

NORTH CAROLINA DEPARTMENT OF COMMERCE		POLICY # HR 5
Title: Family Medical Leave		
Effective Date: March, 1997 Revisions: 5/09	Administering Authority: Human Resources Dir.	
Statutory Authority (if applicable): G.S. 126		

Purpose: To ensure that all employees are aware of the Family Medical Leave benefit and properly follow the guidelines.

Policy:

The Family and Medical Leave Act of 1993 (FMLA) was passed by Congress to balance the demands of an employer with the family and medical needs of the employee. This Act enables most employees up to (12) weeks of paid or unpaid medical leave. This type of leave allows the employee’s health insurance to continue during the “approved” 12 weeks of family and medical leave. The employee, of course, would continue to pay monthly premiums for the cost of their health insurance. This leave must be used for the birth of a baby, the adoption of a child, the care of an immediate family member with a serious health condition, the serious health condition of an employee which renders them unable to perform the essential functions of their job, or Military Caregiver Leave (also known as Covered Service member Leave. Military Caregiver Leave (Covered Service Member Leave) shall be entitled to a total of 26 workweeks of leave during a single 12 month period (commencing on the date the employee first takes leave). If an employee does not take all of his or her 26 workweeks of leave entitlement to care for a covered service member during this “single 12 month period”, the remaining part of his or her 26 workweeks of leave entitlement to care for the covered service member is forfeited. The 26 workweek entitlement is to be applied as per-covered service member, per-injury basis such that an eligible employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness. It is the policy of the Department of Commerce that all employees are required to exhaust sick leave prior to taking leave without pay while on FMLA. The employee may choose to use vacation and bonus leave as well.

Eligibility Requirements

1. The employee must have been employed with State government for at least 12 months and worked at least 1040 hours (half-time) during the previous 12-month period to be entitled to a total of 12 workweeks, paid or unpaid, leave during any 12-month period. Employees exhausting sick leave for three (3) or more consecutive days are required to submit a completed FMLA form to the Commerce Human Resources Office within two weeks of the medical leave incident.
2. The leave may be used for the birth of a child and to care for the newborn after birth, provided the leave is taken immediately **following birth**. (An expectant mother may also take FMLA before the birth of the child for prenatal care or if her condition makes her unable to work as documented by the attending physician.)
3. The leave may be used for the placement of or to care for a child placed with the employee for adoption or foster care, provided the leave is taken immediately **following adoption**. (May also

be granted before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed.)

4. The leave may be used for the employee to care for the employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition.
5. The leave may also be used for the serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position.
 - a. The Military Caregiver Leave may be used by a spouse, son, daughter, parent, or next of kin to care for a covered service member with a serious injury or illness incurred in the line of duty on active duty. The service member must be a member of the Armed Forces, National Guard or Reserves, sustained a serious injury or illness while on active duty in support of a contingency operation (federal call up for active duty) and requires on-going medical treatment, recuperation, therapy, outpatient treatment or is on the temporary disability retired list.
 - b. The Military Exigency Leave may be used by a employee who has a spouse, son, daughter, or parent who is a member of the National Guard or Reserves who is on active duty or has been called to active duty in support of contingency operation (federal call up for active duty). The qualifying exigency reasons for which an employee may take leave because of a qualifying exigency are divided into seven general categories, short notice deployment; military events and related activities; childcare and school activities; financial and legal arrangements; counseling; rest and recuperation; post-deployment activities and additional activities (leave to address other events which arise out of the covered military member's active duty or call to active duty status provided the agency and employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave).

Other Pertinent Information

1. The agency may recover the premiums paid for the employee's health insurance if the employee fails to return after the period of leave to which the employee is entitled has expired for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control.
2. Leave without pay beyond the 12-week period or for employees not covered under the Family and Medical Leave Policy will be administered under the Other Leave Without Pay Policy. Under these provisions, employees must pay for the health benefits coverage. **Leave without pay must have prior approval from immediate supervisor and the Director of Human Resources.**

**NORTH CAROLINA DEPARTMENT OF COMMERCE
FAMILY AND MEDICAL LEAVE ACT (FMLA) APPLICATION**

Employees requesting leave of absence under the Family and Medical Leave Act policy must fully complete this request form at least 30 days prior to the date of the requested leave of absence for birth, adoption of a child, care of an immediate family member with a serious health condition, a serious health condition that makes the employee unable to perform one or more functions of the position or Military Caregiver Leave. *Periods of paid leave and periods of leave without pay count towards the 12 workweeks to which the employee is entitled.*

Employee's Name: _____

Office Location: _____

Reason for FMLA Request: _____

Last Actual Day at Work: _____

Options for FMLA

Sick Leave Exhausted From _____ through _____

Annual Leave Exhausted From _____ through _____

(Available sick leave may be used for: period of disability related to childbirth (6 - 8 wks.), adoption of a child, care of an immediate family member with a serious health condition or Military Caregiver Leave. Sick leave shall be exhausted for employee's illness. A maximum of 30 days sick leave may be used for adoption.)

Estimated Date of Return to Work: _____

____ I elect to exhaust leave as stated above. I understand that the periods of paid leave and periods of leave without pay count towards the 12 workweek benefit period per year to which I am entitled. (This includes leave without pay while drawing short term disability benefits and leave taken under the voluntary shared leave policy.)

____ I have no available sick or annual leave and elect to go on leave without pay.

____ I am requesting an intermittent or reduced work schedule.

(DATE)

(EMPLOYEE SIGNATURE)

****Please attach copies of timesheets covering the entire period of leave, and certification of Health Care Provider (Family and Medical Leave Act of 1993) form and forward all to the Human Resources Office.****

Period of Leave Requested is designated as Family and Medical Leave.

(DATE)

(SUPERVISOR'S SIGNATURE)

****Verbal or written notification to be provided by supervisor within two business days after receipt of request and written confirmation given no later than the following pay day.****

(DATE)

(COMMISSION/DIVISION HEAD)

(DATE)

(PERSONNEL DIRECTOR)