



Family Medical Leave Act

POLICY | PL-HR-0045

I. Purpose - Scope

On February 5, 1993, President Clinton signed the Family and Medical Leave Act of 1993 (FMLA) into law. The FMLA requires employers with 50 or more team members to provide eligible team members with unpaid family and/or medical leaves of absence of up to 12 weeks during a 12-month period. Covered team members must maintain any then-existing health care coverage during the leave period under the same terms as it was being provided prior to the leave period and ordinarily must restore the team member to the same or an equivalent position at the end of the leave period.

On January 28, 2008, President Bush signed into law an Amendment to the Family Medical Leave Act of 1993. The Amendment requires employers to provide 12 weeks of FMLA leave to eligible team members because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the team member is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces (including the National Guard or Reserves) in support of a contingency operation.

FMLA also includes a special leave entitlement that permits eligible team members to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in an outpatient status; or is on the temporary disability retired list.

2. Definitions – See statement of Policy

3. Responsibilities

3.1 Medical leave carrier is responsible for administering the Family Medical Leave Act. All questions and concerns should be directed to the medical leave carrier.

3.2 Team member is responsible for having all necessary paperwork completed in accordance with the Family Medical Act guidelines listed below.

4. Statement of Policy

4.1 Team Member Eligibility - To be eligible for the leave provided by the FMLA, a team member must meet all the following criteria:

4.1.1 Must be actively employed by Vermeer Corporation.

4.1.2 Must have been team member by Vermeer for at least 12 months, not necessarily consecutively.

4.1.3 Must have worked at least 1,250 hours for Vermeer during the 12-month period immediately preceding commencement of the leave.

4.1.4 Must work at a site with at least 50 team members or a site where Vermeer has at least 50 team members within a 75-mile radius.

4.2 The rolling 12-month time during which any team member may be eligible for a 12-week unpaid leave is measured backward from the date any FMLA is used. For example, if a team member used 4 weeks of leave beginning February 1st, 4 weeks beginning June 1st, and 4 weeks beginning December 1st; the individual would not be entitled to take any more leave until February 1st of the following year.

4.3 If a husband and wife both work for Vermeer, together they are limited to a total of 12 weeks of FMLA during the rolling 12-month period if leave is being requested for the birth or placement of a son or daughter and 26 weeks of FMLA for the care of a wounded service person. This limitation does not apply if the leave is being requested because of the team member's own serious health condition, that of the team member's spouse or child, or that of two separate parents.

4.4 Types of Leave Available

4.4.1 Family Leave- An eligible team member, male or female, may take family leave due to:

4.4.1.1 The birth of a son or daughter.

4.4.1.2 For placement with the team member of a son or daughter for adoption or foster care.

4.4.1.3 To care for the team member's spouse, son, daughter, or parent with a serious health condition. This applies both to physical and psychological care.

4.4.4.4 Because of a serious health condition that makes the team member unable to perform the functions of the team member's job.

4.4.4.5 Because of any qualifying exigency arising out of the fact that the team member's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.

4.4.4.6 To care for a covered service member with a serious injury or illness if the team member is the spouse, son, daughter, parent, or next of kin of the service member.

4.4.2 Medical Leave- An eligible team member may take medical leave due to a serious health condition which is defined as the following:

4.4.2.1 *Inpatient Care* – means an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

4.4.2.2 *Continuing Treatment* – serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

- Incapacity and treatment, A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or

period of incapacity relating to the same condition, that also involves:

- Treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; the first (or only) in-person treatment visit must take place within seven days of the first day of incapacity; or
- Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

4.4.2.3 *Permanent/Long-term Conditions Requiring Supervision* – A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The team member or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. The team member must have “periodic treatment” which means visiting a health care provider at least twice a year for the same condition. Examples include: Alzheimer’s, a severe stroke, or the terminal stages of a disease.

