

Family and Medical Leave Act of 1993

for

Employees subject to collective bargaining agreements

Effective February 5, 1994

Purpose: To outline conditions and procedures under which eligible employees may take limited periods of time off without pay and/or substitute paid leave for certain qualifying medical and family related reasons.

I. Definition

A family and/or medical leave of absence is defined as an approved absence available to eligible employees, not to exceed 12 weeks per year and limited to circumstances that are critical to the life and well being of a family. Leave may be taken:

1. Upon the birth of the employee's child;
2. Upon the placement of a child with the employee for adoption or foster care;
3. When the employee is needed to care for his or her child, spouse, or parent who has a serious health condition; or
4. When the employee is unable to perform the essential functions of his or her position because of a serious health condition.

II. Scope

The provisions of this policy will benefit all eligible Union Pacific Railroad employees subject to collective bargaining agreements and apply to all absences the Company designates as FMLA related.

2.1 Where the employee has accrued vacation or personal leave, he or she may elect, but will not be required, to substitute such time for all or any part of unpaid FMLA leave relating to birth or placement of a child, care for a family member with a serious health condition, or for the employee's own serious health condition.

2.2 The employee must substitute accrued sick leave, if applicable, for his or her own serious health condition.

2.3 The substitution of paid vacation, personal days, or sick leave will be counted against the 12 weeks of leave permitted under the FMLA.

III. Eligibility

An employee is eligible for FMLA leave if (1) he or she has been employed for at least 12 months, and (2) has at least 1,250 hours of service during the 12-month period immediately preceding the start of the leave. The 12 months of employment do not need to be consecutive. If an employee is maintained on the payroll for any part of a week, the week will count as a week of employment. For purposes of determining whether intermittent employment qualifies for meeting the 12-month period, 52 weeks is deemed equal to 12 months.

IV FMLA Leave Entitlement

An employee is, eligible for up to 12 weeks of FMLA leave in each calendar year.

4.1 Leave may be taken intermittently or on a reduced leave schedule when it is medically necessary and the employee is required to care for a family member with a serious health condition or the employee is taking FMLA leave for his or her own serious health condition.

4.2 When leave is taken for the birth or placement of a child, leave cannot be taken on a reduced leave schedule or intermittent basis. Under such circumstances, leave must be taken in a single block of time and within one year of the qualifying event.

V Serious Health Condition Requirements

A serious health condition means an illness, injury, impairment, or physical or mental condition that involves:

5.1 Inpatient care in a hospital, hospice, or residential care facility;

5.2 Continuing treatment by a health care provider for involving;

a) period of incapacity of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:

1. treatment two or more times by a health care provider; or

2. treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment.

b) any period of incapacity due to pregnancy, or for prenatal care.

c) any period of incapacity or treatment due to a chronic serious health condition (including a condition that may cause episodic rather than a continuing period of incapacity).

d) a period of incapacity that is permanent or long term due to a condition for which treatment may not be effective.

e) any period of absence to receive multiple treatments by a health care provider.

VI. FMLA Notice Requirements

Employees should provide maximum advance notice of their intentions to take FMLA leave to allow for the time necessary to reassign duties or otherwise fill the assignment. Written notice is encouraged.

6.1 Employees must give 30 days advance notice of the need for FMLA leave when it is foreseeable for the birth or placement of a child, or for planned medical treatment.

6.2 When 30 days advance notice is not possible, notice is required as soon as practicable, ordinarily within one or two work days of when the employee learns of the need for leave.

6.3 When planning or scheduling medical treatment, an employee should consult with his or her supervisor and make reasonable efforts to schedule the leave so as not to unduly disrupt operations.

6.4 In the case of an intermittent or reduced leave schedule, the employee must provide the reasons why the taking of intermittent or reduced schedule leave is necessary and provide the schedule for treatment, if applicable.

6.5 When unforeseen events require FMLA leave, employees must give notice as soon as practicable, ordinarily within one or two working days of learning of the need for leave. Notice should be given either in person or by telephone when medical emergencies are involved, and may be given by the employee's spouse or other family member if the employee is unable to do so due to a serious health condition.

6.6 If an employee fails to give 30 days notice for foreseeable leave and has no reasonable excuse for the delay, FMLA leave may be delayed until at least 30 days after the date the employee provides notice of the need for FMLA leave.

VII. Conditions of Leave and Certification of Medical Need

An employee requesting an absence for family or medical reasons must explain, at the time of the request, the reasons for the needed absence to allow for a determination as to whether it qualifies as FMLA related leave. The Company may require medical certification from the physician or other health care provider to support the need for FMLA leave covering the employee's own serious health condition or to establish the need for the employee to care for a family member with a serious health condition. If medical certification is required, the employee will be advised in writing at the time leave

is requested. Subsequent requests for recertification may occur at 30-day intervals and may be verbal.

