


Montefiore Einstein

HUMAN RESOURCES POLICY AND PROCEDURE MANUAL	SUBJECT: Family, Medical, and Military Leaves of Absence
APPROVED:  DAVID BRODSKY	POLICY NUMBER: III-17
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GENERAL POLICY:

Montefiore provides eligible Associates with unpaid family, medical, and military leaves of absence in accordance with the Federal Family Medical Leave Act (FMLA) and, commencing on January 1, 2018, under the New York Paid Family Leave Benefits Law (NY PFL). Leaves under the FMLA will be granted for up to (a) 12 weeks in any 12-month period for qualifying family, medical, and military-related reasons, and (b) up to 26 weeks for the care of a covered service member who incurred an injury or illness in the line of duty. Paid Family Leave to provide care for a family member because of their serious health condition, to bond with a child during the first 12 months after the child's birth or after their placement for adoption or foster care, or to attend to obligations arising because a family member has been called to active military duty will be provided in accordance with the NY PFL. Please refer to Montefiore's New York Paid Family Leave Policy for more information regarding employee rights under NY PFL.

Employees may be entitled to additional types of leaves under applicable collective bargaining agreements (CBA) and Montefiore policies. Questions regarding leaves under the CBA and Montefiore policies should be directed to either the Central Leave Administration Office (CLAO) or Employee and Labor Relations.


POLICY APPLICABLE TO:

All Associates (including, but not limited to, employed physicians, attending physicians, house staff, and paid students).

PROCEDURE:


- All leave requests are handled by CLAO.
- If the Associate does not receive paperwork from CLAO within five (5) business days, Associate shall contact CLAO via phone or via email.

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- If the leave is planned in advance, the Associate must inform their Supervisor at least thirty days before the anticipated leave date.
- If the leave is unexpected and the Associate cannot complete the Leave of Absence Request, the Supervisor should complete the Leave of Absence Request through Service Now on behalf of the Associate.
- When CLAO receives the request in Service Now, CLAO will forward an FMLA package to the Associate, including:
 - a. The Notice of Eligibility and Rights and Responsibilities, and depending on applicability,
 - b. Certification of Health Care Provider for Employee's Serious Health Condition,
 - c. Certification of Health Care Provider for Family Member's Serious Health Condition,
 - d. Certification of Qualifying Exigency for Medical Leave, or
 - e. Certification for Serious Injury or Illness of Covered Service Member for Military Leave.
- Commencing January 1, 2018, CLAO will also forward to employees qualifying for leave under NY PFL a NY PFL package. Please refer to Montefiore's New York Paid Family Leave Policy for more information regarding employee rights under NY PFL.
- Applications for short term disability shall be treated by the Medical Center as a request for FMLA due to the Associate's own serious health condition. The Notice and Proof of Claim for Disability Benefits form will substitute the Certification of Health Care Provider for the Employee's Serious Health Condition. If the disability claim is approved, and the Associate is FMLA eligible, FMLA leave will automatically be approved.
- Associates applying for short term disability do not have to submit the Certification of Health Care Provider for the Employee's Serious Health Condition unless (a) the disability claim is denied, and/or (b) intermittent FMLA leave (e.g. medical treatment, flare-up of medical condition) is required after the Associate returns from disability.
- Except when Associates are applying for short term disability for their own serious health condition, Associates have 15 calendar days to complete and return the applicable FMLA certification to CLAO unless it's not practicable under the particular circumstances to submit within 15 calendar days, in which case the certification shall be returned as soon as practicable.
- Associates must file a separate medical certification for each qualifying medical condition of the Associate or their family member.

