

GENERAL NOTICE: EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT (FMLA)

Basic Leave Entitlement

FMLA requires AMERICARE HEALTH SERVICES, LLC (“AMERICARE”) to provide up to 12 weeks of unpaid job protected leave to eligible employees for the following reasons: incapacity due to pregnancy, prenatal medical care or child birth; to care for the employee’s child after birth, or placement for adoption or foster care; to care for the employee’s spouse, son, daughter, or parent, who has a serious health condition; or for the employee’s own serious health condition.

Eligibility Requirements

Employees are eligible if they have worked for AMERICARE at least one year; for 1,250 hours over the previous months, and if at least 50 employees are employed by AMERICARE within 75 miles.

Military Leave Entitlement

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include short-term deployment, attending certain military events, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities and additional activities agreed upon by AMERICARE .

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave 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 on active duty that may render the service member medically unfit to perform his or 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.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive full calendar days combined with at least two treatments by a health care provider or one visit and a regimen of continuing treatment, (in-person physician visits must be within the first 7 days of illness or injury and both within 30 days of the first day of incapacity) or incapacity due to pregnancy, or a chronic condition. Other conditions may meet the definition of continuing treatment.

Benefits and Protections

During FMLA leave, AMERICARE must maintain the employee’s health coverage under any “group health plan” on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Substitution of Paid Leave for Unpaid Leave

AMERICARE requires use of accrued paid leave while taking FMLA leave.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the organization’s operations. Leave due to a qualifying exigency may also be taken on an intermittent basis.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and comply with AMERICARE’s normal call-in procedures. Employees must provide sufficient information for the organization to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform AMERICARE if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees are required to provide a certification and may be notified of periodic recertification supporting the need for leave.

Employer Responsibilities

AMERICARE must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees’ rights and responsibilities. If they are not eligible, AMERICARE must provide a reason for the ineligibility. AMERICARE must inform employees if leave will be designated as FMLA protected and the amount of leave counted against the employee’s leave entitlement. If AMERICARE determines that the leave is not FMLA protected, AMERICARE must notify the employee.

Unlawful Acts

FMLA makes it unlawful for any employer to: Interfere with, restrain, or deny the exercise of any right provided under FMLA; Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Dept. of Labor or may bring a private lawsuit against an employer. FMLA does not affect any Federal or State law prohibiting Discrimination, or supersede any State or local law or Collective bargaining agreement which provides greater Family or medical leave rights. For additional information from the U.S. Department of Labor: Contact the nearest office of the Wage and Hour Division, or call 1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627, or visit www.wagehour.dol.gov.