Policy Statement:
The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

Twelve workweeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee’s spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty;” or

Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member’s spouse, son, daughter, parent, or next of kin (military caregiver leave).

Procedure:
The Family and Medical Leave Policy of PHS is in full compliance with the Family and Medical Leave Act of 1993 and provides up to twelve weeks of unpaid leave of absence within any twelve month period to employees who have been employed by PHS for at least twelve months, (not necessarily consecutive) and have worked at least 1,250 hours within the previous twelve-month period. Because of the requirement to work a minimum of 1,250 hours in a twelve-month period to become eligible for FMLA, when an employee has used the twelve-week leave, s/he must work a 1,250 hours within the next twelve-month period to become eligible for FMLA again.

Employees on leave under FMLA provisions must use all accrued Paid Time Off, Catastrophic Sick Bank, or any other available paid time off during leave. When this time is exhausted, any remaining FMLA time is unpaid. This leave is available to eligible employees under the following circumstances:

- The birth of a child within the first twelve months of the birth
- The placement of a child for adoption or other legal placement within the first twelve months of the adoption or placement
- The employee’s own serious health condition, which means an illness, injury, impairment, or 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.

- The need to care for a spouse, parent, son or daughter (or individual to whom employee is otherwise in loco parentis) who has a serious health condition

Additional leave is available in special circumstances for family members of military members as set forth below. Where both spouses are employed by PHS, they are limited in the amount of family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 workweeks (or 26 workweeks if leave to care for a covered service member with a serious injury or illness is also used as set forth below). Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

**Military Caregiver Leave**

Eligible employees may take up to 26 workweeks of unpaid leave during a single 12-month period to care for a spouse, son, daughter, parent, or next of kin who is a covered service member with a serious injury or illness. A covered service member is a current 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 on the temporary disability retired list. A serious injury or illness is one that was incurred by a service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating.

**Qualifying Exigency Leave**

Qualifying exigencies may arise when the employee’s spouse, son, daughter, or parent who is a member of the Armed Forces (including the National Guard and Reserves) and who is on covered active duty or has been notified of an impending call or order to covered active duty. For purposes of qualifying exigency leave, an employee’s son or daughter on covered active duty refers to a child of any age.

Qualifying exigencies include:

Issues arising from the military member’s short notice deployment (i.e., deployment within seven or less days of notice). For a period of up to seven days from the day the military member receives notice of deployment, an employee may take qualifying exigency leave to address any issue that arises from the short-notice deployment.

- Attending military events and related activities, such as official ceremonies, programs, events and informational briefings, or family support or assistance programs sponsored by the military, military service organizations, or the American Red Cross that are related to the member’s deployment.

- Certain childcare and related activities arising from the military member’s covered active duty, including arranging for alternative childcare, providing childcare on a nonroutine, urgent, immediate need basis, enrolling in or transferring a child to a new school or day care facility.

Note: The employee taking FMLA qualifying exigency leave does not need to be related to the military member’s child. However, (1) the military member must be the parent, spouse, son or daughter of the employee taking FMLA leave, and (2) the child must be the child of the military member (including a child to whom the military member stands in loco parentis).
• Certain activities arising from the military member’s covered active duty related to care of the military member’s parent who is incapable of self-care, such as arranging for alternative care, providing care on a non-routine, urgent, immediate need basis, admitting or transferring a parent to a new care facility, and attending certain meetings with staff at a care facility, such as meetings with hospice or social service providers.

Note: The employee taking FMLA qualifying exigency leave does not need to be related to the military member’s parent. However, (1) the military member must be the parent, spouse, son or daughter of the employee taking FMLA leave, and (2) the parent must be the parent of the military member (including an individual who stood in loco parentis to the military member when the member was a child).

• Making or updating financial and legal arrangements to address a military member’s absence while on covered active duty, including preparing and executing financial and healthcare powers of attorney, enrolling in the Defense Enrollment Eligibility Reporting System (DEERS), or obtaining military identification cards.

• Attending counseling for the employee, the military member, or the child of the military member when the need for that counseling arises from the covered active duty of the military member and is provided by someone other than a health care provider.

