

 <b>PA TURNPIKE COMMISSION POLICY</b> <i>This is a statement of official Pennsylvania Turnpike Policy</i>		<b>NUMBER:</b> 2.03
		<b>APPROVAL DATE:</b> 11-01-2011
<b>POLICY SUBJECT:</b> Family Medical Leave	<b>RESPONSIBLE DEPARTMENT:</b> Human Resources	<b>EFFECTIVE DATE:</b> 11-16-2001
		<b>REVISED DATE:</b> 08-18-2020

**A. PURPOSE:**

To provide a policy for all Pennsylvania Turnpike Commission (“Commission”) employees regarding the administration of the Family Medical Leave Act (FMLA) of 1993.

**B. SCOPE:**

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

1. Have worked for the Commission for at least one (1) year;
2. Worked at least 1,250 hours within the twelve (12) consecutive month period prior to the start of the requested leave; and
3. Has not used his/her full entitlement of leave under FMLA within the previous 12-month rolling calendar period. The 12-week allotment will be reduced by any period of family medical leave taken within the 12-month rolling calendar period.

**C. GENERAL POLICY:**

The Commission will provide FMLA leave to its eligible employees. The Commission 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 Leave Act in all Commission work locations.

The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

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 event. 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 FMLA for that leave to be covered and counted as part of his/her FMLA entitlement.

### Qualifying FMLA reasons:

1. The birth of a child or placement of a child for adoption or foster care.
2. To care for a spouse, son, daughter, or parent, who has a serious health condition.
3. For a serious health condition that makes the employee unable to perform the essential functions of his/her job.
4. For any qualifying exigency arising out of the fact that a family member is on covered active duty or has been notified of impending call or ordered to covered active duty status for members of the Armed Forces, including reserve components of the Armed Forces; members of the National Guard and Reserves in support of a contingency operation.
5. Caregiver leave for employees who are a spouse, child, parent or next of kin to a covered service member which includes a current member of the Armed Forces or covered veterans, who is undergoing medical treatment or recuperation therapy as a result of a serious injury or illness. This leave allows for up to twenty-six (26) weeks of continuous 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 covered service 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 continuous 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.

### Leave Usage, Accrual and Holidays

1. Employees using FMLA for their own serious health condition shall use all accrued sick and vacation leave before unpaid FMLA leave may be taken. The only exception is when an employee is on Sick and Accident (S&A) leave. 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. Holidays are included in the 12-week entitlement if an employee is on FMLA leave for the entire week of which the holiday falls or if the employee is scheduled to work the holiday and calls off due to a qualifying FMLA event.
4. An employee must be in a compensable status for a minimum of thirty-seven (37) hours in a pay period to accrue sick and vacation leave. Accordingly, accrual of sick and vacation leave may be affected whenever an employee is on unpaid FMLA leave for an extended period.
5. An employee on unpaid FMLA leave during a full pay period will not have State Employees Retirement System (SERS) deductions taken or hours reported for that pay period. Therefore, long term absences could affect the employee's SERS service time.

### Types of FMLA Leave

#### 1. Continuous FMLA Leave:

An employee is absent for more than three (3) consecutive workdays (not broken up by periods of work) and employee has been treated by a physician. Upon return from continuous

FMLA leave for the employee's serious health condition, the employee will be required to submit a return to work note from his/her health care provider.

2. Intermittent FMLA Leave:

An employee is taking time off in separate blocks of time due to a serious health condition that qualifies for FMLA. Intermittent FMLA is often taken for medical appointments or flare-ups when an employee needs ongoing treatment for his/her condition. 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 during non-working hours to avoid affecting the Commission's operations. The Commission reserves the option to temporarily assign an employee to a position that the employee can perform in, at the same pay/benefit level he/she is while on intermittent FMLA leave. The employee will be restored to his/her 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 continuous to intermittent or vice versa unless the original certification form includes all the necessary information for both types of leave.

3. Reduced Schedule FMLA Leave:

An employee works a reduced weekly work schedule. Reduced work schedules are a set work schedule that can be accommodated without affecting Commission operations. Due to the nature of Commission operations, this option is not available to all employees.

4. FMLA Concurrent with Sick and Accident (S&A) Leave:

FMLA runs concurrently with S&A leave provided the employee is eligible for FMLA. FMLA leave entitlements for this reason will apply for the first twelve (12) weeks of his/her S&A leave (or until they exhaust their FMLA entitlement for the rolling calendar year). Employees are not required to use their vacation and/or sick leave for the 12-day waiting period for S&A benefits but may elect to do so. Employees must use FMLA unpaid leave after the 12-day waiting period for the remainder of time that FMLA and S&A run concurrently.

5. FMLA Concurrent with Childrearing Leave:

FMLA runs concurrently with Childrearing leave provided the employee is eligible for FMLA. FMLA leave for this reason will be used for the first twelve (12) weeks of his/her childrearing leave (or until they exhaust their FMLA entitlement for the rolling calendar year). 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: A reduced work schedule will only be approved based on the Childrearing Leave policy and the Commission's ability to maintain efficient operations. Please refer to Commission Policy Letter No. 2.08 (Childrearing Leave Without Pay) for further information.

