



POLICY:

It is the policy of Chatham Area Transit to grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) of family and medical leave during any 12-month period to eligible employees, in accordance with the Family and Medical Leave Act of 1993 (FMLA) and any applicable state laws. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

POLICY SPECIFICS:

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the Authority may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

Employees with questions about what illnesses are covered under this FMLA policy or under the Authority's sick leave policy are encouraged to consult with the Human Resources Department.

Eligibility

Employees are eligible for this leave if they have been employed by the Authority for at least 12 months, have worked at least 1250 hours during the previous 12 months, and are employed in a facility that has at least 50 employees in a 75 mile radius. The employee is required to provide thirty (30) days notice when leave is foreseeable.

• The employee must have worked for the Authority for 12 months or 52 weeks.

The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years.

Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement, including a collective bargaining agreement, stating the employer's intention to



rehire the employee after the service break. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.

- **The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence.**

The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for an employee under FMLA.

- **The employee must work in a worksite where 50 or more employees are employed by the Authority within 75 miles of that office or worksite.**

The distance is to be calculated by using available transportation by the most direct route.

Reasons for Taking Leave

In order to qualify as FMLA leave under this policy, the employee must be taking the leave for one of the reasons listed below:

1. **The birth of the employee's child in order to care for that child.** An expectant mother may take leave before the birth of the child for prenatal care or if her condition makes her unable to work or comply with safety regulations.
2. **The placement of a child for adoption or foster care and to care for the newly placed child.**
3. **The care of an immediate family member (spouse, domestic partner, child, or parent with a serious health condition)** (described below).
4. **Serious health condition of the employee** (described below). An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

A serious health condition is defined as an illness, injury, impairment, physical or mental condition that involves:

- a. An illness of three (3) days which requires continuing treatment by a health care provider.
- b. In patient care in a hospital, hospice or residential medical care facility including any period of incapacity of any subsequent treatment in connection with such



inpatient care or a condition that requires continuing care by a licensed health care provider.

- c. Continuing treatment by a health care provider for a chronic or long term condition.

5. Qualifying exigency leave for families of members of the National Guard or reserves or of a regular component of the armed forces when the covered military member is on covered active duty or called to covered active duty.

An employee whose spouse, domestic partner, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:

- a. Short-notice deployment,
- b. Military events and activities
- c. Child care and school activities
- d. Financial and legal arrangements
- e. Counseling
- f. Rest and recuperation
- g. Post-deployment activities
- h. Additional activities that arise out of active duty provided that the employer and employee agree, including agreement on timing and duration of the leave.

The term "covered active duty" means:

- a. In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
- b. In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 United States Code. The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor). This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.

6. Military caregiver leave (also known as covered service member leave) to care for an injured or ill service member or veteran.

An employee whose son, daughter, parent or next of kin is a covered service member may take up to 26 weeks in a single 12-month period to take care of leave to care for that service



member. Next of kin is defined as the closest blood relative of the injured or recovering service member.

The term "covered service member" means:

- a. A member of the Armed Forces (including a member of the National Guard or Reserves) 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; or
- b. A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

The term "serious injury or illness" means:

- a. In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
- b. In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered service member, means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on an active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (5) above under this policy during any 12-month period. The Authority will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the Authority will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for the FMLA circumstance (6) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, the Authority will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.



Special Provisions Regarding Leave

If an employee and their spouse or domestic partner both work for Chatham Area Transit, they are entitled only to a combined total of twelve (12) weeks of leave for the birth or placement of a child for adoption or foster care or to care for a sick parent (but not a parent "in-law") with a serious health condition. However, each employee is entitled to up to twelve (12) weeks of leave due to the employee's own serious health condition, to care for the spouse, domestic partner, or to care for a sick child. If a husband and wife both work for the Authority 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.

Employees should make a reasonable effort to schedule planned medical treatment (either the employee's own or that of a seriously ill immediate family member) so that the treatments do not unduly disrupt the business operations. A leave of absence for the birth of a child or placement of a child for adoption or foster care must be concluded within one (1) year of the adoption or birth, and must be taken on a continuous basis.

Status of Benefits during Leave

During a Family and Medical Leave, the Authority will maintain its share of the employee's health care coverage, if any. The employee is required to continue to pay his/her share of premiums in a timely manner. Under current Authority policy, the employee pays a portion of the health care premium. While on paid leave, Chatham Area Transit will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail.

If an employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, Chatham Area Transit may require the employee to reimburse the Authority for the amount paid for the employee's health insurance premium during the leave period.

Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms, in compliance with federal and state regulations (unless exempted under law), The position will be the same or one which is nearly identical in terms of pay, benefits and working conditions. If a circumstance warrants it, the Authority may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

Use of Paid and Unpaid Leave

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation, personal and/or sick leave prior to being eligible for unpaid leave. Sick, personal and



personal holiday leave will be ran concurrently with FMLA leave if the reason for the FMLA leave is covered by the Authority's established sick leave policy.

Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA. For example, in a six week pregnancy disability leave, the six weeks will be designated as FMLA leave and counted toward the employee's 12-week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement. An employee who is taking leave for the adoption or foster care of a child must use all paid vacation, personal or family leave prior to being eligible for unpaid leave.

An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and personal leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by the Authority's sick leave policy) prior to being eligible for unpaid leave.

Intermittent or Reduced Workweek Leave

Employees taking leave due to their own or a relative's serious health condition may take leave on an intermittent (in separate blocks of time or a day periodically when needed over the year) or under certain circumstances use the leave to reduced the workweek or workday, resulting in a reduced schedule (decreased number of hours per week). If an employee takes leave on an intermittent or reduced schedule, the leave will be reduced pro-rata and only the amount of leave time actually taken will be counted against the employee's twelve (12) week allowance. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).

Chatham Area Transit has the right to transfer the employee to a job with equivalent pay and benefits in order to better accommodate the request for an intermittent or reduced workweek schedule.

Certification of a Serious Health Condition

Chatham Area Transit requires medical certification to support a leave due to a serious health condition of an employee, employee family member qualifying exigency for military family leave or the serious injury or illness of the covered service member. A fitness-for-duty report is necessary for any employee returning to work after a serious personal health condition. The employee must respond to such requests within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in denial of continuation of leave.



Certification of the serious health condition shall include: the date the condition began, its expected duration, diagnosis, and a brief statement of treatment. In a medical leave for the employee's own medical condition, the certification must also include a statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of the employee's position. For a seriously ill family member, the certification must include a statement the patient requires assistance and the employee's presence would be beneficial or desirable.

The Authority may directly contact the employee's or the employee's family member's health care provider for verification or clarification purposes using a health care professional, an HR professional, leave administrator or management official. Chatham Area Transit will not use the employee's direct supervisor for this contact. Before the Authority makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the Authority will obtain the employee's permission for clarification of individually identifiable health information.

Chatham Area Transit has the right to ask for a second opinion if it has reason to doubt the certification. The Authority will pay for the employee to get a certification from a second doctor which the Authority will select. If necessary to resolve conflict between the original certification and the second opinion, the Authority will require the opinion of a third doctor. Chatham Area Transit and the employee will jointly select the third doctor and the Authority will pay for the opinion. This third opinion will be considered final.

The Authority may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

- If a Family Leave of Absence exceeds twelve (12) weeks on a rolling twelve (12) month period (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) the employee employment status may be in jeopardy, which could result in termination of employment. Exceptions are if state allows more than the designated twelve (12) or twenty-six (26) weeks off in a rolling twelve (12) month period.

If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule.

Recertification

While on leave, employees are required to report periodically to the Authority regarding the status of the medical condition and their intent to return to work. Such reports may not be asked of the employee more than once every 30 days unless it is known that an employee's



condition has changed, if the employee receives information casting doubt on the reason given for the absence or if the employee seeks an extension of his or her leave.

The Authority may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. The Authority may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

All employees desiring to return to work following their leave must provide a fitness-for-duty report or doctor's statement releasing them to full duty.

Requesting Leave

When foreseeable, all employees requesting leave under this policy must submit the request in writing to their immediate supervisor and the local HR designate. When the need for FMLA leave is unforeseeable, the employee must comply with the Authority's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

When an employee plans to take leave under this policy, the employee must give 30 days' notice. If it is not possible to give 30 days notice, the employee must give as much notice as is practical. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule treatment to minimize disruption to the operations.

If an employee fails to provide 30 days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date the Authority receives notice.

Designation of FMLA Leave

- After an employee has submitted the appropriate certification form, the HR designate will complete and provide the employee with a written response to the employee's request for FMLA leave

Intent to Return to Work from FMLA Leave

On a basis that does not discriminate against employees on FMLA leave, Chatham Area Transit may require an employee on FMLA leave to report periodically on his/her status and their intent to return to work.

APPLIES TO:

All employees of Chatham Area Transit Authority.