

Brigham and Women's Hospital

Human Resources Policies and Procedures

SUBJECT: LEAVE OF ABSENCE
POLICY #: HR-403

Effective Date: January 1, 2008
Revised: May 22, 2012

Brigham and Women's Hospital (BWH) recognizes that employees may need to request extended time away from their job for a variety of reasons. As such, the hospital offers employees the opportunity to request time off, whether paid or unpaid, in accordance with guidelines as set forth below. Any leave or combination of leaves may not exceed six months in any rolling 12-month period unless otherwise required by law. Unless otherwise noted, all leaves of absence are concurrent and count towards the six months maximum.

I. DEFINITIONS

- A. Leave of Absence: An excused absence due to medical, personal or other authorized reasons. A leave of absence will be granted, as required by law and/or at the discretion of management, to eligible employees who have intent to return to work after a defined period of time.
- B. Family Member: Includes, unless otherwise noted, a spouse, domestic partner, parent, biological child, step-child, adopted child, foster child, and child[ren] for which an employee has legal and/or daily responsibility, as defined under the Family and Medical Leave Act of 1993 (FMLA). Spouse and parent are also defined consistent with the FMLA.
- C. Domestic Partner: Same sex partners requesting recognition as a married couple.
- D. Continuous Leave: Five or more days of leave taken in consecutive, full-day increments. Leave cannot be interrupted by periods of work time.
- E. Intermittent Leave: Leave taken on a pre-determined schedule in which full days of leave are broken up by periods of work time. BWH retains the right to request that the employee attempt to schedule appointments necessitating such leave in a manner that will impact work flow the least.
- F. Reduced Schedule Leave: Leave taken on a pre-determined schedule in which the employee will continue to work on a reduced schedule (i.e., a reduction of daily or weekly scheduled hours).
- G. Serious Health Condition: As defined under the FMLA regulations, a serious health condition is an illness, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider. It generally does not include common illnesses such as the common cold or flu and it does not cover recovery from cosmetic procedures.

II. TYPES OF LEAVES & ELIGIBILITY REQUIREMENTS

A. FMLA Leave

1. **Eligibility:** To be eligible for FMLA leave, an employee must have completed one year of service and worked at least 1,250 hours in the past 12 months. These requirements must be met as of the date the leave begins, not the date of the request.
2. **Leave Allowances:** An eligible employee may receive up to a *combined* total of 12 weeks of job-protected leave in any rolling 12-month period to attend to the following qualifying events:
 - a. **Personal Medical Leave:** Continuous, Reduced Schedule, or Intermittent Leave is available to an eligible employee suffering from a serious health condition, as defined under the FMLA, which renders the employee incapable of performing one or more of the essential functions of his or her job or needs medical treatment or a reduced schedule. For a more detailed definition of a qualifying medical condition, please consult your HR Consultant.
 - b. **Family Care Medical Leave:** Continuous, Reduced Schedule, or Intermittent Leave is available to an eligible employee to care for the employee's child, spouse, domestic partner or parent who is suffering from a serious health condition as defined under the FMLA.
 - c. **Maternity/Paternity/Adoption/Foster Care Leave:** Continuous Leave is available to an eligible employee to care for the employee's child upon birth or in connection with a child's placement for adoption or foster care in the employee's home.

This type of leave must be taken within the first year anniversary of the child's birth or placement. A husband and wife both working for the hospital who are eligible for an FMLA leave are limited to taking a combined total of 12 weeks of leave.

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- d. **Military Caregiver Leave:** Continuous, Reduced Schedule, or Intermittent Leave is available to an eligible employee to care for a spouse, son, daughter, parent, or next of kin who is a covered service member and who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred or a preexisting condition aggravated in the line of duty on active duty. A next of kin is defined as the closest blood relative of the service member.

The FMLA Military Caregiver Leave provides up to 26 weeks of unpaid job-protected leave during a single 12 month period and covers employees caring for members of the Regular Armed Forces, National Guard, and Reserves, including those on the temporary disability retired list (TDRL).

Recent veterans who were members of the Armed Forces and were injured while on active duty during the period of 5 years prior to undergoing medical treatment, recuperation, or therapy would also be included in the definition of a covered service member under this leave.

- e. **Qualifying Exigency Leave:** Continuous, Reduced Schedule, or Intermittent Leave is available to an eligible employee who is the spouse, son, daughter, or parent of a military member who has been called or who has received an impending call or order to active duty in the US Armed Forces and will be deployed to a foreign country. A military member is defined as members of the Regular Armed Forces as well as the National Guard and Reserves.

