

HARBOR-UCLA MEDICAL CENTER

**SUBJECT: FAMILY MEDICAL LEAVE (FMLA),  
FAMILY RIGHTS ACT (FRA) AND PREGNANCY  
DISABILITY LEAVE (PDL)**

**POLICY NO. 222**

**PURPOSE:**

To establish standardized Departmental policies and procedures for processing leaves of absence under the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA) and Pregnancy Disability Leave (PDL).

**POLICY:**

Harbor-UCLA Medical Center is required to comply with the provisions of FMLA, as established by the Department of Health Services (DHS), which must designate FMLA leave whenever applicable to any eligible employee (including temporary and part-time employees).

Under FMLA and CFRA an eligible employee is one who meets the following criteria:

- Has completed an aggregate of 12 months of County service, which need not be consecutive
- AND**
- Has worked at least 1,250 hours during the 12-month period immediately preceding the first day of leave.

**FMLA and CFRA** entitles eligible employees up to 12 work weeks of job protected leave in a 12-month period for any of the following reasons:

- Employee’s own serious health condition
- Care of a child, spouse or parent with a serious health condition
- Adoption or foster care placement of a child with the employee

**EFFECTIVE DATE: 9/21/94**

**SUPERSEDES:**

**REVISED: 3/99, 3/15, 5/18**

**REVIEWED: 3/99, 2/02, 10/04, 8/06, 3/15, 5/18**

**REVIEWED COMMITTEE:**

**APPROVED BY:**

\_\_\_\_\_  
**Kim McKenzie, RN, MSN, CPHQ**  
Chief Executive Officer

\_\_\_\_\_  
**Anish Mahajan, MD**  
Chief Medical Officer

\_\_\_\_\_  
**Patricia Soltero Sanchez, RN, BSN, MAOM**  
Chief Nursing Officer

## HARBOR-UCLA MEDICAL CENTER

**SUBJECT: FAMILY MEDICAL LEAVE (FMLA),  
AND FAMILY RIGHTS ACT (FRA) AND PREGNANCY  
DISABILITY LEAVE (PDL)**

**POLICY NO. 222**

---

**FMLA** also entitles eligible employees up to 12 work weeks of leave in a 12-month period for any of the following reasons:

- Prenatal care
- Birth or care of the employee's newborn child

**FMLA for Armed Forces Members and Caregivers**

- 26 work weeks of leave for the spouses, child, parent or next of kin of an Armed Forces member to recover from illness or injury, or for a veteran to recover from an injury sustained within the last five (5) years
- 12 work weeks for any "qualifying exigency" arising from a spouse, child or parent's call to active duty

**CFRA also** entitles eligible employees up to 12 work weeks of leave in a 12-month period for any of the following reasons:

- Employee's domestic partner's serious health condition;

**NOTE:** The employer must **always** adhere to the applicable law that provides the greatest benefit to the employee. In the event of a conflict between a provision in the guidelines manual and applicable laws, the law shall govern.

**PDL:** Entitles a female employee up to a maximum of four (4) months of disability leave per pregnancy.

- An employee must be "disabled by pregnancy," which means that a health care provider must certify that the employee's pregnancy or a related medical condition makes her unable to perform one or more of the essential functions of her job, without undue risk to herself, the successful completion of her pregnancy, or to others, that she is suffering from severe morning sickness, or that she needs to take time off for prenatal care.
- Effective January 1, 2012, the County is required to maintain group health coverage for up to four months for employees on PDL, as required by the California Pregnancy Disability Act.
- Effective July 1, 2015, the County is required to maintain group health coverage for up to 12 weeks after an employee's pregnancy disability in the event the employee uses CFRA leave to bond with her newborn child.

**DEFINITIONS:**

**"Spouse"** - Two people legally married as recognized under California law. California does not recognize common law marriages, **except** when such marriages are contracted in a state that does recognize common law marriages and the specific marriage is recognized as a legal marriage in that state. Spouses, including those in same-sex marriages, will receive benefits under FMLA and CFRA.

