

	Human Resource Policy Benefits & Compensation	No. HR.BNC.07¹
	Title: FAMILY AND MEDICAL LEAVE (FMLA)	Page: 1 of 6
		Effective Date: 03-20-18
		Retires Policy Dated: 09-27-11
		Previous Versions Dated: 08-01-09; 04-01-08; 01-01-07; 08-01-00; 01-01-93

I. SCOPE:

This policy applies to (1) Tenet Healthcare Corporation and its wholly-owned subsidiaries and affiliates (each, an “Affiliate”); (2) any other entity or organization in which Tenet Healthcare Corporation or an Affiliate owns a direct or indirect equity interest greater than 50%; and (3) any hospital or entity in which Tenet Healthcare Corporation or an Affiliate either manages or controls the day-to-day operations of the entity (each, a “Tenet Entity”) (collectively, “Tenet”).

II. PURPOSE:

The Family and Medical Leave Act of 1993(FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

The purpose of this policy is to provide guidance on Tenet’s obligations under the law and any of its amendments, including any military related leave obligations resulting from a “[qualifying exigency](#)” or “[care for a covered service member](#)”.

III. DEFINITIONS:

- A. **Serious Health Condition** – A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition which requires continuing care by a healthcare provider, as described in the FMLA regulations.
- B. **Son or daughter** – Biological, adopted, foster child, stepchild, legal ward, or a child of a person with daily responsibilities to care for or financially provide for, who is under the age 18 or is over the 18 and mentally and physically unable to care for themselves. For the purposes of Qualifying Exigency leave or to care for a Covered Service member, a son or daughter is of any age.
- C. **Next of Kin** – The nearest blood relative, such as a brother, sister, aunt, uncle and grandparent, or a person with daily responsibility to care for or financially provide for a person as a child.
- D. **Reduced Leave Schedule** – A schedule in which the number of hours typically worked by the employee is reduced for a specified time period.
- E. **Intermittent Leave Schedule** – A schedule in which the employee takes a few days or a few hours on a scheduled, sporadic or interrupted basis.

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IV. POLICY:

It is Tenet’s policy to grant family and medical leave in accordance with the FMLA and any of its amendments. This leave may be paid, unpaid or a combination of both paid and unpaid, depending on the circumstances of the leave and as specified in this policy. All facilities will comply with the FMLA and the accompanying regulations. Any protected leave available under state and/or local law will be handled in compliance with that law and will run concurrently with FMLA if permitted.

FMLA will be governed according to the following guidelines:

- A. To qualify for leave under the FMLA pursuant to this policy, the employee must meet both of the following conditions:
1. The employee must have worked for Tenet, as defined in Section I of this policy, for 12 months.
 2. The employee must have worked for at least 1250 hours during the 12-month period immediately before the date the leave is requested to begin.

B. Qualifying Conditions

To qualify for a leave under the FMLA under this policy, the employee must be eligible and request leave for one of the following reasons:

1. The birth and care of the employee’s newborn child within one year of birth;
2. The placement of a child with the employee for adoption or foster care within one year of placement;
3. Due to the employee’s own “serious health condition” that makes the employee unable to perform the functions of their position;
4. To care for the spouse, son, daughter or parent with a “serious health condition,” as that term is defined in the FMLA and Section IIIA of this policy;
5. To care for a spouse, son, daughter, parent, or next of kin (as defined in the FMLA) who is a [Covered Service member](#) with a serious injury or illness; or
6. A “[qualifying exigency](#)” arising from the foreign deployment of the employee's spouse, son, daughter, or parent with the regular or reserve components of the Armed Forces. Qualifying exigencies for which an employee may take leave under the FMLA leave include, but is not limited to, making alternative child care arrangements for a child of the deployed military member, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the military member’s absence.

