
  + If the leave is for planned medical treatment and will be taken on an intermittent or reduced-schedule basis, the certification must include expected dates of treatments (or at least the frequency of treatments) and the duration of the course of treatments.
  + If the leave is to care for a family member, the certification must state that the employee is needed to provide such care and estimate the amount of time needed for such care.
  + If the leave is due to the employee’s own serious health condition, the certification must identify which essential job functions the employee is unable to perform and indicate any other work restrictions and their likely duration.
* Qualifying exigency leave. If an employee is requesting “qualifying exigency” leave, the employee must submit a certification showing that the spouse, son, daughter, parent or next of kin who is a covered military member has been called to active duty or notified of an impending call or order to active duty.
* Military caregiver leave.If requesting military caregiver leave, an employee must provide the certification form completed by one of the authorized health care providers identified on the form (for example, a provider affiliated with the Department of Veterans’ Affairs, Department of Defense, DOD TRICARE, etc.).

**THA Group’s Process for Evaluating Leave Requests**

Talent Management will review and grant leave requests for qualifying reasons and for the time certified, subject to the limits established by FMLA or applicable state law. Failure to provide adequate certification(s) will result in denial of the requested leave and may result in other employment consequences if the employee’s absence is not otherwise authorized, including corrective action, up to and including separation.

THA Group will notify the employee whether he or she is eligible for FMLA leave and whether the requested leave is designated and will be counted as FMLA leave. THA Group will advise an employee of any certification found incomplete or insufficient and will state in writing what information is needed to correct the problem. The employee will then have fifteen (15) calendar days to provide a corrected certification (unless this deadline is impracticable under the circumstances). After the employee has had an opportunity to correct the certification, THA Group may contact the health care provider for clarification and/or authentication. Contact with the health care provider will be made only with the employee’s written authorization and may not be handled by the employee’s direct leader.

**Recertifications**

THA Group may require periodic recertification of a serious health condition and periodic reports during the leave regarding an employee’s status and intent to return to work. In addition, THA Group may request that the employee provide annual certifications for medical conditions lasting longer than a leave year. Finally, THA Group may require certification of an employee’s ability to return to work at the end of a leave.

**Second or Third Medical Opinions**

THA Group may, at its own expense, require the employee to obtain a second medical certification from a health care provider of its choosing. If the opinions of the employee's and the employer's designated health care providers differ, THA Group may require the employee to obtain certification from a third health care provider, again at THA Group's expense. The third health care provider must be approved jointly by the employer and the employee. This third opinion shall be final and binding.

**Benefits during leave**

# Health Insurance

1. Group health care coverage continues for employees on family and medical leave as if they continued to be actively employed. Employees who are granted an approved leave of absence under this policy are advised to arrange to pay their share of premiums during the absence.
2. If the leave is paid, premiums continue to be paid through payroll deductions. If the leave is unpaid, employees are responsible for making sure THA Group receives premium payments within 15 days of premiums being paid on behalf of the employee. The employee is provided a schedule of payment amounts and due dates at the beginning of any unpaid leave of absence by the Talent Management department.
3. If the premium payment is more than 15 days late, a letter is sent to the employee reminding of payment due. If payment is not received within 15 days of the letter, coverage may cease.

**Recovery of premiums**

1. If an employee chooses not to return to work for at least 30 calendar days at the end of the leave period, he/she is required to reimburse THA Group the cost of any premiums paid to maintain coverage during the unpaid leave, unless the failure to return is because of a serious health condition or reasons beyond the employee’s control.
2. PTO does not accrue during leave periods.
3. Incentives, bonuses, holiday pay or other forms of variable compensation are paid only to employees who are actively working.

# RETURN TO WORK

* + - 1. If the employee takes leave because of his/her own serious health condition or to care for a covered family member, the employee is required to contact THA Group two weeks prior to the expiration of the leave period regarding the status of the condition and his/her intention to return to work.
      2. It is the employee’s responsibility to notify THA Group of any changes to the approved FMLA leave. THA Group must be informed in writing if the employee is unable to return to work on the agreed upon date and will determine if the employee is eligible for an extension.
      3. If an employee fails to return to work from a leave on the agreed upon date, except for reasons beyond his or her control, THA Group assumes that the employee has resigned, and the employee is separated from the company.
      4. When family and medical leave is due to an employee’s own serious health condition, the employee is required to present information showing that he/she may return to work with or without restriction.

**Non-discrimination/Non-retaliation Policy Statement**

It is unlawful for any employer to interfere with, restrain or deny the exercise of any right provided under FMLA. In addition, employers cannot discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for participating in any proceeding relating to FMLA. Employees who believe that their FMLA rights have been violated may file a complaint with the Department of Labor or a private lawsuit in federal or state court. Questions relating to leave entitlements and/or the status of employee benefits or compensation during approved leaves should be directed to Talent Management. Exceptions to this policy will occur as necessary to comply with applicable laws. All exceptions to this policy must be reviewed in advance and approved by Talent Management.

THA Group will not: interfere with, restrain, or deny the exercise of any right provided under FMLA; discharge or discriminate against any person for opposing any practice made unlawful by FMLA; or discharge or discriminate against any person for his or her involvement in any proceeding under or relating to FMLA.

Associated Forms:

FMLA Leave of Absence-Employee Request

FMLA Health Care Provider Form for Care of Family Member

FMLA Health Care Provider Form for Employee Health Condition

FMLA Employer Response: Designation Notice

FMLA Employer Response: Notice of Rights