



## **FAMILY AND MEDICAL LEAVE POLICY**

Under the provisions of the Family and Medical Leave Act, as amended, employees may take up to twelve (12) weeks of unpaid leave for certain family and medical reasons. In order to be eligible for leave, you must have worked for at least 12 months and for at least 1,250 hours during the 12 month period immediately preceding the commencement of the leave.

If this eligibility standard is satisfied, Sunshine Village will look back over the 12-month period immediately preceding the leave request. This period will determine how much family and medical leave the eligible employee may take. If any family leave was taken during this time period, the amount that was used will be deducted from the 12 week entitlement to determine the remaining amount of time that you may use for family leave purposes.

You must give at least 30 days advance notice of your intention to take FMLA leave whenever the leave is foreseeable. When unforeseen circumstances prevent you from giving advance notice of taking such leave, an employee must give notice as soon as practicable and possible in order that the Sunshine Village can properly accommodate the request while maintaining its own staffing and schedules. All notices and requests for leave and the reasons for the leave request are to be directed to the Human Resources Director. The Human Resources Director will give you a written notice detailing the responsibilities, expectations and details surrounding the type of leave for both you and Sunshine Village.

Sunshine Village reserves the right to designate any leave of absence as Family Leave where the conditions surrounding the leave fit within the parameters of the Family and Medical Leave Act of 1993, as amended. Usually, this determination will be done when the employee explains the reasons for the leave request to the Human Resources Director.

You may be able to take FMLA leave for the following reasons:

**\* For the birth or care of a newborn child or adoption or foster care placement of a child.**

FMLA leave may be requested before the actual birth or adoption or foster care placement of a child takes place. In situations where both a husband and wife work for Sunshine Village and both are eligible employees for FMLA leave, the husband and wife will only be afforded a combined total of twelve weeks of leave for the birth or care for a newborn child or adoption or foster care placement of a child.

Leaves of absence for purposes of childbirth may take place: at any stage of the pregnancy for purposes of prenatal care, to overcome a condition during the pregnancy which prevents the employee from returning to work, to actually give birth to a child or for purposes of postnatal care for a child.

Leaves of absence for purposes of adoption will be permitted where the adopted person is either under 18 years of age or is over 18 years of age, but is incapable of taking care of themselves due to a mental or physical disability and therefore requires the assistance of another person to provide care for the performance of daily activities and functions. You may take this leave in order to take time to secure placement of an adopted child who is under your care or to actually care for the adopted child.

Leaves of absence for purposes of foster care placement will be permitted where you can show that you have either secured a voluntary agreement with the State concerning the placement of an individual under your care, has obtained a court order for placement of a foster child in your care or that you need to fulfill obligations imposed by either the State or the court in order to be able to ultimately procure a State agreement or a court order.

While an employee may be eligible to take a leave before the actual childbirth, adoption or foster care takes place, an employee's entitlement to take leave for these circumstances will expire twelve months after the date of the childbirth or placement into adoptive or foster care.

**\*To care for your spouse, son, daughter or parent who has a serious medical condition.**

You may request a leave of absence for purposes of caring for your spouse, son, daughter or parent with a serious health condition when it is determined that your time is medically necessary to care for that family member. In situations where both a husband and wife work for Sunshine Village and both are eligible employees for FMLA leave, the husband and wife will only be afforded a combined total of twelve weeks of leave to take in caring for their respective parents who are suffering from a serious medical condition.

An employee requesting such leave will be given a written request to have their health care provider fill out Sunshine Village's medical certification form attesting to the need for the employee's assistance in caring for the seriously-ill family member. This form needs to be filled out and completed no later than 15 days after the employee's request for the leave (or as soon as possible in the event of an unforeseeable ailment(s)). Failure to furnish Sunshine Village with a completed medical certification form according to this policy may result in a denial of an employee's request for family leave until the certification form is completed and submitted to the Human Resources Department. Sunshine Village may ask the employee to go to another health care provider to be designated by the Sunshine Village for a second opinion (to be paid for by Sunshine Village) in order to verify the medical necessity of such assistance and leave of absence. If the two opinions differ, the employee may elect to obtain a third opinion at a third health care provider to be designated by Sunshine Village and paid for by Sunshine Village. This third opinion will be final and binding.

Upon completion of the medical certification form, you and Sunshine Village will arrive at some form of leave schedule in order to accommodate your responsibilities for caring for the family member(s). During the course of the leave, Sunshine Village may ask you to obtain recertification concerning the need to care for the family member and you will also be required to report periodically during the course of your leave on your status and intent to return to work.

