

ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE PROCEDURE

Date Issued 3/24

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| WRITTEN BY Peggy Lawton | REVISED BY Jody Kruskie | | AUTHORIZED BY Tracey Pingitore | |

I. APPLICATION:

- ☐ SCCCMHA Board
- ☐ SCCCMHA Providers & Subcontractors
- ☒ Direct-Operated Programs
- ☐ Community Agency Contractors
- ☐ Residential Programs
- ☐ Specialized Foster Care

II. PURPOSE STATEMENT:

St. Clair County Community Mental Health Authority (SCCCMHA) will ensure an FMLA leave(s) is processed in accordance with the Family and Medical Leave Act.

III. DEFINITIONS:

- A. Certification: A statement from a qualified health care provider explaining the employee's or family member's serious health condition. To include:
1. Date on which the condition began.
 2. Probable duration of the condition.
 3. Supporting facts regarding the condition.
 4. A statement that the employee's own health condition makes it impossible for him/her to work (this must include a list of which essential/material functions of the job the employee is unable to perform).
 5. A statement of the employee's ability to return to work with detailed restrictions, if any, and, if appropriate, what alternative job for which the employee is qualified and could perform (when caused by the employee's own illness) and any other pertinent information.
 6. A statement that the employee is needed to care for a spouse, parent, or child.
- B. Eligibility Period: Is a twelve (12) consecutive month period measured forward from the date an employee's first FMLA leave begins.

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- C. Family and Medical Leave Act (FMLA): A federal law effective August 1993 which entitles employees to take up to 12 weeks of unpaid, job-protected leave during a 12 month eligibility period for specified family and medical reasons. FMLA may be utilized for a period of incapacity lasting more than three (3) consecutive, full calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves (1) two or more treatments by a health care provider within 30 days of the first day of incapacity or (2) one treatment by a health care provider that results in a regimen of continuing treatment under the supervision of a health care provider or intermittent time off for ongoing treatment defined as a qualifying condition of a Serious Health Condition.
- D. Family and Medical Leave Act (FMLA) Eligibility: To be eligible for FMLA benefits, an employee *must*:
1. Have worked for the employer for at least 12 months [the 12 month period must be considered within the last seven (7) years (excluding gaps for military leave)]; and
 2. Have worked at least 1,250 hours over the last 12 months.
- E. Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a healthcare provider, or any condition otherwise defined by the law.
- F. Inpatient Care: An overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with the inpatient care.

IV. STANDARDS:

- A. General Notice of Employee FMLA rights will be posted on the informational bulletin boards at each site.
- B. The Family and Medical Leave Act must be explained to each employee who requests a family or medical leave even if the employee is not requesting a leave under the Family and Medical Leave Act and given a copy of Exhibit A – “Employee Rights & Responsibilities.” Copies can be found at <http://www.aon.com/about-aon/attachments/US-Employee-Rights-Responsibilities-Under-FMLA.pdf>.
- C. Under the Family and Medical Leave Act, employees must give 30 days’ advance notice of the need for leave for birth, adoption, or planned medical treatment when the need is foreseeable. Advance notice is not required in cases of medical emergency, such as premature births or sudden changes in health conditions. Notice is also waived for employees who are given short notice when adopting a child and for unforeseeable leaves related to family member or military leave. For unforeseeable leaves an employee should request leave either the same day or next business day.

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- D. When absent from work, an employee must notify the employer of his/her need for FMLA leave following the Agency's normal procedures for calling in.
- E. The employer can retroactively apply a Family and Medical Leave to a leave if the employer did not know nor had reason to know at the time of the leave that such leave was FMLA eligible if the employee is informed, in writing, within two (2) working days following the employee's return to work of this retroactive application.
- F. Leave Entitlement: An employee is entitled to 12 weeks of FMLA that is consistent with the employee's normal work week. If an employee normally works 37.5 hours per week, then the employee will be entitled to 12 weeks of 37.5 hour work weeks. However, if, for example, the employee normally works 30 hours per week, the employee will be entitled to 12 weeks of the 30 hour work weeks.