## HARBOR-UCLA MEDICAL CENTER

**SUBJECT: FAMILY MEDICAL LEAVE (FMLA),  
AND FAMILY RIGHTS ACT (FRA) AND PREGNANCY  
DISABILITY LEAVE (PDL)**

**POLICY NO. 222**

---

**“Domestic Partner”** – Under the County Code is defined as two adults who have chosen to share each other’s lives in a committed relationship pursuant to the provisions of Chapter 6.20.080 (L) of the Los Angeles County Code or Section 297 of the California Family Code and:

- Have a common residence
- Both are at least 18 years of age (or have a court order granting permission to establish a domestic partnership)
- Neither of whom are married or a party to another domestic partnership
- To qualify for leave to care for a domestic partner, the employee and the domestic partner have signed a “Declaration of Domestic Partnership” and registered with the Los Angeles County Registrar-Recorder/County Clerk or the California Secretary of State.

**“Son or Daughter”** - A biological, adopted or foster child, stepchild, legal ward or a child of a person standing “in loco parentis.” The child must be under 18 years of age. If the child is 18 or over, s/he must be incapable of self-care due to a mental or physical disability as defined by the Americans with Disabilities Act.

**“Parent”** - The biological parent or an individual who stands or stood “in loco parentis” to an employee when the employee was a child. Parent does not include mother-in-law or father-in-law.

**“In Loco Parentis”** – Means to stand in place of a parent. Persons in loco parentis are those who are, or were responsible for the day-to-day care of and financial support for the child. There does not have to be a biological relationship between the individual and the child, but there must be a true “child-parent” relationship. Documentation may be required to confirm relationship.

**“Next of Kin”** – The nearest blood relative of an Armed Forces member to the individual needing care other than a spouse, parent, son or daughter and in the following order: (1) A blood relative whom the covered service member has designated in writing as next of kin for FMLA purposes, (2) Blood relatives who have been granted legal custody of covered service member, (3) Brothers and sisters, (4) Grandparents, (5) Aunts and uncles, and (6) First cousins.

**“Qualifying Exigency”** – Used to refer to a number of broad categories for which employees can use FML under the National Defense Authorization Act (NDAA) **only**. Qualifying reasons include the following:

1. **Short-notice deployment** – To address any issues that arise due to a covered military member being notified of an impending call or order to active duty, seven or less calendar days prior to the date of deployment.
2. **Military events and related activities** – To attend any official ceremony, program or event sponsored by the military and to attend family support and assistance programs and informational briefings sponsored or promoted by the military, military service organization of the American Red Cross that are related to the active duty or call to active duty status of a covered military member.

## HARBOR-UCLA MEDICAL CENTER

**SUBJECT: FAMILY MEDICAL LEAVE (FMLA),  
AND FAMILY RIGHTS ACT (FRA) AND PREGNANCY  
DISABILITY LEAVE (PDL)**

**POLICY NO. 222**

- 
3. *Children and school activities* – To arrange childcare or attend certain school activities for a child of the covered military member, who is either under age 18, or age 18 or older and incapable of self-care. This leave may be taken to arrange for alternative child care, to provide urgent, immediate, non-routine childcare, to enroll the child in a new school or daycare facility, or to attend meetings with staff at a school or a daycare facility (e.g., disciplinary meetings, parent-teacher conferences, meetings with school counselors).
  4. *Financial and legal arrangements* – To make or update financial or legal arrangements to address the covered military members absence while on active duty or call to active duty status, such as preparing and executing financial and health care powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System, obtaining identification cards, or preparing or updating a will or living trust. The leave can also be used for acting as the military member's representative for purposes of obtaining, arranging, or appealing military service benefits while the covered military member is on active duty or call to active duty status, and for the 90 days after the termination of the covered military member's active duty status.
  5. *Counseling* – To attend counseling provided by someone other than a health care provider for one-self, for the covered military member, or for the child of the covered military member who is either under the age of 18 or age 18 or older and incapable of self-care, provided that need for counseling arises from the active duty or call to active duty status of a covered military member.
  6. *Rest and recuperation* - To spend time with a covered military member who is on short-term temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to 15 days of leave for each instance of rest and recuperation.
  7. *Post-deployment activities* – To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of the covered military member's active duty and to address issues that arise from the death of a covered military member while on active duty status, such as meeting and recovering the body of the covered military member and making funeral arrangements.
  8. *Additional activities* – To address other events which arise out of the covered military member's active duty or call to active duty status provided that the employer and the employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.
  9. *Care of the military member's parent* – To care for a military member's parent who is incapable of self-care is necessitated by the member's covered active, such as arranging for alternative care, providing care on a non-routine, urgent immediate need basis, admitting or transferring a parent to a new care facility, and attending certain meeting with staff at a care facility, such as meeting with hospice or social service providers.