A qualifying exigency would include short-notice deployment, military events and related activities, child care and school activities, financial and legal arrangements, counseling, rest and recuperation, and post-deployment activities. The FMLA Qualifying Exigency Leave provides eligible employees with up to 12 weeks of unpaid job-protected leave in a rolling calendar year.

B. Massachusetts Maternity Leave Act (MMLA) Leave

1. Eligibility: Full-time employees who have completed three consecutive months of full-time employment or part-time employees who have worked 1250 hours in the past 12 months.
2. Leave Allowance: An eligible employee may receive up to eight weeks of job-protected leave to give birth, adopt a child under the age of 18, or adopt a mentally or physically disabled child under the age of 23. Eight weeks of leave will be given for *each* child born or adopted.

This type of leave must be taken within the first year anniversary of the child's birth or placement. If the employee is also eligible for FMLA leave, the MMLA leave and FMLA leave will run concurrently.

An employee, however, is entitled to separate MMLA leave if he or she has not yet met the FMLA requirements or has exhausted his/her FMLA allotment, so long as he/she has met the MMLA eligibility requirements set forth above.

C. Non-FMLA Medical Leave

1. Eligibility: All employees upon completion of the 90-day initial introductory period.
2. Leave Allowance: Employees who do not meet the eligibility requirements for a personal or family care medical leave under FMLA may receive up to six weeks of unprotected leave for such care. Managers and supervisors should consult their Human Resources Consultant.

D. Small Necessities Leave Act (SNLA) Leave

1. Eligibility: All employees who have completed 12 months of service and who have worked at least 1,250 hours in the previous 12 months.
2. Leave Allowances: An eligible employee may receive up to 24 hours of intermittent or continuous, job-protected leave per rolling 12 month period to attend to certain family-related purposes, including, but not limited to:
 - a. Participation in school activities of a son or daughter, so long as those activities are “directly related to the educational advancement” of the child, i.e. parent-teacher conferences and interviews for a new school.
 - b. Accompanying a son or daughter to routine health care appointments, including medical and dental appointments.
 - c. Accompanying an “elderly relative” (defined as an individual at least 60 years of age related to the employee by blood or marriage) to routine health care appointments, including medical and dental visits and any other professional care services.

E. Personal Leave

1. Eligibility: All employees upon completion of the 90-day initial introductory period.
2. Leave Allowance: In extraordinary circumstances, eligible employees may receive unprotected leave to attend to personal matters such as educational opportunities, family matters, or travel.

While such leave is approved at the discretion of the employee’s supervisor, it generally may not exceed two weeks and under no circumstances may it exceed the six month maximum time available under any combination of leaves granted in any rolling 12-month period.

F. Administrative Leaves

Additional administrative leaves are available to eligible employees to attend to specific qualifying events such as jury duty, bereavement, voting responsibilities, military leave, organ donation, as set forth in the Administrative Leave Policy, HR-405.

G. Workers’ Compensation (Industrial Accident) Leaves

Additional leave may be available to eligible employees who have experienced an Industrial Accident pursuant to the Work Related Accident and Injury Reporting Policy, HR-406.

III. LEAVE OF ABSENCE PROCEDURE

A. Requesting Leaves

1. Planned Leaves: Generally, leaves taken pursuant to this policy must be planned and requested in advance. Therefore, an employee who desires to take such a leave (or an extension of a leave) under this policy must complete a leave of absence form and submit it to his/her manager at least 30 days *before* the start of the leave or extension period if foreseeable.
2. SNLA Leaves: An employee must request a SNLA leave at least seven days in advance or give as much notice as practical to his/her manager.
3. Emergency & Unplanned Leaves: When the need for a leave under this policy is not foreseeable, the employee must provide his/her manager with as much notice as practicable, preferably within one to two days after learning of the need to take or extend a leave. Approval of such leaves will be made at the manager's discretion and/or as required by law but managers are advised to check with their Human Resources Consultant before denying or approving such emergency leave requests.

B. Medical Certifications, Supporting Documentation, & FMLA Designations

1. Medical Certifications: BWH requires that all employees seeking leave under this policy to care for their own illness (including any illness or temporary disability caused by pregnancy) or to care for a family member's illness must submit a timely "Medical Certification of Physician or Practitioner form" to OHS supporting the need for the leave.
 - a. Planned Leaves: If the leave is foreseeable and the employee has properly requested the leave at least 30 days prior to the leave, the employee must submit the required medical certification *at the same time* he/she submits the leave request.