4.4.2.4 *Multiple Treatments (Non-Chronic Conditions)* – Any period of absences to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for: Restorative surgery after an accident or other injury; or a condition that would likely result in a period of incapacity of more than three consecutive full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

4.4.2.5 Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

4.4.3.6 A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

4.4.3 Leave Schedules

4.4.3.1 Consecutive- a leave of up to 12 consecutive weeks

4.4.3.2 Intermittent- leave taken on an occasional basis for medical appointments or several days at a time over a period of months. Such leave must be medically necessary as determined by FMLA regulations. This type of

leave may be available if reviewed and approved in advance by the medical leave carrier and the department manager.

4.4.3.3 Reduced Schedule- leave taken that reduces the team member's usual number of working hours per work week or workday as determined permissible by Vermeer. Such leave must be medically necessary as determined by FMLA regulations. This type of leave may be available if reviewed and approved in advance by the medical leave carrier and the department manager.

4.4.3.4 In the event of a reduced schedule or intermittent leave a team member may be transferred to another available position, for which the team member is qualified, that has equivalent pay and benefits (but not necessarily equivalent duties) and that better accommodates the team member's recurring periods of leave. The transfer will not pose a hardship on the team member. At the end of the leave period the team member will be restored to the same or equivalent job as before the leave commenced and the transfer occurred.

4.4.4 Qualifying -exigency- Leave due to a qualifying exigency may be taken on an intermittent or reduced leave schedule.

4.5 Job Restoration

4.5.1 A team member returning from FMLA leave is entitled to be restored:

4.5.1.1 To the same position as held before the leave OR

4.5.1.2 To an equivalent position with equivalent pay, benefits, and other terms of employment.

4.5.2 If the team member is unable to perform an essential function of his/her position because of a physical or mental condition, the employee has no right to restoration to another position under the FMLA. The American with Disabilities Act may require the team member be placed in another available position for which the team member is otherwise qualified.

4.5.3 Any team member taking leave due to his/her own serious medical condition must produce a return-to-work report from the same health care provider who completed the original medical certification.

4.6 Using Paid vs. Unpaid Leave

4.6.1 FMLA leave is unpaid leave. A team member may request use of their vacation to cover a part or all of their leave. IF AN TEAM MEMBER CHOOSES TO USE THEIR PAID VACATION, THIS TIME WILL BE DOCUMENTED AS FMLA AND WILL BE COUNTED AS PART OF THE TEAM MEMBER'S 12 WEEK ENTITLEMENT. Vacation will be applied concurrently at the start of the FMLA leave. Workers' Compensation (paid and unpaid) and Short Term Disability (paid) will be designated as FMLA leave when applicable. The total of paid and unpaid FMLA leave in any rolling 12- month period shall not exceed 12 weeks.

- 4.6.2 Exempt team member's wages will be reduced according to the amount of unpaid leave taken for FMLA leave if sufficient paid leave is not available.
- 4.6.3 Medical leave carrier will provide written notification of the preliminary designation to the team member within five working days of the date team member requests leave, if possible, or as soon as practicable if further investigation is necessary, that any leave (paid, unpaid, or a combination of both) has been designated as FMLA leave. Once medical certification is received, the preliminary designation becomes final unless the certification fails to confirm why the absence is an FMLA reason. If denied, a written notice that the designation is withdrawn will be sent.

4.7 Continuation of Benefits

- 4.7.1 Vermeer will maintain group health care coverage for the duration of the FMLA leave under the same terms as if the team member had not taken leave. Vermeer will deduct any past due premiums after the team member returns to work. If premiums are raised or lowered the employee must pay his/her portion of the new premium.
- 4.7.2 Vermeer will provide any new or modified health plan or benefits implemented while a team member is on FMLA.
- 4.7.3 Vermeer will provide notice of any opportunity to change plans or benefits.
- 4.7.4 The team member may elect not to continue coverage during the leave but must be reinstated to the same coverage upon return from leave as prior to taking the leave. Team members will not be required to meet a qualifying period or a pre-existing condition restriction period.
- 4.7.5 No vacation credit will be earned during a FMLA leave.
- 4.7.6 Holiday pay will not be paid during a FMLA leave, unless the team member worked the day before and after the holiday.

4.8 Discontinuation of Benefits

- 4.8.1 Subject to the team members' rights to health insurance continuation under COBRA, health benefits will be terminated in the following situations:
- 4.8.1.1 If the team member's premium payment is more than 30 days late and the team member has received written notice that coverage will cease if payment is not received within 15 days. Vermeer must ensure that the team member has health coverage without having to reapply if the team member returns to work at the end of the leave.
- 4.8.1.2 If the team member's employment would have terminated if he/she had not taken FMLA leave.
- 4.8.1.3 If the team member informs Vermeer of his/her intent not to return from leave.
- 4.8.1.4 If the team member fails to return from leave.

4.8.1.5 If the team member continues leave after exhausting all FMLA leave entitlement.

4.8.2 Vermeer reserves the right to recover from the team member premiums Vermeer has paid to maintain the team member's health benefits during FMLA leave if the team member does not return to work upon expiration of the leave, subject to FMLA regulations.

4.9 Procedures for Requesting Leave

4.9.1 The team member must initiate the leave with the medical leave carrier at least 30 days prior to the day the FMLA leave is to begin, if possible.

4.9.2 If leave is unforeseeable, notice must be provided to the medical leave carrier as soon as practical, no less than 5 business days from the day the FMLA leave is to begin. Leave may be denied if team member fails to meet this deadline.

4.9.3 The team member does not have to mention FMLA when requesting leave to their Supervisor or Human Resources Business Partner. They simply must provide at least verbal notice sufficient to make Vermeer aware that the leave is for a qualifying reason under the FMLA and the anticipated timing and duration of the leave.

4.9.4 Team members using "intermittent" FMLA will need report the hours to the medical leave carrier within 5 days of taking the leave.

4.10 Periodic Status Reports -The team member is requested to report to the medical leave carrier periodically during the leave on the status and intention to return to work. Vermeer reserves the right to contact the team member and/or the certifying physician to obtain or confirm status reports at its discretion.

4.11 Medical Certification

4.11.1 The team member must provide a medical certification form completed by the health care provider treating the person for whom medical leave is being taken. The certification must be completed and received by Vermeer's medical leave carrier no later than 15 days after the need for leave becomes known.

4.11.2 Under certain circumstances, a team member may be granted an additional 15 days in which to return the completed medical certification form. Failure to provide the medical leave carrier with a completed medical certification form within 30 days from the original date of requested leave will result in denial of FMLA Leave and could result in an occurrence and disciplinary action based thereon.

4.11.3 If Vermeer questions the adequacy of a medical certification, Vermeer may require at its own expense a second opinion by a provider approved by the employer. Pending receipt of the second option, team member will be treated as conditionally entitled to leave under FMLA. If

the second opinion differs from the original opinion, a third opinion may be required at the employer's expense.

- 4.11.4 Team Members notified of deficiencies in their medical certification form will have no more than 7 days from the date of notification in which to provide the medical leave carrier with corrections and/or clarifications. Failure to provide corrections and/or clarifications to these deficiencies within 7 days will result in denial of FMLA Leave and could result in an occurrence and disciplinary action based thereon.
- 4.12 Re-certification Guidelines - Under normal circumstances, the company will not require re-certification for pregnancy related leaves.
- 4.13 Chronic or permanent/long-term conditions- certification may be required every 30 days if an absence has occurred. When the team member has been to a health care provider for an appointment, a note from the health care provider will be required upon returning to work to confirm the appointment.
- 4.14 If the minimum duration of the period of incapacity specified on the certification provided by the health care provider is more than 30 days, re-certification will not be required until that minimum duration has passed unless circumstances described by the certification have changed significantly.
- 4.15 FMLA leave taken intermittently or on a reduced leave schedule basis, re-certification will not be requested in less than the minimum period specified on the certification as necessary for such leave unless circumstances have changed significantly. When the duration of the condition is "unknown", re-certification will be requested every 30 days.

5. Performance Measures

6. Reference Documents