## HARBOR-UCLA MEDICAL CENTER

**SUBJECT: FAMILY MEDICAL LEAVE (FMLA),  
AND FAMILY RIGHTS ACT (FRA) AND PREGNANCY  
DISABILITY LEAVE (PDL)**

**POLICY NO. 222**

- 
10. *“Needed to Care for a Family Member”* - To provide physical or psychological care to a family member. It includes situations where the family member is unable to care for his or her own basic needs such as medical, hygienic, nutritional, safety, etc. It also includes making arrangements for changes in care, such as transfer to a nursing home or transportation to and from the doctor. The team also includes providing psychological comfort and reassurance which would be beneficial to the child, spouse or parent that is receiving inpatient or home care. Intermittent leave may be taken when the condition of the child, spouse or parent intermittent or where care is otherwise available but the employee is temporarily filling the position, or where care responsibilities are shared with others.

**GUIDELINES:**

Designating Leave:

- Once management becomes aware that an employee is compelled to be absent for three (3) or more days due to their own illness *or* for any other qualified reason listed above, management must:
  - Provide the employee with the appropriate “Certificate of Health Care Provider” Form (HOA.1177363.1 Employee Illness, CFM 12-15-15 doc Family Illness, 1-2-3-4 ME Military Qualifying Exigency, FMLA 385-Military Illness & Injury), the “Employee Rights and Responsibilities” brochure, and the FMLA Leave of Absence (LOA) Form and instruct the employee to complete and return the completed forms to the FMLA Unit within 15 (fifteen) calendar days.
  - Complete the Acknowledgement of FMLA Packet Receipt and forward to the FMLA Unit immediately to initiate a case.
  - All forms are located on the DHS intranet [www.dhs.lacounty.gov](http://www.dhs.lacounty.gov).
- Where the need for leave is foreseeable, the employee must provide management 30 days advance notice before the leave is to begin. If 30 days is not possible due to lack of knowledge or an emergency, notice must be given as soon as possible, absent extenuating circumstances.
- In all cases, when an employee takes time off for FMLA, s/he must advise management that leave is being taken for their FMLA qualifying reason.
- If employee has multiple FMLA cases, s/he must advise Management for which case s/he is taking leave for.
- Employees are still responsible for adhering to departmental attendance and leave request policies. Violation of the attendance policy may subject the employee to disciplinary action.
- If an employee has already been instructed to provide medical certification or to adhere to an attendance plan for **non-FMLA** absences, the employee still has to adhere to the established guidelines. The plan runs concurrently with FMLA.

Management’s determination must be based on the information received from the employee or the employee’s spokesperson in the event the employee is unable to communicate directly.

## HARBOR-UCLA MEDICAL CENTER

**SUBJECT: FAMILY MEDICAL LEAVE (FMLA),  
AND FAMILY RIGHTS ACT (FRA) AND PREGNANCY  
DISABILITY LEAVE (PDL)**

**POLICY NO. 222**

---

**Use of Paid or Unpaid Leave**

- FMLA, CFRA and PDL leave is unpaid. However, the Board of Supervisors allows employees to elect to use accrued time to cover any FMLA, CFRA and PDL leave. Therefore, at his or her option, an employee may use accrued time concurrently with a FMLA, CFRA or PDL leave.
- After FMLA, CFRA and PDL is exhausted, employees are **not** permitted to use one day a month of accrued time in order to receive their County contribution unless one day of accrued time is all the time an employee has remaining. No employee may be forced to use paid leave benefits to cover a FMLA, CFRA and PDL leave.
- An eligible employee who is granted family medical leave may use his/her accrued vacation and holiday time in a continuous block until all the available accrued leave balances are exhausted. An employee can start and stop using accrued paid time any time during the FMLA/CFRA leave. In accordance with County guidelines, an employee can start and stop using accrued paid time any time during the FMLA, CFRA or PDL leave. However, once the employee has stopped using paid time, the employee **cannot** start using it again without approval from the Department Head or his/her designee.
- An FLSA Exempt employee on intermittent leave or a reduced work schedule will be docked for hours not worked if the time off is for an FMLA qualifying reason and is designated as FMLA leave.
- Accrued sick leave benefits shall not be used while an employee is on a family medical leave for the care of a spouse, domestic partner, child and/or parent. (Exception: Personal "P" time may be used).

