



Medical/Family Leave Policy

(Excluding Qualifying Military Caregiver Leave)

**As approved by Board of Directors June 29, 2010
Amended March 27, 2012**

Because Forward Journey employs fewer than 50 employees, the company is not required to provide leave to employees under the Family and Medical Leave Act (FMLA). In an effort to accommodate the needs of employees, Forward Journey does provide a version of Medical/Family Leave to eligible employees. The function of this policy is to provide employees with a description of policy provisions for Medical/Family leave (excluding leave for military service members). For more on military leave, please refer to the "Personal Leave Policy for Service Members". In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law. If you have any questions, concerns, or disputes with this policy, you must contact the Executive Director or designee in writing.

A. General Provisions

Under this policy, Forward Journey will grant up to 6 weeks (thirty business days) of leave during a 12-month period to eligible employees. The leave is typically unpaid, depending on the circumstances of the leave and as specified in this policy.

B. Eligibility

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

1. The employee must have worked for the company for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.
2. The employee must have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave. The 1,250 hours do not include time spent on paid or unpaid leave. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for leave.

C. Type of Leave Covered

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

1. The birth of a child and in order to care for that child.
2. The placement of a child for adoption or foster care and to care for the newly placed child.
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.

In order to care for a family member with a serious health condition, an eligible employee must be the spouse/partner, son, daughter, or parent as described below:

- a) A "child" means the eligible employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the eligible employee stood *in loco parentis*, and who is of any age.
- b) A "parent" means an eligible employee's biological, adoptive, step or foster father or mother, or any other individual who stood *in loco parentis** to the eligible employee. This term does not include parents "in law."
- c) Under the law, a "spouse" (partner) means a husband or wife as defined under the law in the state where the employee resides and eligible employees in legal, same-sex marriages.

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. 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.*

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Employees with questions about what illnesses are covered under this policy are encouraged to consult with the Executive Director or designee.

D. Amount of Leave

An eligible employee can take up to 6 weeks (30 business days) for circumstances noted above in this policy during any 12-month period. The company 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, the company will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 6 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

If a husband and wife both work for the company 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 6 weeks of leave.

E. Employee Status and Benefits during Leave

While an employee is on leave, the company will continue the employee's health benefits during the 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, the company will require the employee to reimburse the company the amount it paid for the employee's health insurance premium during the leave period.

Under current company policy, the employee may or may not pay a portion of the health care/dental premium. While on paid leave, the employer 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 his/her portion of health care premiums, either in person or by mail. The payment must be received at the corporate headquarters within fifteen (15) days of receipt of invoice. If the payment is more than 30 days late, the employee's health care/dental 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 or disability plan under AFLAC, the employer 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 directly to AFLAC, or may elect to be invoiced as with health care/dental premiums above. The payment must be received at the corporate headquarters within fifteen (15) days of receipt of invoice. If the payment is more than 30 days late, the employee's AFLAC may be dropped for the duration of the leave. If the employer chooses to maintain coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

F. 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 request for leave. Generally, an employee who takes personal leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. The company may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

G. Use of Paid and Unpaid Leave

An employee who is taking leave because of the employee's own serious health condition, the serious health condition of a family member, or for the adoption or foster care of a child is not required to use all Paid Time Off (PTO) 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), does open the possibility of short/long term disability payments being approved. An application will have to be made to the insurance company and their decision on approving or denying coverage for leave is final. Forward Journey is not able to appeal or overturn their decision on coverage.

H. Intermittent Leave or a Reduced Work Schedule

The employee may take approved leave in 6 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 6 workweeks (or 30 business days) over a 12-month period.

The company 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, the company and the employee must mutually agree in writing 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 the company 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.

I. Certification for the Employee's Serious Health Condition

The company 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 or similar form.

The company may directly contact the employee's health care provider for verification or clarification purposes using a health care professional, an HR professional or management official. Before the company 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, the company will obtain the employee's permission for clarification of individually identifiable health information.

The company has the right to ask for a second opinion if it has reason to doubt the certification. The company will pay for the employee to get a certification from a second doctor, which the company will select. The company may deny 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, the company will require the opinion of a third doctor. The company and the employee will mutually select the third doctor, and the company will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits pending the second and/or third opinion.

J. Certification for the Family Member's Serious Health Condition

The company 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 or similar form.

The company may directly contact the employee's family member's health care provider for verification or clarification purposes using a health care professional, an HR professional or management official. Before the company 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, the company will obtain the employee's family member's permission for clarification of individually identifiable health information.

The company has the right to ask for a second opinion if it has reason to doubt the certification. The company will pay for the employee's family member to get a certification from a second doctor, which the company will select. The company may deny 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, the company will require the opinion of a third doctor. The company and the employee will mutually select the third doctor, and the company will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave pending the second and/or third opinion.

K. Recertification

The company may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days unless 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, the company may request recertification for the serious health condition of the employee or the employee's family member every three months in connection with an approved absence. The company 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.

L. Procedure for Requesting Medical/Family Leave

All employees requesting Medical/Family leave must provide written notice of the need for the leave to the Executive Director or designee. Within five business days after the employee has provided this notice, the Executive Director or designee will complete and provide the employee with a response regarding eligibility.

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 unpaid Medical/Family 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 such leave is not foreseeable, the employee must comply with the company's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

M. Designation of Medical/Family Leave

Within five business days after the employee has submitted the appropriate certification form, the Executive Director or designee will complete and provide the employee with a written response to the employee's request for leave using the DOL Designation Notice or similar form.

N. Intent to Return to Work from Leave

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

DEFINITION: *In loco parentis* is commonly understood to refer to a relationship in which a person has put himself or herself in the situation of a parent by assuming and discharging the obligations of a parent to a child with whom he or she has no legal or biological connection. It exists when an individual intends to take on the role of a parent.

Under the FMLA, persons who are in loco parentis include those with day-to-day responsibilities to care for or financially support a child. Courts have indicated some factors to be considered in determining in loco parentis status include:

- the age of the child;
- the degree to which the child is dependent on the person;
- the amount of financial support, if any, provided; and
- the extent to which duties commonly associated with parenthood are exercised.