If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the twelve (12) weeks of leave to which an employee is entitled.

For example, if an employee who normally works five days a week takes off one day, the employee would use one-fifth of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under a reduced leave schedule, the employee would use one-half of FMLA leave each week.

An employee must make a reasonable effort to schedule treatments so as not to disrupt unduly the employer's operations.

Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro-rated or proportional basis by comparing the new schedule with the employee's normal schedule.

For example, if an employee who normally works thirty (30) hours per week works only twenty (20) hours a week under a reduced leave schedule, the employee's (10) ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the reduced leave schedule.

When both husband and wife work for the Agency, the wife is entitled to 12 weeks of FMLA if she requires such time to recover from the disability related to childbirth. Henceforth both she and her husband are entitled to 12 weeks of FMLA leave.

If however, her condition does not qualify as a serious health condition, then the couple is entitled only to 12 weeks of leave combined. Except for program coverage needs, it is their choice as to how the leave will be divided between themselves, and when during the first year after the child's birth it will be taken, subject to approval by the Agency.

- G. Certification is required for all FMLA.

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- H. An employer may contact physicians directly if an employee's serious health condition may also be a disability within the meaning of the Americans with Disabilities Act so long as the more liberal restrictions of the ADA are observed. 29CFR§ 825.306(d).
- I. An employer may make direct contact with the employee's physician to seek clarification and authentication of medical certifications. Employers may initiate such contacts only through a health care provider, a human resources professional, a leave administrator, or a management official. Importantly, under no circumstances may the employee's direct supervisor contact the employee's health care provider.
- J. Time spent in "light duty" work does not count against an employee's FMLA leave entitlement and the employee's right to job restoration is held in abeyance during the light duty period. If an employee is voluntarily doing light duty work, he or she is not on FMLA leave.
- K. Employees must use any accrued leave time available at the time of the leave and that which accrues during the leave. When taking FMLA due to the Serious Health Condition of the employee, sick time will be used first, then vacation and compensatory time.
- L. Second Opinions - If the agency is not satisfied with the initial certification, it may require a second opinion at its own expense. In the event of conflicting opinions, a third provider may be retained, also at agency's discretion and expense, to render a binding decision.
- M. On an ongoing basis but no more frequently than every 30 days, and at the employer's request, the employee should keep the employer apprised of any changes to the circumstances of an employee's situation and provide re-certifications. If the medical certification indicates that the underlying condition will last more than 30 days, the employer may not request re-certification until that minimum duration has passed. When a medical certification indicates that the underlying condition is a "lifetime condition" employers may always require re-certification every six (6) months. Should an employee or the employee's family member have a health care professional's visit, documentation should be obtained at that time. If there is a change in condition, documentation should be sought. Required documentation must be submitted within 15 days of the request, however, if this would pose an undue burden on the employee, the employee should submit a request for an exception to be granted.
- N. Employee on any type of an FMLA Leave of Absence, unless intermittent, will surrender any SCCCMHA property prior to the start of the leave of absence.

V. PROCEDURES:

Administration

1. Ensures general FMLA notice is posted at each location (Exhibit A).
Copies can be found at: <http://dol.gov/whd/regs/compliance/posters/fmlaen.pdf>

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Employee/Designee

2. Submits Request for Leave of Absence Memorandum (Forms Index #0815) to Labor/Employee Relations Manager 60 days in advance, but no less than 30 days. (Timeframe exceptions may be made for emergency/unforeseeable situations.)

Labor/Employee Relations Manager

3. Notifies the employee of his/her FMLA eligibility status within five (5) business days, unless there are extenuating circumstances, of the request for leave (or when the employer identifies a potential FMLA qualifying leave) for the first time during the 12 month period (Found at: <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-381.pdf>). (This is also the Rights and Responsibilities Notice).
4. Reviews the request to ensure the use of accrued time requested is available.
5. Provides to employee the appropriate certification for FMLA (found at: <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-380-E.pdf> [employee's serious health condition]; or <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-380-F.pdf> [family member's serious health condition]).