**Intermittent Leave**

- For the serious health condition of the employee, a qualifying family member or under CFRA only domestic partner or a domestic partner's child.
- Planned and/or unanticipated medical treatment when medically necessary for recovery from treatment of a serious health condition of the employee or a family member.
- To provide care and/or psychological comfort to a qualifying family member with a serious health condition; under CFRA this also includes a domestic partner or a domestic partner's child.
- A serious health condition which requires periodic treatment rather than one long period of treatment such as doctor appointments, physical therapy chemotherapy, etc.
- For prenatal care and periods of disability due to pregnancy, under FMLA but not CFRA.
- For absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition (See Serious Health Condition, Pg. 10 in the Family Leave Policy Guidelines), even if the employee does not receive treatment by a health care provider.
- With some limitations, baby bonding time. Any leave taken shall be concluded within one year of the birth or placement of the child with the employee. Intermittent leave in less than two week increments or a reduced work schedule can only be taken with Departmental approval.

An employee must provide the County at least 30 days advance notice before FMLA and/or CFRA leave is to begin if the need for leave is foreseeable. If 30 days notice is not possible, such as due to lack of

## HARBOR-UCLA MEDICAL CENTER

**SUBJECT: FAMILY MEDICAL LEAVE (FMLA),  
AND FAMILY RIGHTS ACT (FRA) AND PREGNANCY  
DISABILITY LEAVE (PDL)**

**POLICY NO. 222**

---

knowledge of approximately when leave will be required to begin, notice must be given as soon as possible minus extenuating circumstances.

If the leave is foreseeable, employees must make a reasonable effort to schedule their intermittent leave to not disrupt the work of the department. Likewise, management must make a reasonable effort to meet the employee's needs. This can mean changing the employee to a reduced work schedule, an alternative work schedule (if available) or another arrangement agreeable to both management and the employee, in accordance with the medical certification.

When planning medical treatment, the employee must consult with management and make a reasonable effort to schedule the leave to not disrupt the department's operation, in accordance with the medical certification. Employees are ordinarily expected to consult with their departments prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the department and the employee.

#### **Leave Limitations**

- FMLA and CFRA allow bonding with a child following the birth, adoption, or foster care placement, on an intermittent basis of two weeks or longer. However, baby bonding may be taken in **less** than two-week increments with management's approval, on two separate occasions only. The employee must submit an FLMA LOA Request Form, along with proof of parenthood no later than 30 days prior to the request, when applicable.
- If parents of a newborn are **married** and both are employed by the County, each is entitled to take 12 work weeks for the **birth, care, adoption or foster care placement of a child ("bonding with a newborn"), subject to any previous family leave.**
- If the parents of a newborn are both employed by the County, but are not married, there is no combined 12 work week limitation and they are both entitled to 12 work weeks each.

#### **Employee Reinstatement Guidelines**

- The FMLA and CFRA Guidelines give rights to employees which go beyond the rights guaranteed under County Civil Service Rules. The County may deny restoration of employment to an employee on FMLA and/or CFRA leave, if reinstatement would have been denied regardless of whether or not FMLA and/or CFRA leave is taken.
- Extreme caution must be taken before denying reinstatement to an employee returning from FMLA, CFRA or PDL leave. It is highly recommended that departments consult with your Department's Human Resources Office before denying reinstatement.
- If the employee is no longer qualified for the position because of an expired license or missed training while on FMLA and/or CFRA leave, the employee must be given a reasonable opportunity to renew his or her license or receive training upon return-to-work.
- The employee is subject to any general salary increases or decreases in pay instituted while the employee was on leave.

## HARBOR-UCLA MEDICAL CENTER

**SUBJECT: FAMILY MEDICAL LEAVE (FMLA),  
AND FAMILY RIGHTS ACT (FRA) AND PREGNANCY  
DISABILITY LEAVE (PDL)**

**POLICY NO. 222**

- 
- The employee is entitled to any step increases due on a step anniversary date that occurs while the employee was on FMLA and/or CFRA leave and in accordance with County Code Section 6.08 - Rules for Application of Step Rates provided the step increase would have been granted had the employee been at work. The employee on FMLA and/or CFRA leave retains his or her step anniversary date.