7.1 For the employee's own FMLA medical leave, the certification must include a statement from a physician or other health care provider stating that the employee is unable to perform the essential functions of his or her position.

7.2 For leave to care for a child, spouse, or parent with a serious health condition, the medical certification must also state that the employee is needed to care for the sick family member, and include an estimate of the amount of time the employee is needed to provide such care.

7.3 If leave is requested on an intermittent or reduced leave schedule for the employee's own serious health condition or for that of a family member, the physician or other health care provider must state that the taking of leave on this basis is medically necessary.

7.4 The Company may require a second medical opinion at its expense. If the first and second opinions differ, the Company, again at its expense, may call for the binding opinion of a third physician or health care provider, approved jointly by the Company and the employee.

7.5 In the case of foreseeable leave, an employee who fails to provide timely certification (within 15 days of the Company's request, if practicable,) may have the taking of leave delayed until the required certification is provided.

7.6 When the need for leave is not foreseeable, the Company may delay the employee's continuation of leave if the employee fails to provide medical certification within the requested time frame (no less than 15 days from the date of the Company's request for the certification, or as soon as reasonably possible.)

7.7 Spouses who are both employed by the Company are entitled to 12 weeks of leave each for FMLA related absences.

7.8 FMLA leave is not authorized to care for an in-law with a serious medical condition.

VIII. Maintenance of Benefits

An employee's health care coverage will be maintained by the Company during FMLA absences to the same extent that coverage was provided prior to the leave.

8.1 Any portion of the health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period and handled in the same manner as for other periods of unpaid leave.

8.2 When vacation, personal days, or sick leave is substituted for FMLA leave, the employee's share of health care premiums will be paid in the normal manner through payroll deductions.

8.3 Medical/Dental benefits may be continued during an FMLA leave of absence by the employee making his/her applicable monthly contributions to UPRR to cover the cost of participation in the plan. If an employee's health insurance premium is more than 30 days late, UPRR will mail a written notice advising such employee that the payment has not been received. Fifteen days after the notice has been mailed UPRR will discontinue the employee's health insurance benefits while on FMLA leave. Upon returning from leave, the employee will be reinstated on the same terms and conditions as prior to taking leave without having to fulfill any qualifying period or physical examination.

8.4 Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), the Company's obligation to maintain health benefits under FMLA ceases if and when the employee (1) informs the Company of his or her intent not to return from leave; or (2) fails to return from leave, and thereby terminates employment; or (3) the employee exhausts his or her FMLA leave entitlement.

8.5 The Company may recover health care premiums from an employee who does not return to work after FMLA leave, unless the employee can show that the failure to return is due to the continuation, recurrence, or onset of a FMLA qualifying serious health condition or due to circumstances beyond the employee's control.

IX. Reinstatement Rights

An employee returning from FMLA leave is entitled to be returned to the same position held prior to taking FMLA leave or to an equivalent position, with the same pay and benefits.

9.1 Employees covered by collective bargaining agreements will return to service as provided for under applicable labor agreements.

9.2 An employee returning to service after FMLA leave has no greater right to reinstatement or to other benefits and conditions of employment than if he or she had been continuously employed during the FMLA leave.

9.3 Upon return from FMLA leave, an employee's benefits will be at the same level as before the leave began subject to any changes in benefit levels that may have taken place during the period of leave.

X. Fraudulent FMLA Leave

An employee who fraudulently obtains FMLA leave is not protected by the FMLA's job restoration or maintenance of health provisions.

XI. Failure to Return from Leave

The failure of an employee to return to work upon expiration of FMLA leave will subject the employee to termination in accordance with the applicable collective bargaining agreement.

XII. State and Local Laws

FMLA provisions do not supersede provisions of State or local law that provide greater family or medical leave rights.

XIII. Need for FMLA Leave or Questions

Employees requiring FMLA related absences should contact their supervisor. The Company has the authority and responsibility to administer this leave policy, including deciding which absences from work will be charged as FMLA leave time. Questions concerning the FMLA or Union Pacific Railroad's policy and procedures for implementing the Act should be referred to the Director Labor Relations Program Administration, 2714179 or Senior Manager EEO, 271-4435.

XIV Changes in Policy

The Company reserves the right to modify the terms of this policy where benefits extended exceed FMLA requirements.

XV Miscellaneous

Nothing in the family leave policy insulates an employee from the application of any other Company policies. For example, an employee on leave remains subject to all changes that occur in the Company's health care program and is subject to all other employment-related policies of general applicability.

Revised January 1, 1996 to reflect the final regulations effective April 6, 1995

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