



## PA TURNPIKE COMMISSION POLICY

*This is a statement of official Pennsylvania Turnpike Policy*

**NUMBER:** 2.03

**APPROVAL DATE:** 11-01-2011

**EFFECTIVE DATE:** 11-16-2001

**REVISED DATE:** 10-20-2011

**POLICY SUBJECT:**

Family and Medical Leave  
Policy

**RESPONSIBLE DEPARTMENT:**

Human Resources

### A. PURPOSE:

To provide a policy for all Pennsylvania Turnpike Commission (Commission) employees for the administration of the Family Medical Leave Act (FMLA) of 1993, as amended in 2009.

### B. SCOPE:

This policy provides information and procedures regarding the FMLA. To be eligible for FMLA, an employee must meet the following standards:

1. Have worked for the Commission for at least one (1) year and for at least 1,250 hours within the twelve (12) consecutive month period prior to the start of the requested leave.
2. Not have used his/her full entitlement of FMLA leave within the previous 12-month rolling calendar period.

### C. GENERAL POLICY:

The FMLA allows eligible employees to take up to twelve (12) weeks (480 hours or 60 days) of job-protected leave for a qualified FMLA reason listed below. Upon return from FMLA leave, most employees will be restored to their original or equivalent position with equivalent pay, benefits, and other employment terms. An employee does not have to specifically request leave under the FMLA for that leave to be covered and counted as part of the 12-week allocation.

The FMLA contains the following basic leave entitlements:

1. For incapacity due to pregnancy, prenatal medical care or child birth.
2. To care for the employee's child after birth, or placement of a child with an employee for adoption or foster care.
3. To care for the employee's spouse, son or daughter, or parent, who has a serious health condition (reference Definitions section below).
4. For a serious health condition that makes the employee unable to perform the employee's job (reference Definitions section below).

5. For any qualifying exigency arising out of the fact that the employee's family member is on active duty or has been called to active duty status in the National Guard or Reserves in support of a contingency operation (reference Definitions section below).
6. Caregiver leave for employees who are a spouse, child, parent, or next of kin to a service member who is undergoing medical treatment or recuperation therapy as a result of a serious injury or illness. A "serious injury or illness" for this leave is defined as an injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating.

*\*Exception to Caregiver leave: This leave allows for up to twenty-six (26) weeks of full-time family leave in a single 12-month period, instead of the standard twelve (12) weeks. This allotment of leave is a one-time event, per member, per injury. All other provisions listed below apply. Any other type of FMLA leave taken in the same 12-month period will be included in the twenty-six (26) week entitlement of military caregiver leave.*

During FMLA leave, the Commission will maintain the employee's health coverage on the same terms as if the employee had continued to work. If the employee does not return to work from full-time leave, the employee may be responsible for the reimbursement of all benefit claims or premiums paid by the Commission while the employee was on leave.

An employee may be exempt from the above if:

1. The continuation, recurrence or onset of a serious health condition prevents such return to work.
2. The employee is prevented by circumstances beyond his/her control from returning to work.

#### Leave Usage and Accrual

1. Employees using FMLA for their own serious health condition shall use all accrued sick and vacation leave before unpaid leave may be taken. All such leave is included in the 12-week entitlement and should be recorded on the employee's timesheet as FMLA.
2. Employees using FMLA for a family member shall use all accrued vacation before unpaid leave may be taken. All such leave is included in the 12-week entitlement and should be recorded on the employee's timesheet as FMLA.
3. An employee must be in compensable status at least 37 hours in a pay period in order to accrue leave. Accordingly, accrual of sick or vacation leave may be affected whenever an employee is out on an unpaid FMLA leave for an extended period of time.

#### Types of FMLA Leave

1. Full-time FMLA

Full-time FMLA leave allows the employee to be out of work for a continuous period of time. Upon return from full-time FMLA leave for an employee's serious health condition, the employee will be required to submit a return to work note from the health care provider.

## 2. Intermittent FMLA

An employee may need intermittent (part-time) FMLA leave instead of full-time FMLA leave. Intermittent FMLA may only be used for the reason(s) specified on the FMLA Certification form; it cannot be used for medical appointments not relating to the FMLA reason listed on the certification form. It is the employee's responsibility to attempt to schedule appointments and treatments to avoid affecting the Commission's operations.

The Commission reserves the option to temporarily assign an employee to a position that the employee is capable of accomplishing at the same pay and benefit level while on intermittent FMLA leave. The employee will be restored to the original or equivalent position at the end of the leave.

Employees must provide a new certification form when requesting to change their FMLA leave approval from full time to intermittent or vice versa unless the original certification form includes all the necessary information.

## 3. FMLA and Childrearing Leave

FMLA runs concurrently with Childrearing leave provided the employee is eligible for FMLA. FMLA leave for this reason must be used within the first twelve (12) months following the birth or adoption of the child. Employees are not required to use their vacation leave first when used concurrent with Childrearing leave. They may elect to use FMLA paid vacation leave or opt to use only unpaid FMLA leave.

- Management and Local 30 Supervisory employees:  
Covered under the Commission's Childrearing Leave Policy Letter 2.8. Part-time leave will only be approved based on the policy and on the Commission's ability to maintain efficient operations.
- Union employees:  
Covered under the bargaining agreement. In addition, if the employee has not exhausted his/her twelve (12) weeks of FMLA leave, the employee may request a SET part-time schedule using the remainder of the FMLA entitlement. Part-time leave will only be approved based on the Commission's ability to continue to maintain efficient operations. Employees will be paid for holidays provided they are in compensable status their full scheduled day prior to the holiday and their full scheduled day following the holiday.