If the employee fails to provide such documentation at the time of the request, his/her manager must inform the employee that he/she must submit such a certification within 15 calendar days following the request for leave.

- b. Unplanned Leaves: In the event such a leave is unforeseeable, the manager must notify the employee of the need for a medical certification within two days of the leave request and/or learning of the need for a leave.

The employee must then provide such documentation within 15 calendar days following the manager's request for medical certification.

2. Other Supporting Documentation: BWH may require an employee seeking all other types of leave under this policy to provide other forms of documentation, as allowed under State and Federal law, to support such leave requests. Such documentation should be provided as soon as practical following the request. Failure to provide such documentation may result in the denial of such leave requests.
3. FMLA Designations: Upon the timely receipt of the necessary supporting documentation (medical certification or other documentation as requested), BWH will determine whether or not the leave qualifies for FMLA protection. Within two days of receiving such documentation, BWH will notify the employee regarding the FMLA designation and whether the leave is approved or denied.

Upon appropriate FMLA designation and notification, the entire leave will be counted towards the employee's allowances from the start of the leave even if the designation occurs after the leave has begun.

4. Failure to Submit Documentation: In the event an employee fails to submit a Medical Certification within the timeframes as set forth above, BWH may not designate the leave as FMLA leave and, as a result, the employee will not be entitled to FMLA protections for that leave. Additionally, failure to submit a Medical Certification or other documentation may also result in the denial of leave.
5. Work Related Injury Leaves: The Medical Certification requirement applies to all employees, including those employees who are taking concurrent leave pursuant to the Workers' Compensation Policy. Therefore, employees on leave due to a work related injury are required to submit a separate FMLA Medical Certification, even if they have already submitted certifications in support of their Workers' Compensation leave, in order to be entitled to separate but concurrent FMLA protections.

Please contact your Human Resources Consultant with any further questions regarding medical certifications and other supporting documentation.

C. Return From Leave

1. FMLA, MMLA, & SNLA (Job-Protected) Leaves: Unless otherwise provided by law, at the end of a FMLA, MMLA, or SNLA designated leave, the employee will be reinstated to his/her former position or to an equivalent position unless he/she would have been subject to a layoff had he/she not been on leave. To determine what constitutes an equivalent position, please confirm with HR Consultant.
2. Administrative & Workers' Compensation Leaves: Please refer to the Administrative Leave Policy, HR-405 and Work Related Accident and Injury Reporting Policy, HR-406 for information regarding reinstatement.

2. All Other (Unprotected) Leaves: Unless otherwise required by law (e.g., some leaves taken pursuant to the Americans with Disabilities Act (ADA)), all other leaves taken pursuant to this policy are considered unprotected status. As such, BWH will make a concerted effort to reinstate the employee to his/her former position upon return, however, reinstatement cannot be guaranteed.

NOTE: Due to the staffing needs of the hospital, BWH reserves the right to post a vacancy for the employee's position while he/she is on leave should the needs of the department necessitate such action.

D. Return to Work

Any employee who returns from a leave of **five or more days** taken to care for the employee's own illness or injury other than birth of child must:

1. Return to Work Form: The employee must submit a completed "Request to Return from Medical Leave of Absence" form to OHS prior to returning to work.

This form shall be completed by the employee's medical provider indicating that the employee is fit to return to work, the date of such return, and noting any restrictions upon the employee's return to work. BWH will forward the employee's job description to assist his/her medical provider in completing the form.

The medical provider should complete the form based solely upon information related to the illness or injury for which the employee was on leave. Generally BWH shall not request any further medical documentation at such time.

2. Medical Certification: Generally OHS will not perform a medical examination or assessment. Rather, OHS will confirm and certify the employee's ability to perform the essential functions of his/her job based solely upon the information provided on the "Request to Return from Medical Leave of Absence" form.

If the form indicates any required restrictions, OHS will contact Human Resources to determine whether further information may be required and requested in accordance with state and federal law.

IV. PAYMENT DURING LEAVE

A. Personal Medical & FMLA Maternity Leaves

FMLA eligible and non-FMLA personal medical leaves and maternity leaves taken pursuant to FMLA may be paid using the following paid time off (PTO) banks:

1. BT Bank: The 1st regularly scheduled workweek (or five consecutive workdays) must be paid with accrued benefit time (BT) hours. An employee will then be paid from their accrued extended sick leave (ESL) hours.

2. ESL Bank Exhaustion: If the employee's ESL bank is exhausted prior to the end of the leave, the employee is required to be paid accrued BT hours in no less than one week increments. If accruals go below one week's regularly scheduled hours, the employee will go unpaid.

B. Family Care, Military Caregiver, Qualifying Exigency, SNLA, and Personal Leaves

Family care leaves, military caregiver, qualifying exigency, non-medically related personal leaves, and leaves taken pursuant to SNLA may be paid using the following paid time (PTO) bank:

1. BT Bank: An employee must be paid with any available accrued benefit time (BT) hours in one week increments.
2. BT Bank Exhaustion: An employee may not use accrued ESL hours. Therefore, if BT accruals go below one weeks regularly scheduled hours, the employee will go unpaid.

C. MMLA Leaves

Generally maternity leaves taken pursuant to MMLA may be paid using the paid time off (PTO) banks as noted below. If an MMLA leave is taken concurrently with a FMLA leave, the portion of the leave eligible for FMLA protection will be paid according to the FMLA medical leave method.

1. BT Bank: An employee may choose, but BWH may not require, to be paid with any available accrued benefit time (BT) hours in one week increments.
2. ESL Bank: An employee may choose, but BWH may not require, to be paid with available accrued extended sick leave (ESL) hours following the first five consecutive days of leave.
3. Unpaid Time: In the event the employee chooses not to be paid from his/her BT and/or ESL hours or upon the employee's exhaustion of available and accrued BT and ESL hours, the employee will go unpaid.

V. BENEFITS

A. Paid Time Off Program

1. BT and ESL will continue to accrue each week while the employee is being paid.
2. BT and ESL will no longer accrue when the employee is on unpaid status, regardless of an employee's job-protected status.

B. Medical/Dental/Vision Insurance

1. Paid Status: Insurance coverage will continue through payroll deductions while an employee is on a paid status.
2. Unpaid Status: If a employee exhausts his/her available PTO, as set forth above, while on leave, he/she will go into unpaid status and his/her medical/dental/vision insurance will be paid as follows:
 - a. FMLA & SNLA Leaves: BWH will continue to pay the employer's portion of any premium payments. The employee will be billed monthly for the employee's portion of the premium.

The Hospital reserves the right to stop making premium payments and terminate an employee's coverage if the employee's payment is more than 30 days late. In such situations, BWH will provide the employee with 15 days' notice that the premium is late and the insurance will be terminated.

- b. MMLA, Non-FMLA Medical, & Personal Leaves: BWH will cease making the employer's portion of any premium payments. At such time, the employee will be billed monthly for all premium payments.

If the employee's payment is more than 30 days late, BWH will provide the employee with 15 days' notice that the premium is late and the insurance will be terminated. Medical plan opt-out payments will end on the last day paid and will resume when the employee returns to work.

C. Life/Long Term Disability/Accidental Death and Dismemberment Insurance

1. Long Term Disability is considered a benefit not a leave.
2. Medically Related Leaves: Employees who anticipate being out for more than three months due to their own illness or injury may be eligible for long-term disability insurance. To obtain more information on this benefit, employees may contact the benefits office.
3. LTD/Life and AD and D coverage is defined under plan documents. *(To receive plan documents, please contact the Partners Benefits Office.)*

VI. ABUSE OF THE LEAVE PROCESS

An employee's leave may be discontinued and he/she may be subject to corrective action up to and including employment terminated for the following reasons, including but not limited to:

1. Failure to meet required conditions of the leave;
2. Acceptance of employment elsewhere while on leave without supervisor's prior approval;
3. Failure to provide acceptable certification documents;
4. Failure to return to work upon expiration of the leave;
5. Abuse of Intermittent or Reduced Schedule Leave scheduling;
6. Otherwise obtaining a leave fraudulently.

APPROVED BY:

Vice President of Human Resources
Chief Operating Officer

This policy is intended as a guideline to assist in the consistent application of Brigham and Women's Hospital policies and programs for employees. The policy does not create a contract implied or expressed, with any hospital employees who are employees at will. The hospital reserves the right to modify this policy in whole or in part, at any time, at its sole discretion.