

BRANCH COUNTY

Family and Medical Leave Policy

Effective January 1, 1999

BRANCH COUNTY
31 Division Street
Coldwater, MI 49036
Phone 517-279-4301 • Fax 517-278-4130

COUNTY OF BRANCH

FAMILY AND MEDICAL LEAVE POLICY

A. GENERAL PROVISIONS

It is the policy of the County of Branch (hereafter "the County") to grant up to 12 weeks of family and medical leave during any 12-month period (as defined in this policy) to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA) and its applicable rules and regulations. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this policy. This policy supersedes all other policies, practices and/or employee agreements regarding this type of leave as of January 1, 1999.

B. DEFINITIONS

1. "Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is:

- a) Under eighteen (18) years of age; or
- b) Eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability, as provided in applicable FMLA regulations.

2. "Parent" means the biological parent of an employee or an individual who stands or stood in loco parentis (as defined in applicable FMLA regulations) to an employee when the employee was a child.

3. "Spouse" means a husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriage in states where it is recognized.

C. ELIGIBILITY

In order to qualify to take FMLA leave under this policy, the employee must meet both of the following conditions:

1. The employee must have worked for the County for at least 12 months, or 52 weeks. The 12 months or 52 weeks need not have been consecutive. 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.

2. The employee must have worked at least 1250 hours during the 12-month period immediately before the date when leave would begin.

The County will measure the 12-month leave entitlement period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy (except that the County will not measure back before [date of implementation].) Each time an employee takes leave, the County will compute the amount of leave the employee has taken under this policy over the preceding 12 months and subtract it from the 12 weeks of available leave, with the balance remaining being the amount the employee is entitled to take at that time.

For part-time employees, the FMLA leave entitlement is calculated on a pro rata or proportional basis. If an employee's work schedule varies from week to week, the average weekly hours worked during the 12 weeks prior to the start of the FMLA leave will be used to calculate this type of employee's "normal" work schedule for this purpose.

D. TYPE OF LEAVE COVERED

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 and to care for such newborn child. (Leave must be taken and concluded within one year of the birth.)
2. The placement of a child for adoption or foster care with the employee. (Leave must be taken and concluded within one year of the placement of the child.)
3. To care for the employee's spouse, child, or parent with a serious health condition; or
4. The serious health condition of the employee that makes him/her unable to perform the functions of his/her job.

For purposes of 3 and 4 above, "serious health condition" is as defined in the FMLA and its applicable rules and regulations, summarized as follows:

A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Inpatient Care

Inpatient care (i.e. an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity due to the condition, treatment or recovery, or any subsequent treatment in connection with such inpatient care.

2. Absence Plus Treatment

A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

(a) Treatment two or more times by a health care provider (as defined in the FMLA and its applicable rules and regulations), by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider, or

(b) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

3. Pregnancy

Any period of incapacity due to pregnancy, or for prenatal care.

4. Chronic Conditions Requiring Treatments

Any period of incapacity or treatment for such incapacity for a chronic condition which:

(a) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(b) Continues over an extended period of time (including recurring episodes for a single underlying condition); and

(c) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.)

5. Permanent/Long-term Conditions Requiring Supervision

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

Employees with questions about what illnesses are covered under this FMLA policy are encouraged to consult with the County Administrator. The County may require an employee to provide a doctor's certification of the serious health condition. The certificate process is outlined in Section I. 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 County 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.

E. 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 accrued or unused paid vacation, personal or sick leave prior to being eligible to take the remainder of the 12 weeks as unpaid leave. The paid leave time will be taken in accordance with the FMLA statute and applicable rules and regulations, and generally will be taken in the following order: (1) sick leave, (2) vacation, (3) personal days.

An employee taking FMLA leave for the birth of a child must use paid sick leave for the physical recovery following child birth. The employee may then use any remaining sick leave, and must use all accrued or unused paid vacation and personal leave prior to being eligible to take the remainder of the 12 weeks as unpaid leave. Also, pregnancy disability or other leave taken under any applicable disability plan is considered to be paid sick leave for purposes of FMLA substitution.