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- All applicable certifications must be fully and sufficiently completed and returned to CLAO on a timely basis. Failure to do so may result in the delay or denial of the Associate's leave under the FMLA.
- Incomplete and insufficient certifications will be returned to the Associate to be corrected. A certification is considered incomplete if one or more of the applicable entries in the certification have not been completed. A certification is considered insufficient if the information provided in the certification is vague, ambiguous or non-responsive.
- The Associate has seven business days to correct any deficiencies in the certification and return it to CLAO. Failure to do so may result in the delay or denial of the Associate's leave under the FMLA.
- CLAO will notify the Associate whether the request for leave has been granted or denied.
- Proof of the birth, adoption or foster care of the child, as well as the child's relationship to the Associate may be required.
- Under certain circumstances, the Medical Center may request that the Associate obtain a recertification for their own serious health condition or that of a covered family member. These circumstances include: requests for an extension of leave, circumstances described by the previous certification have significantly changed (e.g. duration and frequency of the absence, pattern absenteeism), and/or when the Medical Center receives information casting doubt on the validity of the medical condition or need for the leave. The Medical Center may also request recertification every six months.
- If the Medical Center has reason to doubt the validity of a medical certification, it may require that the Associate, at the Medical Center's expense, obtain a second opinion from a physician selected by the Medical Center. The physician will not be affiliated with Montefiore Medical Center.
- If the first and second medical opinions differ, the Medical Center may require that the Associate obtain a certification from a third health care provider at the employer's expense. The third opinion is final and binding.
- Failure to comply with the Medical Center's request for recertification or a second medical opinion may result in the delay or denial of the Associate's leave under the FMLA.
- Associates who are absent from work and fail to substantiate the need (or continuing need) for the leave may be terminated from the Medical Center for unauthorized absences.

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- The Associate is responsible for notifying CLAO or their Supervisor of any need to extend the leave. Failure to do so during the Associate's leave may result in the Associate's termination of employment from the Medical Center for unauthorized absences.

Eligibility for FMLA Leave

To be eligible, an Associate must:


- have completed at least 12 months of service with the Medical Center (need not be consecutive);
- have worked a minimum of 1,250 hours in the twelve-month period preceding the leave; and
- work at a Medical Center facility that employs at least fifty employees at that facility or within seventy-five miles of that facility.

Qualifying Reasons for Leave Under the FMLA

The Medical Center will grant a leave of absence to Associates (who meet the requirements described below) for the following reasons:

- Birth of a son or daughter and to care for the newborn child;
- Placement of a child with the Associate through adoption or foster care and to care for the child after placement;
- To care for a covered family member (spouse, child, parent, or qualified domestic partners) with a serious health condition;
- To care for the employee's own serious health condition which makes the employee unable to perform the essential functions of their position;
- Qualifying Exigency Leave: For the following reasons resulting from the spouse, son, daughter, or parent of the Associate being called or ordered to active duty (or being notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation (an action or operation against an opposing military force)
 - a. Short-notice deployment (seven or less calendar days);
 - b. Military events and related activities;
 - c. Childcare and school activities;
 - d. Financial and legal arrangements (i.e. preparing powers of attorney, obtaining military identification cards, preparing or updating a will or trust);

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- e. Counseling (provided that the need for counseling arises from the active duty or call to active duty status of a covered military member);
 - f. Rest and recuperation (up to five days of leave to spend time with a covered military member who is on temporary leave during the period of deployment);
 - g. Post-deployment activities; and
 - h. To address other similar events, as may be agreed upon between the employee and the Company; or
- Military Caregiver Leave: The Associate's care of a spouse, son, daughter, parent or next of kin (nearest blood relative) who has incurred serious illness or injury in the line of duty in the Armed Forces, including the National Guard and Reserves, and that illness or injury has rendered the service member medically unfit to perform the duties of the member's office, grade, rank or rating.


FMLA Leave Runs Concurrently with Other FMLA-Qualifying Leaves of Absences

- Absences which qualify for workers' compensation; disability benefits under federal or state law, a Montefiore benefit plan, or a union benefit plan; or are otherwise covered under a collective bargaining agreement (such as for personal illness, or maternity/paternity leave purposes) or a Montefiore policy may also be counted as FMLA leave if (a) the underlying reason for the absence qualifies as FMLA leave, and (b) the Associate is eligible for an FMLA leave.
- Provided the Associate is FMLA eligible, the Medical Center reserves the right to designate qualifying absences as FMLA leave, even if the Associate does not request or want the absences to be designated as such.
- Commencing January 1, 2018, leave qualifying under both FMLA and NY PFL will run concurrently.

Duration of Family, Medical, and Military Leave

- Eligible Associates, including Associates on qualifying exigency leave, are entitled to a FMLA leave for up to twelve weeks in any twelve-month period. The 12-month period is a "rolling" period measured backward from the time the leave is commenced. Thus, as of the day that leave is commenced, an eligible Associate is entitled to 12 weeks leave, less any other FMLA leave taken by the Associate in the preceding 12 months.