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- C. An eligible employee can take up to 12 work weeks of leave under this policy during any 12-month period for the birth and care of the employee’s newborn child, the placement of a child with the employee for adoption or foster care, the employee’s “serious health condition” that makes them unable to work, the care of the employee’s child, parent, or spouse with a “serious health condition”, and/or the “qualifying exigency” as a result of a family member, as defined above, being on active duty or notified of impending call or order to active duty in the Armed Forces. An eligible employee can take up to 26 work weeks of leave under this policy in a single 12-month period for the care of a family member who is a Covered Service member with a serious injury or illness, as defined above.
- D. Tenet measures the 12-month period as a rolling 12-month period measured backwards from the date an employee uses any leave under this policy. Each time an employee takes leave, Tenet will compute the amount of leave the employee has taken under this policy and subtract it from the available leave, and the balance remaining is the amount the employee is entitled to take at that time. Tenet will combine periods of leave under this policy, and consistent with the FMLA, to determine the balance of leave remaining during a rolling 12-month period.
- E. If a husband and wife both work for Tenet and are eligible for leave under the FMLA, and each wishes to take leave for the birth of a child, adoption, placement of a child in foster care (or to care for that child after birth, adoption, or placement in foster care), for a parent’s health condition or care for a Covered Service member, the husband and the wife may only take a combined total of 12 work weeks over a rolling 12-month period or a combined total of 26 weeks in a single 12-month period for the care of the Covered Service member only.
- F. Tenet has the right to ask for a second opinion if there is a reason to doubt the validity of the certification. Tenet will pay for the employee to get an opinion from a second healthcare provider, which Tenet will select. If necessary to resolve a conflict between the original certification and the second opinion, Tenet will require the opinion of a third healthcare provider. Tenet and the employee will mutually select the third healthcare provider and Tenet will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.
- G. If the employee has accrued Paid Time Off (PTO), the employee may use this balance until exhausted, and then take the remainder of the leave as unpaid. Employees should contact their HR representative for more information and to determine their eligibility to supplement pay.

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1. Employees on the Managers Time Off (MTO) Plan should contact HR to discuss use of MTO.
2. FMLA will run concurrently with all other types of leaves when permitted by law.

H. While an employee is on approved FMLA, Tenet will continue to provide health and other insurance benefits under the same conditions as if the employee had continued to work.

Under the current policy, the employee pays a portion of the healthcare premium. If the employee is receiving payments of Paid Time Off and/or Extended Illness from the facility, Tenet will continue to make payroll deductions to collect the employee's share of the premium. If the employee is on unpaid leave, the employee must make the payment upon receipt of invoice. If the employee does not submit payment within the specified time frame, the employee's coverage will be cancelled retroactive to the first day for which payment was due. Tenet will provide 15 days notification prior to the employee's loss of coverage.

I. Intermittent Leave and/or Reduced Work Schedule

The employee may take FMLA intermittently or to reduce the work week or work day, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 work weeks over a rolling 12 month period or 26 weeks in a single 12 month period for the care of Covered Service member only. Such intermittent or reduced schedule leave will result in a reduction in the total amount of leave to which the employee is entitled. Payment of partial days for this purpose will not affect the exempt status of an employee except where prohibited by law.

Tenet may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, for leave for the employee or employee's family member that is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption, or foster care of a child, Tenet and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of a child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee and Tenet shall attempt to work out a schedule before the employee takes intermittent leave or works a reduced hour schedule.

J. Return to Work

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An employee who returns from FMLA before exhausting leave under this policy will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. An equivalent position is one that is virtually identical in terms of pay, benefits and working conditions. Tenet reserves the right to exempt certain “key employees” from the requirement and may not return them to the same or similar position. “Key employees” will be notified of their status when they apply for leave under the FMLA. Key employee status designations must be reviewed by the Corporate Human Resources Department.

Tenet will make every effort to reasonably accommodate the disabilities of employees who are released for duty from FMLA, as required by law. Please refer to HR Policy HR.EHP.06 Disability Accommodation for guidance as to employees who are released for duty with medical restrictions.

V. PROCEDURE

A. Supporting Documents

Corporate Human Resources may establish supporting documents to implement this policy, including, for example, Job Aids, Protocols, or Procedures.

VI. RESPONSIBLE PERSON

Each Tenet Entity Chief Human Resource Officer (CHRO) is responsible for assuring that all individuals adhere to the requirements of this policy and its supporting documents, that all applicable procedures and processes are implemented and followed at the Tenet Entity, and that instances of noncompliance with this policy are reported to Tenet HR Operations for review and resolution by the VP, HR Operations.

VII. ENFORCEMENT

All employees whose responsibilities are affected by this policy are expected to be familiar with the basic procedures, protocols and responsibilities created by this policy and its supporting documents. Failure to comply with this policy will be subject to appropriate performance management pursuant to all applicable policies and procedures, up to and including termination. Such performance management may also include modification of compensation, including any merit or discretionary compensation awards, as allowed by applicable laws

VI. REFERENCES:

HR.BNC.07 Family and Medical Leave (FMLA) Policy Protocol

- Family and Medical Leave Act of 1993

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- [Request for Family or Medical Leave of Absence Form](#)
- [Form WH-380-E-Certification of Health Care Provider for Employee Serious Health Condition](#)
- [Form WH-380-F - Certification of Health Care Provider for Family Member Serious Health Condition](#)
- [Form WH-384 - Certification of Qualifying Exigency for Military Family Leave](#)
- [Form WH-385 - Certification for Serious Injury or Illness of Covered Service member for Military Family Leave](#)
- [Form WH-381 - Notice of Eligibility and Rights and Responsibilities](#)
- [Form WH-382 - Designation Notice to Employee of FMLA Leave](#)