

## **FAMILY AND MEDICAL LEAVE ACT POLICY**

### **Purpose**

The Family and Medical Leave Act (FMLA) provides eligible employees with up to 12 workweeks of unpaid leave for certain family and medical reasons during a 12 month period. During this leave, an eligible employee is entitled to continued group health plan coverage as if the employee had continued to work. At the conclusion of the leave, subject to some exceptions, an employee generally has a right to return to the same or to an equivalent position.

### **Employee Eligibility**

To be eligible for FMLA leave, an employee must have been employed by Rockdale County for at least 12 months (which need not be consecutive); for at least 1,250 hours during the 12 month period immediately preceding the commencement of the leave; and at a worksite (a) with 50 or more employees; or (b) where 50 or more employees are located within 75 miles of the worksite.

### **Events Which May Entitle an Employee to FMLA Leave**

FMLA leave may be taken for any one, or for a combination of, the following reasons: the birth of the employee's child or to care for the newborn child; the placement of a child with the employee for adoption or foster care or to care for the newly placed child; to care for the employee's spouse, child or parent (but not in-law) with a serious health condition; and/or the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

A "serious health condition" is an injury, illness, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

### **How Much FMLA Leave May Be Taken**

An eligible employee is entitled to up to 12 workweeks of unpaid leave during a 12 month period for any FMLA qualifying reason(s). The 12 month period is a rolling 12 month period measured backward from the date an employee uses any FMLA leave.

### **Limitations on FMLA Leave**

FMLA leave to care for a newborn or for a newly placed child must conclude within 12 months after the birth or placement of the child.

When both spouses are employed by Rockdale County, they are together entitled to a combined total of 12 workweeks of FMLA leave within the designated 12 month period for the birth, adoption or foster care placement of a child with the employees, for aftercare of the newborn or newly placed child, or to care for a parent (but not in-law) with a serious health condition. Each spouse may be entitled to additional FMLA leave for other FMLA qualifying reasons (i.e., the difference between the leave taken individually for any of the above reasons and 12 workweeks, but not more than a total of 12 workweeks per person).

For example, if each spouse took 6 weeks of leave to care for a newborn child, each could later use an additional 6 weeks due to his/her own serious health condition or to care for a child with a serious health condition.

### **Intermittent or Reduced Work Schedule Leave**

Intermittent FMLA leave is leave taken in separate blocks of time. A reduced work schedule leave is a leave schedule that reduces an employee's usual number of hours per workweek or hours per workday.

If an employee takes FMLA leave intermittently or on a reduced work schedule basis, the employee must, when requested, attempt to schedule the leave so as not to unduly disrupt the Rockdale County's operations. When an employee takes intermittent or reduced work schedule leave for foreseeable planned medical treatment, the County may temporarily transfer the employee to an alternative position with equivalent pay and benefits for which the employee is qualified and which better accommodates recurring periods of leave.

### **Requests for FMLA Leave**

An employee should request FMLA leave by completing the Employer's Request for Leave form and submitting it to Human Resources' Benefits Manager.

When leave is foreseeable for childbirth, placement of a child or planned medical treatment for the employee's or family member's serious health condition, the employee must provide Rockdale County with at least 30 days advance notice, or such shorter notice as is practicable (i.e., within 1 or 2 business days of learning of the need for the leave). When the timing of the leave is not foreseeable, the employee must provide the County with notice of the need for leave as soon as practicable (i.e., within 1 or 2 business days of learning of the need for the leave).

### **Required Documentation**

When FMLA leave is taken to care for a family member, Rockdale County may require the employee to provide documentation or statement of family relationship (e.g., birth certificate or court document). An employee may be required to submit medical certification from a health care provider to support a request for FMLA leave for the employee's or a family member's serious health condition. Medical certification forms are available from Human Resources' Benefits Manager.

If Rockdale County has reason to doubt the employee's initial certification, the County may: (i) with the employee's permission, have a designated health care provider contact the employee's health care provider in an effort to clarify or authenticate the initial certification; and/or (ii) require the employee to obtain a second opinion by an independent Rockdale County-designated provider at the County's expense. If the initial and second certifications differ, the County may, at its expense, require the employee to obtain a third, final and binding certification from a jointly selected health care provider.