Supervisor

6. Reviews the request and documents how program/department coverage will be achieved.

Chief Executive Officer/Designee

7. Approves or disapproves the request.

Employee

8. Submits proper certification and other documentation as needed to the Labor/Employee Relations Manager.

Labor/Employee Relations Manager

9. Provides employee with the Designation Notice (found at: <https://www.dol.gov/whd/forms/WH-382.pdf>) and a memorandum confirming the status of the leave of absence request within five (5) days after obtaining sufficient information to know whether the absence is FMLA qualifying or not, absent extenuating circumstances. If the leave is granted for the employee's serious health condition, the notice must include information about needing a fitness for duty statement before the employee returns to work.

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Employee

10. Reports to the Labor/Employee Relations Manager in writing at the end of each pay period the number of hours designated as FMLA when on an intermittent leave of absence or when the leave of absence does not last the duration of a particular pay period. This total number shall be reported in writing by the end of the work day on the Monday following the end of the pay period.

Supervisor

11. Makes arrangements to meet with employee on or before the last day of work before the start of the leave of absence to obtain SCCCMHA property, as outlined within policy 06-001-0115 Personnel: Resignation/Retirement/Termination Process using Property Receipt Record (Forms Index #705).

Personnel Secretary

12. Maintains certification(s) in the employee medical/confidential file.

Note: For an FMLA leave for medical reasons for the employee, a “return to work” slip from the health care provider specifying any restrictions, or lack of, is required prior to the employee’s actual return to work.

VI. REFERENCES:

Family Medical Leave Act of 1993 (FMLA) 29 USC2601 et seq.

VII. EXHIBITS:

- A. Leave of Absence Confirmation Memorandum

VIII. FORMS:

- A. [#0705 Property Receipt Record](#)
B. [#0815 Request for Leave of Absence](#)

IX. REVISION HISTORY:

Dates issued 08/11, 05/13, 01/14, 01/15, 01/16, 01/17, 01/18, 11/19, 03/20, 03/21, 03/22, 03/23.

ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH
Program Operations
3111 Electric Avenue
Port Huron, MI 48060
Phone: (810)985-8900 ☎ FAX: (810)985-7620

MEMORANDUM

TO:

FROM: Labor/Employee Relations Manager

DATE:

SUBJECT: Leave of Absence Confirmation

The purpose of this correspondence is to confirm the status of your leave of absence request. As we discussed, your leave will begin on (or around) . Your tentative date of return to work will be .

To summarize:

Leave of Absence Begins:
Date of Disability:
Paid/Unpaid FMLA Leave Begins:
Short Term Disability Begins:
Short Term Disability Ends:
Paid/Unpaid FMLA Leave Ends:
Return to Work Full Time:
FMLA Period of Entitlement:

As we discussed, if/when your leave becomes unpaid and no longer under FMLA, you will be responsible for payment of benefit coverage. Also, your return to work slip is due immediately upon a decision made by your medical professional. Please forward this to my attention.

Per Article 27, Section 10 of the Union contract, "If the approved contract leave is unpaid and not also a leave under the Family & Medical Leave Act, seniority...shall be frozen (not accrue) and adjusted upon return...One exception to this is if the approved unpaid leave is for ten (10) business days or less in total length, the employee will continue to accrue seniority but not other benefits."

Just a reminder, you will need to complete timecards for your entire leave. When on an intermittent leave of absence or if your leave of absence does not last the duration of a particular pay period, please report to me in writing at the completion of each pay period the total number of hours designated as FMLA for that pay period. If and when you are on an approved long term disability leave you will no longer be required to submit a timecard.

If you have any questions, please feel free to call me at 810-966-7837.

cc: Supervisor
Account Clerk
Chief Financial Officer
Human Resources Director
Medical/Confidential File