An employee who is taking FMLA leave for the adoption of foster care of a child must first use all accrued and unused paid vacation and personal leave prior to being eligible to take the remainder of the 12 weeks as unpaid leave.

F. EMPLOYEE STATUS AND BENEFITS DURING LEAVE

While an employee is on leave under this policy, the County will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition or other circumstances beyond control of the employee (as defined by the FMLA statute and the applicable rules and regulations) the County shall require the employee to reimburse the County the amount it paid for the employee's health insurance premium during the leave period.

Employees on FMLA leave who are regularly required to pay a portion of their monthly health care premium will be required to continue to pay this portion. While on paid leave, the County will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, however, the employee will be responsible for this payment. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. If the payment is more than 30 days late, the County may terminate coverage until the employee returns to work, or will recover payments at the end of the leave period in a manner consistent with the law.

Generally, if the employee contributes to a dental, vision, or disability plan, the County will continue to make payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, however, the employee will be responsible for this payment. If the employee does not continue these payments, the County may discontinue coverage during the leave period or will recover payments at the end of the leave period in a manner consistent with the law.

Unless otherwise provided by County policies or collective bargaining agreement provisions for earning vacation leave, sick leave, and holiday pay, an employee on paid leave will continue to earn these benefits. Unless otherwise provided, employees on unpaid leave will not earn these benefits during the unpaid period.

With respect to any applicable pension program, any period of FMLA leave will be treated as continuous service (i.e. no break in service) for purposes of vesting or eligibility to participate. For purposes of accruing seniority, an employee on paid FMLA leave shall be treated in the same manner as an employee on paid non-FMLA leave, and an employee on unpaid FMLA leave shall be treated in the same manner as an employee on unpaid non-FMLA leave, in accordance with County policies or collective bargaining agreement provisions.

G. EMPLOYEE STATUS AFTER LEAVE

An employee who takes leave under this policy will be able to return to the same job or a job with equivalent duties, pay, benefits and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility and authority. The County may choose to exempt from this requirement certain highly compensated employees, defined as “key employees” under the FMLA statute and applicable rules and regulations, and not return them to the same or similar position.

H. INTERMITTENT LEAVE OR A REDUCED WORK SCHEDULE

The employee may taken FMLA leave in 12 consecutive weeks, may use the leave intermittently (take time periodically when needed over the year) or under certain circumstances may use the leave 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 weeks over a 12-month period.

The County 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 the birth, adoption or foster care of a child, the County and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule.

If the employee is taking leave for a serious health condition or because of the serious health condition of a covered family member, the employee should try to reach agreement with the County before taking intermittent leave or working a reduced hour schedule. The employee must prove that the use of the leave is medically necessary (as defined under the FMLA statute and the

applicable rules and regulations). The County may require certification of the medical necessity, discussed in Section I.

I. CERTIFICATION OF A SERIOUS HEALTH CONDITION

The County may ask for medical certification of a serious health condition. The employee should try to respond to such a request within 15 days of the request, or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

Certification of a serious health condition shall include: the date when the condition began, its expected duration, diagnosis, and a brief statement of treatment. For 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, a statement that the employee is unable to perform one or more of the essential functions of the employee's position, or a statement that the employee must be absent from work for treatment. For a seriously ill family member, the certification must include a statement that the eligible employee is needed to care for the family member and that the employee's presence is necessary or will assist in the recovery. In addition, the certification must include an estimate as to the amount of time the employee is needed to provide this care.

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

The County may, at its expense, require a second opinion as to certification by a physician of its choosing. If necessary to resolve a conflict between the original certification and the second opinion, the County will require the opinion of a third doctor. The Authority and the employee will jointly select the third doctor and the Authority will pay for the opinion. This third opinion will be considered final.

J. PROCEDURE FOR REQUESTING LEAVE

All employees requesting leave under this policy should submit the request in writing to the County Administrator.

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

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

Branch County

While on leave, employees are requested to report periodically to the County Administrator regarding the status of the leave and their intent to return to work.