### Employee Notification Requirements

- (a) Employees requesting FMLA are required to give reasonable notice to the Commission.
  - When the need for leave is foreseeable, employees must give 30 days advance notice of leave. Failure to give advance notice when the need for leave is foreseeable may result in the Commission denying or delaying the requested FMLA leave.
  - When the need for leave is unforeseeable, employees must give notice as soon as practicable after the employee learns of the need for such leave. Practicable is defined as the same day the employee becomes aware of the need of leave, except in the case of an extreme emergency.

(b) Employees reporting an FMLA absence are required to comply with the Commission's usual and customary call off procedures, unless there are unusual circumstances that prevent an employee from doing so.

#### Employer Notification Requirements and Designation of Leave

- (a) HR will notify an employee of his/her FMLA eligibility status upon learning of the need for FMLA.
- (b) Designation of the leave will be made before the leave starts unless the Commission does not have sufficient information regarding the reason for the leave until after the leave begins. Designation may be made retroactively after completion of the leave if the Commission does not have sufficient information regarding the reason for the leave until after the employee's return.
- (c) An employee approved for full-time FMLA leave will be notified in the approval letter of the amount of leave that will be charged against the FMLA entitlement. An employee approved for intermittent FMLA will be notified bi-weekly on his/her paystub of the amount of leave that has been charged against the FMLA entitlement during each pay period.

#### General Information

When both spouses are employed by the Commission, FMLA leave is limited to a combined twelve (12) weeks for the birth and care of a child and the care of a parent. Leave will not be limited if the employee suffers from their own serious health condition.

#### **D. DEFINITIONS:**

**Serious Health Condition-** as defined under the FMLA is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider. Continuing treatment by a health care provider includes treatment for pregnancy, chronic conditions, permanent or long-term conditions and condition requiring multiple treatments. Voluntary or cosmetic treatments, which are not medically necessary, are not considered a serious health condition unless inpatient hospital care is required or complications develop.

**Qualifying Exigency-** as defined under the FMLA may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

**Family Member-** as defined under the FMLA is a spouse, son or daughter up to 18 years old, or a son or daughter 18 years or older who is incapable of self care as a result of a mental or physical disability, or a parent, if such spouse, son, daughter, or parent has a serious health condition. The term "parent" does not include in-law relationships but does include a person standing as a parent (in loco parentis). The term "spouse" for FMLA purposes is a husband or wife as defined and recognized by state law for purposes of marriage, including common law marriage in those states that recognize it, for the time

period it was/is recognized. Exception: For the purpose of either type of military FMLA leave, the definition of son or daughter does not have an age requirement.

**Twelve weeks-** means twelve (12) regular workweeks. Holidays are included in the 12-week entitlement if an employee is on FMLA for the entire week of which the holiday falls or if the employee is scheduled to work the holiday and calls off due to FMLA. Employees will not be paid for holidays while on full time FMLA leave unless they are in compensable status the full day prior to the holiday and the full day after the holiday.

The 12-month “rolling calendar” period method is used to determine the 12-month period. This method works by measuring time backward from the date an employee uses any FMLA leave. The 12-week allotment will be reduced by any period of family medical leave taken within the 12month rolling calendar.

#### **E. PROCEDURES:**

The role of HR in the FMLA process is to determine the employee’s eligibility and assist them in obtaining FMLA leave. The FMLA process is outlined as follows:

- (a) Employee informs supervisor or HR of his/her intent to request and take FMLA leave.  
Supervisor notifies HR. HR will determine if the employee meets the eligibility requirements, and send the employee an eligibility notification and FMLA certification form for completion.  
OR  
Employee turns in completed FMLA certification form to HR directly or to his/her Supervisor.  
Supervisor forwards the FMLA certification form to HR for processing.
- (b) For consideration of FMLA benefits, an employee must submit the FMLA Certification form that corresponds with the type of leave they are requesting. The form must be completed by a health care provider or authorized individual, and submitted to HR. The four FMLA Certification forms listed below are available on the intranet at \\COFS1\Public\Forms\HR Forms\HR-FMLA Form- as well as in HR and field locations.
  - 1. FMLA Form – Employee’s Condition
  - 2. FMLA Form – Family Member’s Condition
  - 3. FMLA Form – Military, Injury of Service Member (Caregiver Leave)
  - 4. FMLA Form – Military, Qualifying Exigency
- (c) HR will review the FMLA certification form and send the employee an FMLA approval or denial letter within five business days of receiving the completed form from the employee. Additional information including FMLA expiration dates, re-certification requirements if applicable, and employee responsibilities will also be included with the letter. A copy of the approval or denial letter is sent to the employee’s supervisor and manager.
- (d) If the FMLA Certification form received in HR is vague, ambiguous, or lacks sufficient information, the employee will be sent a letter specifying the additional information needed, and the information must be provided to HR with fifteen (15) calendar days from the date of the letter. If the deficiencies specified by the Commission are not rectified within the time frame specified, FMLA leave may be denied.

- (e) The employee should only complete the employee section on the request form. The other portions of the form should not be completed or altered by the employee prior to submission. The intentional falsification of an FMLA Certification form may be cause for immediate discharge.

*This Policy Letter supersedes all previous Policy Letters on this subject.*