• Taking up to 15 calendar days of leave to spend time with a military member who is on short-term, temporary Rest and Recuperation leave during deployment. The employee’s leave for this reason must be taken while the military member is on Rest and Recuperation leave.

• Certain post-deployment activities within 90 days of the end of the military member’s covered active duty, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military, and addressing issues arising from the death of a military member, including attending the funeral.

• Any other event that the employee and employer agree is a qualifying exigency. An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason, including military caregiver leave or leave for qualifying exigencies, during a single 12-month period, and only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered service member.

• Notice of Need for Leave and Certification
• Employees must notify their supervisors/managers as well as Human Resources to request leave under this policy. Employees must provide 30 days’ advance notice of the need for leave if the need is foreseeable, and must otherwise provide notice as soon as practicable for emergency or unforeseeable needs. Employees must consult with PHS regarding scheduling of any planned medical treatment or supervision as to minimize disruption to the operation of PHS. Entitlement to FMLA coverage may not be invoked retroactively for previous absences from work.

• In requesting leave, employees must provide sufficient information for PHS reasonably to determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, and/or that the employee or employee’s qualifying family member is under the continuing care of a health care provider. Employees seeking leave for their own or their family members’ serious health conditions will be provided a certification form which must be completed by a qualified health care...
provider. Failure to submit the proper certification within fifteen (15) calendar days may revoke an employee’s entitlement to continued leave. PHS has the right to require the opinion of a second health care provider to determine the validity of the initial certification. If the second opinion differs from the original certification, a third opinion from a health care provider who is approved jointly by PHS and the employee may be required. The third certification will be considered final. When an employee is on leave, subsequent recertification of a medical condition will be required.

- In addition to providing the completed certification form, employees requesting FMLA Leave must fill out a Leave Request form.
- Employees requesting leave for a qualifying exigency related to a service member must provide a copy of the covered military member’s active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party. Employees requesting leave to care for a covered service member with a serious injury may provide certification by an authorized health care provider or a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member’s family. During the leave, employees are required to notify their supervisor/manage at least monthly, more frequently if requested, of the status of the leave.

**Intermittent Leave**

Intermittent or reduced schedule leave may be taken when a serious health condition, either the employee’s or that of a child, spouse, or parent or covered service member, or for qualifying exigencies, makes this schedule necessary. When medically necessary, an employee may take “intermittent” leave (two or more separate leave periods) or “reduced” leave (where an employee continues to work, but for fewer hours per day or per week). In such cases, the total number of hours or days of leave by the employee is limited to the equivalent of twelve (12) work weeks. PHS may transfer the employee temporarily to an available alternative position if that position better accommodates recurring periods of leave. Employees must make reasonable efforts to schedule intermittent absences for planned medical treatment so as not to unduly disrupt PHS’s operations. PHS may make deduction from an exempt employee’s salary for any hours/time taken as intermittent or reduced FMLA leave within a pay period without affecting the employee’s exempt status.

**Return to Work**

A certification from a health care provider may be required at the conclusion of any leave for the employee’s own serious health condition that the employee is able to resume his or her duties. At the conclusion of leave covered by FMLA, employees will be reinstated to their former or an equivalent position with the same rights, benefits, pay, and other terms and conditions of employment to the extent that they would be entitled to such continued employment without the FMLA leave. Benefits established on an accrual basis such as PTO will not accrue during unpaid FMLA leave. Benefits which accrued prior to the leave, however, will not be lost.

PHS reserves the right to deny leave reinstatement to key employees, defined as salaried employees among the highest-paid 10 percent of all PHS employees, where such denial is necessary to prevent substantial and grievous injury to the company’s operation. These employees will be notified of this decision as soon as it is determined such injury would occur, and will be given a
reasonable opportunity to choose to return to work at that point. In the event the employee decides not to return to work when there is no guarantee of the same or equivalent position, s/he may remain on leave for the balance of the FMLA period and then may be terminated.

References:
Employee Handbook pages 38-41
DOL Website and Fact Sheets
https://www.dol.gov/whd/regs/compliance

Policy Cross References: