

Family Medical Leave Act (FMLA)

The purpose of the Family and Medical Leave Act (FMLA) is to allow employees to balance their work and family life by taking reasonable unpaid leave for eligible reasons as described in the text below.

All medical leaves of absence will be reviewed for eligibility under FMLA and subsequent amendments. FMLA requires covered employers to provide up to 12 weeks of unpaid, job protected leave to eligible employees for certain family and medical reasons. FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

Employees are eligible if they have worked for their employer for at least one year and if they have worked at least 1,250 hours over the previous 12 months. Generally, FMLA applies to regular full-time and regular part time employees.

Unpaid leave must be granted for *any* of the following reasons:

- the care of the employee's child after birth, or placement for adoption or foster care;
- the care of the employee's spouse/significant other, son, daughter or parent, including those 'in locos parentis' (someone who has served as a parent or guardian in the absence of the parent or guardian), who has a serious health condition; or
- a serious health condition that makes the employee unable to perform his/her job.

Serious health condition is defined as any injury, illness, impairment, or a physical or mental condition that involves:

- In-patient care (overnight stay) in a hospital, hospice, or residential medical care facility; or
- Continuing treatment by a health care provider that either prevents the employee from performing the functions of his/her job or prevents the qualified family member from participating in school or other daily activities. Continuing treatment requirement may be met by a period of incapacity of three (3) or more consecutive calendar days combined with:
 - ✓ at least two visits to the health care provider; or,
 - ✓ at least one visit to the health care provider followed by a regimen of continuing treatment, incapacity due to pregnancy, or incapacity due to a chronic condition.

The employee will provide advance leave notice and medical certification to the Human Resources Director, when foreseeable or as soon as practical in unforeseeable circumstances. **Required paperwork includes the "Cumberland Heights' Request for FMLA Leave" and the "Certification of Health Care Provider" form,** which are available in Human Resources or on the Intranet Human Resources page. The medical certification will be required to support the request for leave because of a serious health condition. Cumberland Heights has the right to require a second or third opinion (at Cumberland Heights's expense) and/or a fitness-for-duty report in order to return to work. Taking of FMLA leave may be denied if requirements are not met.

An employee's FMLA leave and 12-week allotment will commence from the first date of absence for the covered situation, regardless of when FMLA is formally requested.

Employees will be required to exhaust any accrued sick and/or vacation time **while** taking FMLA leave. The employee must comply with normal time off policies.

An employee is not required to use FMLA leave entitlement in one block.

If the employee or the employee's family member requires only periodic treatment (e.g., chemotherapy or dialysis) for a medical condition, the employee may request FMLA leave on an **intermittent** basis. Intermittent leave is to be taken in no less than one hour increments and will be counted **toward** the 12-week allotment (12 weeks = 480 hours for regular full-time and regular part-time employees, or a **prorated** portion for eligible part-time employees).

If FMLA leave is due to one of these reasons and is properly requested and documented, the employee will be returned to his/her same position or an equivalent position with the same rights, benefits, pay, and other terms and conditions that existed prior to the leave. Although every reasonable effort will be made to return an employee to a position, Cumberland Heights cannot guarantee reinstatement once the employee's leave has gone beyond the FMLA period. If the employee is not released to return to work within 12 weeks, he/she may request a discretionary leave of absence.

If a husband and wife both work for Cumberland Heights and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for Cumberland Heights and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.

Cumberland Heights reserves the right to deny leave reinstatement to key employees, where such denial is necessary to prevent substantial and grievous economic injury to the Cumberland Heights's operation. Key employees will be notified of Cumberland Heights's intention to deny reinstatement as soon as a determination is made. Key employees are defined as the highest-paid 10 percent of employees within a 75-five mile radius of the facility where employed.

Family and Medical Leave (FMLA) for Military:

In addition to allowing employees to take reasonable unpaid leave for medical reasons, for the birth or adoption of a child, for the care of a child, spouse, or parent who has a serious health condition, this Act was amended in 2008 to allow employees to take reasonable unpaid leave for the care of a covered service member with a serious injury or illness or because of a qualifying exigency arising out of the employee's spouse, son, daughter or parent on active duty or call to active duty status in support of a contingency operation. In this regard, FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity.

An Eligible employee with a spouse, son, daughter or parent on covered active duty or call to covered active duty status in the National Guard or Reserves in support of a contingency operation may use his/her 12-week FMLA leave entitlement to address certain qualifying exigencies.

"Covered active duty" means the deployment of a member of the regular Armed Forces to a foreign country and the order to active duty of a member of a reserve component of the Armed Forces or a member of the National Guard. A qualifying exigency includes; a) short-notice deployment (call or order 7 calendar days prior to deployment); b) Military and activities related to call to active duty; c) childcare and school activities; d) making or updating financial and legal arrangements; e) counseling; f) rest and recuperation (limited to 5 day per leave, up to 12 work weeks in a 12 month period, to spend time with military member on short-term leave); g) post-deployment activities, defined as up to 90 days following termination of active duty status or to address the death of the covered service member, such as making funeral arrangements; and h) additional activities agreed to by both employer and employee which arise out of the active duty or call to active duty.

An Eligible employee may also take up to 26 weeks of FMLA leave due to a special leave entitlement to care for a covered service-member during a single 12-month period. A covered service-member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty while on active duty rendering the service-member medically unfit to perform his/her duties for which the service-member is undergoing medical treatment, recuperation, or therapy, or is in outpatient status, or is on the temporary disability retired list.

If FMLA leave is due to one of these reasons and is properly requested and documented, and the employee returns from leave prior to exhausting applicable weeks of FMLA eligibility, the employee will be returned to his/her same position or an equivalent position with the same rights, benefits, pay, and other terms and conditions that existed prior to the leave. If the employee is not released to return to work within the applicable weeks of FMLA eligibility, he/she may request a discretionary leave of absence.

Maternity Leave

State law provides that employers allow up to 16 weeks of unpaid, job-protected maternity leave for pregnancy, childbirth, adoptions and nursing. The law applies to both eligible male and female employees. This leave should be used in conjunction with the Family and Medical Leave Act (FMLA).

Eligible employees must have been employed for at least 12 consecutive months as a regular full-time or regular part-time employee.

The employee must give at least three (3) months advance notice to the manager and to the Human Resources Director, when foreseeable or as soon as practical in unforeseeable circumstances.

For an employee who needs to express breast milk for the employee's infant child, a reasonable, unpaid break time each day will be provided. Reasonable efforts will be made to provide a room or other private location, other than a public restroom, for the employee to express breast milk. The break time must, if possible, run

concurrently with any break time already provided to the employee. Cumberland Heights is not required to provide a break time if to do so would unduly disrupt its business operations.