During FMLA leave, Rockdale County may request that the employee provide recertification of a serious health condition at intervals in accordance with the FMLA. In addition, during FMLA leave, the employee must provide the County with periodic reports regarding the employee's status and intent to return to work. If the employee's anticipated return to work date changes and it becomes necessary for the employee to take more or less leave than originally anticipated, the employee must provide the County with reasonable notice (i.e., within 2 business days) of the

employee's changed circumstances and new return to work date. If the employee gives the County notice of the employee's intent not to return to work, the employee will be considered to have voluntarily resigned.

Before the employee returns to work from FMLA leave for the employee's own serious health condition, the employee may be required to submit a fitness for duty certification from the employee's health care provider, with respect to the condition for which the leave was taken, stating that the employee is able to resume work.

FMLA leave or return to work may be delayed or denied if the appropriate documentation is not provided in a timely manner. Also, a failure to provide requested documentation of the reason for an absence from work may lead to termination of employment.

### **Use of Paid and Unpaid Leave**

FMLA provides eligible employees with up to 12 workweeks of unpaid leave. If an employee has accrued PTO, however, the employee must use any qualifying paid leave first. "Qualifying paid leave" is leave that would otherwise be available to the employee for the purpose for which the FMLA leave is taken. The remainder of the 12 workweeks of leave, if any, will be unpaid FMLA leave. Any paid leave used for an FMLA qualifying reason will be charged against an employee's entitlement to FMLA leave. This includes leave for disability or workers' compensation injury/illness, provided that the leave meets FMLA requirements. The substitution of paid leave for unpaid leave does not extend the 12 workweek leave period.

### **Designation of Leave**

Rockdale County will notify the employee that leave has been designated as FMLA leave. The County may provisionally designate the employee's leave as FMLA leave if the County has not received medical certification or has not otherwise been able to confirm that the employee's leave qualifies as FMLA leave. If the employee has not notified the County of the reason for the leave, and the employee desires that leave be counted as FMLA leave, the employee must notify Human Resources' Benefits Manager within 2 business days of the employee's return to work that the leave was for an FMLA reason.

### **Maintenance of Health Benefits**

During FMLA leave an employee is entitled to continued group health plan coverage under the same conditions as if the employee had continued to work.

To the extent that an employee's FMLA leave is paid, the employee's portion of health insurance premiums will be deducted from the employee's salary. An employee on FMLA unpaid leave is entitled to receive health benefits under the same terms and conditions as when working. Arrangements shall be made with the Human Resources Department for monthly payments during leave. However, Rockdale County may recover from an employee health coverage premiums paid during FMLA leave for such an employee who fails to return to work.

Rockdale County must provide service credit for the employee during unpaid FMLA leave, but only for the purpose of avoiding a break in service in regard to retirement benefits. Rockdale County is not required to count those hours toward the 1,000 hours needed to accrue additional eligibility, benefit, or vesting service if employee is not active on payroll.

### **Return from FMLA Leave**

Rockdale County shall guarantee an employee on unpaid family and medical leave the right to return to the previous or a "virtually identical" position.

### **Limitations on Reinstatement**

An employee is entitled to reinstatement only if he/she would have continued to be employed had FMLA leave not been taken. Thus, an employee is not entitled to reinstatement if, because of a layoff, reduction in force or other reason, the employee would not be employed at the time job restoration is sought.

Rockdale County reserves the right to deny reinstatement to salaried, eligible employees who are among the highest paid 10 percent of the County's employees employed within 75 miles of the worksite ("key employees") if such denial is necessary to prevent substantial and grievous economic injury to Rockdale County's operations.

### **Failure To Return To Work Following FMLA Leave**

If the employee does not return to work following the conclusion of FMLA leave, the employee will be considered to have voluntarily resigned, based upon the end date of his/her FMLA leave or sooner, if notified by employee. Rockdale County may recover health insurance premiums that the County paid on behalf of the employee during any unpaid FMLA leave except that the County's share of such premiums may not be recovered if the employee fails to return to work because of the employee's or a family member's serious health condition or because of other circumstances beyond the employee's control. In such cases, the County may require the employee to provide medical certification of the employee's or the family member's serious health condition.

### **Additional Information**


For further information or clarification about FMLA leave, please contact Human Resources' Benefits Manager.

### **Policy Changes**

The County reserves the right to delete, modify, amend or terminate this policy at any time, with or without prior notice.

Approved this 14<sup>th</sup> day of March, 2006

Board of Commissioners  
Rockdale County, Georgia

By:   
Roy J. Middlebrooks

Attest:

By: 

Jennifer Rutledge, County Clerk