**\*Because of a serious health condition that makes you unable to perform the functions of your job.**

If you wish to take FMLA leave because of your own serious health condition, you will be required to submit to Sunshine Village a medical certification form to the Human Resources Department no later than 15 days after the request for leave is made (or as soon as practicable in instances where an unforeseen ailment has arisen). This medical certification form will be given to you at the time of the request and the form will outline the essential functions of your job for the health care provider to review. Failure to furnish Sunshine Village with a completed medical certification form according to this policy may result in a denial of your request for family leave until the certification form is completed and submitted to the Human Resources Department. You also must give the Agency at least 30 days advance notice of your need for leave, or notify the Agency as soon as practicable in instances where an unforeseen ailment has arisen. Sunshine Village may ask you to go to another health care provider to be designated by Sunshine Village for a second opinion (to be paid for by Sunshine Village) in order to verify the medical necessity of such care and subsequent leave of absence. If the two opinions differ, you may elect to obtain a third opinion at a third health care provider to be designated by Sunshine Village and paid for by Sunshine Village. This third opinion will be final and binding.

Upon completion of the medical certification form, you and Sunshine Village will arrive at some form of leave schedule in order to accommodate the medical necessity for such leave. During the course of the leave, Sunshine Village may ask you to obtain medical recertification from your health care provider concerning medical necessity for such leave and you will also be required to report periodically during the course of your leave on your status and intent to return to work.

Before you can return to work following a leave of absence to treat your own serious health condition, you will be required to obtain a medical certification from your health care provider to attest that you are fit to resume work. This certification shall be limited to an evaluation of the particular health condition that resulted in your need for FMLA leave. Failure to submit the required fitness-for-duty certification to the Human Resources Department will result in the denial of your request to resume work.

**\*The employee experiences a “qualifying exigency” when a spouse, child, or parent is on or has been called up to active duty in the Armed Forces.**

This leave is available when a spouse, child or parent is a military member, which includes members of the National Guard, Reserves and regular Armed Forces. Active Duty requires deployment to a foreign country.

If you wish to take FMLA leave under this paragraph, you will be required to provide certification to Sunshine Village showing that your spouse, child, or parent is or has been called to active duty in the Armed Forces. The required certification documentation may vary, so please consult Human Resources for more specifics.

Issues arising from a covered military member’s short notice deployment (i.e., deployment on seven or less days of notice) for a period of seven days from the date of notification;

- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs, and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military member's absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
- Taking up to fifteen days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member; and;
- Eligible employees may take leave to care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty. Such care may include arranging for alternative care, providing care on an immediate need basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility;
- Any other event that the employee and employer agree is a qualifying exigency.

In situations where both a husband and wife work for Sunshine Village and both are eligible employees for FMLA leave under this section, the husband and wife will only be afforded a combined total of twelve weeks of leave for purposes of a "qualifying exigency" related to active military duty.

If you are the spouse, son, daughter, parent, or next of kin of a covered service member, you may be eligible for a total of 26 weeks of unpaid leave to care for the service member who is:

- undergoing medical treatment for,
- recuperation from,
- in therapy for,
- is otherwise in outpatient status because of, or
- is otherwise on temporary disability retired list because of a serious injury or illness incurred by the service member in line of duty on active duty in the Armed Forces.

This also includes (1) A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating; OR (2) A physical or mental condition for which the covered veteran has received a VA Service Related Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; OR (3) A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a

disability or disabilities related to military service or would do so absent treatment; OR (4) An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers. The leave described in this paragraph is only available during a single 12-month period. During this single 12-month period, you will only be entitled to a total of 26 weeks of leave under paragraphs 1-5. This does not limit your access to leave under paragraph 1-4 for any other 12-month period.

Please see Human Resources to learn more about what documentation will be required.

In situations where both a husband and wife work for Sunshine Village and both are eligible employees for FMLA leave, the husband and wife will only be afforded a combined total of 26 weeks of leave during the single 12-month period if the leave is granted under paragraph 5 or if the leave is a combination of paragraph 1, 2, 4 and 5.