**Employee Benefits During Leave**

**NOTE:** A leave which extends beyond 27 calendar days may affect your retirement, vacation, health and dental benefits as well as some bonuses.

During FMLA, PDL and CFRA leave, an employee's group medical and dental coverage and Health Care Spending Account (HCSA) must be continued on the same basis and under the same conditions as were applicable prior to the commencement of the leave. This means:

- If an employee is in pay status for at least eight hours in any month, the County will pay the employee's full cafeteria plan contribution (e.g., Choices, Options, etc.) or medical subsidy (e.g., temporary, part-time employees).
  - Employees are **not** permitted to use one day a month of accrued time in order to receive their County contribution unless one day of accrued time is all the time the employee has remaining.
- The County has no obligation to continue medical and dental coverage for any of the following reasons:
  - The employee was not enrolled in a medical plan, dental plan or HCSA prior to the FMLA, CFRA and/or PDL leave. Employees are not permitted to change their enrollment because of FMLA, CFRA and PDL leave. However, if the employee has a "Change of Status" as defined under the cafeteria plans, the employee may be qualified to change his or her enrollment.
  - The employee's medical, dental or HCSA coverage is cancelled or suspended during the FMLA, CFRA and/or PDL leave. This may occur when the employee must pay a part of the medical or dental premium and prefers not to do so. In this case, the County will suspend the employee's coverage until the first of the month after s/he returns to work, coverage continues in the months a partial HCSA deduction is taken from the employee's paycheck.
  - The employee notifies the department that s/he will not return from FMLA, CFRA and/or PDL leave.
  - The employee fails to return to work on the expected return date without notifying the department or requesting an extension.
  - The employee exhausts his or her FMLA, CFRA and/or PDL entitlement.

If the employee fails to pay his or her portion of the premium, the Employee Benefits Division of the Department of Human Resources will;

- Suspend the coverage when the payment is more than 30 days late. The suspension of coverage will take effect on the first day of the month following the last month for which the premium payment



HARBOR-UCLA MEDICAL CENTER

**SUBJECT: FAMILY MEDICAL LEAVE (FMLA),  
AND FAMILY RIGHTS ACT (FRA) AND PREGNANCY  
DISABILITY LEAVE (PDL)**

**POLICY NO. 222**

---

was made. For example, if the last premium payment was made for May, the suspension of coverage would take effect on the first day of June. The County will suspend the employee's coverage until the first of the month after s/he returns to work.

Under FMLA, CFRA, and/or PDL, the County is entitled to recover any premium payments made on behalf of the employee during an unpaid leave if s/he fails to return from their FMLA, CFRA and/or PDL leave after the leave entitlement has been exhausted or the leave expires, unless:

- The employee is unable to return to work because of the continuation, recurrence or onset of a serious health condition which would entitle the employee to continue FMLA, CFRA and/or PDL leave.
- The employee is unable to return to work due to unexpected circumstance(s) beyond the employee's control.

“Return to Work” means a return to active County employment for at least 30 calendar days or retirement under the County retirement system within the first 30 calendar days. Premium payments made on behalf of the employee for the entire period of FMLA, CFRA and PDL unpaid leave may be recovered from the employee. However, the County has no right to recover for premiums paid for any month in which the employee was in a pay status for at least eight hours.

An employee who is required to be out on unpaid leave after his or her FMLA, CFRA and/or PDL expires may continue his or her medical and dental coverage and should direct their questions regarding premiums to the Employee Benefits Division of the Department of Human Resources.

**Outside Employment**

- An employee on an approved medical leave of absence is subject to the provisions-and limitations-of DHS Policy 740.000 in relation to all (non-conflicting) outside employment or activity. As part of this process employees are responsible for appropriately disclosing outside activity, subject to the provisions mentioned above, that may adversely impact or interfere with existing medical limitations and/or restrictions. Outside activities subject to approval include, but are not limited to: Outside employment; expert witness testimony; volunteer activity and performance of charity medical relief.

**AUTHORITY:**

Family and Medical Leave Act of 1993, 29 United States Code (USC) Section 2601 et seq., 29  
Code of Federal Regulations (CFR), Chapter V, Part 825, Sec. 825.100 et seq.  
California Family Rights Act, California Government Code Section 12945.2  
L.A. County Code Sections 2.210.010. 6.20.080(L)  
L.A. County Interpretive Manual  
County of Los Angeles Department of Human Resources, Family Leave Policy Guidelines