- Union employees: 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 his/her FMLA entitlement. A reduced work schedule will only be approved based on the Commission's ability to continue to maintain efficient operations. Please refer to Article 15 – Leaves of Absence in the collective bargaining agreement for further information.

#### Employee Notification Requirements

1. When the need for leave is foreseeable, employees must give thirty (30) days advance notice of the intent to take the 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.
2. When the need for leave is unforeseeable, employees must give notice the same day the employee becomes aware of the need for the leave, except in the case of an extreme emergency.
3. Employees reporting a FMLA absence are required to comply with the Commission's usual and customary call off procedures, unless there are unusual circumstances that prevent him/her from doing so.
4. The Commission may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

#### Employer Notification Requirements and Designation of Leave

1. Upon learning of the need for FMLA, HR will notify an employee of his/her FMLA eligibility status.
2. Designation of the leave will be made before the leave starts unless the Commission does not have enough 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 enough information regarding the reason for the leave until after the employee's return.
3. 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 newborn child, placement of a child for adoption or foster care and for the care of a parent.

If you have any questions, concerns, or disputes with this policy, you must contact the Human Resources Department in writing.

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

Covered Active Duty is duty during deployment of the employee with the Armed Forces to a foreign country. For an employee who is a member of the National Guard and Reserves, "covered active

duty” is duty during deployment of the employee with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation.

Family Member is a spouse, son, daughter, or parent who has a serious health condition and meets the following guidelines:

- A “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.
- A “spouse” is defined under the FMLA as a husband and wife. For purposes of the definition husband and wife refers to the other person with whom an individual entered into a recognized marriage under the state law in which the marriage was entered into. The definition includes an individual in a same-sex or “common law” marriage that was entered into in a State that recognizes such marriages.
- The term “parent” does not include in-law relationships but does include a person standing as a parent (in loco parentis).

For either type of military FMLA leave, the definition of son or daughter does not have an age limitation. Holiday Pay is compensation recognized on holidays for employees who qualify provided they meet the compensable status requirements for holiday pay.

- A Management/Local 30 Supervisory employee will receive holiday pay provided he/she is in compensable status for his/her full or reduced scheduled workday immediately preceding the holiday and full or reduced scheduled workday immediately following the holiday.
- A Union employee will receive holiday pay provided he/she has no more than one (1) hour of non-compensable time on his/her last full or reduced scheduled workday immediately preceding the holiday and his/her full or reduced scheduled workday immediately following the holiday.

Member of the Armed Forces is active military members of the Armed Forces, PA National Guard, or a reserve component of the military.

Next of Kin is the nearest blood relative, other than a spouse, child, or parent.

Provisional Approval is the temporary approval for FMLA leave subject to receipt of a completed medical certification form. After the fully completed medical certification has been received, the Commission will make a final determination whether the request for leave meets the FMLA guidelines for approval.

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, attending post-deployment activities, rest, recuperation, issues arising from short notice deployments and care of the covered member’s parent who is incapable of self-care.

Rolling Calendar Year is used to determine the FMLA 12-month eligibility period. This method works by calculating time backward from the date an employee uses any FMLA leave.

Serious Health Condition 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 conditions that require 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.

Serious Injury or Illness for Military Caregiver Leave is defined leave needed to care for a service member with an injury or illness which incurred in the line of duty on active duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces that may render the service member medically unfit to perform the duties of his/her office, grade, rank or rating. For a veteran, a serious injury or illness is one that qualifies the veteran for certain benefits from the Department of Veterans Affairs or substantially impairs the veteran's ability to work. For veterans, it includes injuries or illnesses that were incurred or aggravated during military service but that did not manifest until after the veteran left active duty.

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.

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

The role of Human Resources ("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:

1. The employee should inform his/her supervisor or HR of his/her intent to request and take FMLA leave or initiate a claim through short-term disability program (S&A).
2. For consideration of FMLA benefits, an employee must submit the FMLA certification form that corresponds with the type of leave he/she is requesting. If the employee's S&A claim is approved, they will not be required to complete the FMLA request form; however, if the employee's S&A claim is denied/held, they will be required to submit the applicable forms to ensure they are covered on an approved leave. Forms must be completed in their entirety, signed by a health care provider and submitted to HR. The four (4) 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.

- FMLA Form – Employee's Condition
- FMLA Form – Family Member's Condition
- FMLA Form – Military, Injury of Covered Service Member (Caregiver Leave)
- FMLA Form – Military, Qualifying Exigency

3. HR will review the FMLA certification form and send the employee a FMLA approval or denial letter within five (5) 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. HR will send a copy of the approval or denial letter to the employee's supervisor and manager.
4. If the FMLA certification form received by HR is vague, ambiguous or lacks sufficient information, HR will issue to the employee a provisional approval letter specifying the additional information needed and advising that the information must be provided to HR within fifteen (15) calendar days from the date of the letter. If the deficiencies specified by the Commission are not rectified within the required time frame specified, FMLA leave may be denied.
5. The employee should only complete the employee section on the certification form. The other sections of the form should not be completed or altered by the employee prior to submission. The intentional falsification of a FMLA certification form may be cause for immediate discharge.

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