**General Considerations:** You may wish to exhaust all of your 12- or 26-week entitlement for purposes of this type of leave or you may elect to take your leave on an intermittent or reduced schedule basis. You will need to coordinate with the Human Resources Department the type of leave to be taken and the anticipated duration of such leave. Although Sunshine Village will attempt to accommodate all intermittent or reduced schedule leave requests, there may be instances where Sunshine Village may have to transfer you to an alternative position in order to satisfy such request. This is so we can not only accommodate your request, but so we can also maintain our staffing and productivity schedules as well. Although such a transfer may result in a change of duties, the transfer will not result in any decrease in rate of pay or benefits and the transfer will only be in effect until you return to your full and normal schedule.

Leave taken for the birth of or to care for a newborn child, or for adoption, or for foster care placement of a child may not be taken on an intermittent or reduced schedule basis.

For any of the above mentioned sorts of family leave, Sunshine Village will require you to exhaust your earned time banks (such as vacation, holiday and sick time) and substitute those earned days towards your 12- or 26-week entitlement for family leave purposes. This will result in part or all of your family leave becoming a "paid" leave of absence.

Sunshine Village will maintain your health coverage under the same conditions as the coverage would have been provided if you had been continuously employed during the entire leave period. Therefore, you will be responsible for maintaining your portions of your health insurance premiums while you are out on family leave. You may wish to prepay your portions of the premiums prior to going out on leave. Your premium payments must be made on a monthly basis. Failure to make timely health insurance payments in accordance with the Sunshine Village's health insurance policy (or failure to return to work following a FMLA leave) will result in Sunshine Village instituting actions to recover any premiums that were assumed by Sunshine Village in the absence of your timely payment or may result in the termination of your health insurance coverage.

Sunshine Village may elect to pay your share of other benefits (e.g. life insurance, disability insurance etc.) while you are out on FMLA leave in order to avoid a lapse in coverage. Under these circumstances, you will be responsible to reimburse Sunshine Village for any payments that were made on your behalf. For any type of family and medical leave taken pursuant to this policy, Sunshine Village will require you to report periodically during the course of such leave on your status and your intent to return to work.

When you return from a leave of absence pursuant to this policy, you will be entitled to your same or equivalent position with the same pay, benefits, working conditions and duties. Benefits will resume and accrue in the same manner and at the same levels as provided before your leave took place. You will not be required to re-qualify for any benefits that you enjoyed before the FMLA leave began. If you are no longer qualified for your position due to certification requirements or training that is required for your position, you will be afforded additional time to fulfill those conditions upon your return to work. If you experience ongoing physical or mental disabilities when you return to work, you will also be afforded reasonable accommodations pursuant to Sunshine Village's duties to comply with the Americans with Disabilities Act.

There may be circumstances where you will not be afforded this employment protection while you are out on FMLA leave. "Key" employees whose absence from Sunshine Village would result in substantial and grievous economic harm to the company are not afforded this protection of employment. If you fall under this classification, you will be notified in writing by the Human Resources Director about your status when you request to take a FMLA leave from Sunshine Village and of the possible ramifications that may ensue from taking such a leave. You may still wish to take such a FMLA leave. However, there is no guarantee that your position will be available for you upon your return to employment.

Furthermore, an employee on FMLA leave does not have any rights to reinstatement that he or she would not have had had he or she continued to be present in the workplace. As a result, your position will not be held open while you are out on leave if other employees who are employed in similar positions are the subject of layoffs. In this situation, you will be treated in the same manner as others who are employed in similar positions. Therefore, under such circumstances, you will have the same chance of losing your position in a layoff situation as you would have if you had been continuously working during that same time.

There may be occasions where you may not wish to return to work following a FMLA leave. Under these circumstances, Sunshine Village reserves the right to recover from you any health insurance premiums (whether made on your behalf or whether it was Sunshine Village's portion of the health insurance premium) that it made during the course of your unpaid leave of absence unless the reasons behind your failure to return is attributed to a continuation, reoccurrence or onset of a serious health condition (to either you or a family member) that would have entitled you to family leave had you remained employed at Sunshine Village. Sunshine Village may require medical certification from your health care provider to verify your actual condition. You will have 30 days from the day of the request to supply Sunshine Village with the completed medical certification form.

Employees who are on a leave of absence such as maternity leave or Family Medical Leave cannot use Bereavement Leave, Military Leave, Jury Duty or any other type of leave available in order to extend their original leave of absence.

FMLA misuse, abuse or fraud will result in discipline, up to and including termination. This includes, but is not limited to, using approved FMLA for non-FMLA purposes and misrepresenting the medical condition in question.