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- Associates get a total of 12 weeks of leave in the rolling 12-month period, regardless of how many medical certifications for that Associate have been approved.
 - For example, if the Associate and their covered family members have multiple serious health conditions which qualify under the FMLA, the Associate does not get 12 weeks for each serious health condition but rather a total of 12 weeks.
- Associates on military caregiver leave may take up to 26 weeks of leave in a single 12-month period. The single 12-month period begins on the first day the Associate takes military caregiver leave and ends 12 months after that date.
- Non-Union Associates may be eligible for leaves of up to five months (or longer) under Montefiore policies and procedures, including HR Policy III-5, Maternity, Paternity and Childrearing Leave.
- Union Associates may be eligible for longer leaves under their applicable CBAs.

Intermittent Leave

- The 12 weeks of leave can be taken in single continuous period of time or, in certain circumstances, intermittently, e.g. leave in separate blocks of time for a single qualifying reason. Intermittent leaves are not permitted under any of the CBAs.
- When leave is needed for planned medical treatment, the Associate must make a reasonable effort to schedule treatment so as not to unduly disrupt operations.
- Medical Center call-in procedures must be followed when reporting an intermittent absence related to the Associate's FMLA condition. At the time the Associate calls in to report the absence, they must state whether the absence is related to their or covered family member's approved FMLA condition.
- In instances where spouses work for Montefiore and are eligible for leave under this Policy, the spouses will be limited to a combined total of 12 weeks off (or longer if eligible under NY PFL, HR Policy III-5, Maternity, Paternity and Childrearing Leave) when the leave is:
 - a. to care for a child after birth, adoption, or placement in the Associate spouses' home for foster care, or
 - b. to care for a parent with a serious health condition.
- Each spouse is entitled to take 12 weeks of leave to care for a seriously ill child.

Leave taken for the Associate's or covered family member's (including covered service members) serious health condition or qualifying exigencies may be taken consecutively or intermittently, as based on certified medical necessity.

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Benefits

- All Medical Center benefits that operate on an accrual basis (e.g., vacation, sick, and personal days) will cease to accrue during any period of unpaid FMLA leave which exceeds thirty days, unless otherwise required by a collective bargaining agreement.
- Associates may elect, but are not required, to use paid time off while on FMLA leave for a reason other than the Associate's own serious health condition. For eligible Associates, this includes paid time off accrued under New York State's Paid Safe and Sick Leave law ("NYPSSL") / New York City's Earned Safe and Sick Time Act ("ESSTA").
- The Associate is required to use their available, unused sick days when the need for the leave is for the Associate's own serious medical condition. Leave under the FMLA runs concurrently with NYPSSL/ESSTA.
- Non-Union Associates taking leave under HR Policy III-5, Maternity, Paternity and Childrearing Leave will automatically be charged a portion of their accrued and available paid time off. This amount is equal to half the Associate's accrued and available time minus 37.5 hours.
- Vacation and personal days may not be combined with or substituted for disability, supplemental sick, or workers' compensation benefits while an Associate is on FMLA leave, unless any applicable CBA provides otherwise.
- For Associates participating in Montefiore's group health insurance plan, during FMLA leave, the Medical Center will maintain group health insurance benefits under the same conditions as if the Associate had continued working. (Other benefits, such as pension, 403(b), life insurance, and long-term disability will be governed in accordance with the terms of each benefits plan.)

Reinstatement Rights Under the FMLA

- Upon their timely return from FMLA, eligible Associates are entitled to be reinstated to their former position or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Exceptions to this provision may apply if business circumstances have changed (e.g., if the Associate's position is no longer available due to a job elimination). Exceptions may also apply for certain highly compensated Associates.
- If an Associate fails to return to work at their leave's expiration and has not obtained an extension of the leave, the Medical Center will treat the failure to return to work as a termination of employment for unauthorized absence. The Medical Center is not required to provide an Associate with an indefinite leave of absence and Associates on a leave extension are not guaranteed reinstatement under the FMLA.

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- Before an Associate is permitted to return from medical leave, they will be required to present to Occupational Health Services (“OHS”) a certification from their own physician indicating that the Associate is capable of returning to work and performing the essential functions of their position, with or without a reasonable accommodation. OHS will further assess the Associate’s fitness for duty. Pursuant to Montefiore Policy VI-8, where required, the Medical Center will consider making reasonable accommodations for any disability the Associate may have in accordance with applicable laws.

All Medical Center Human Resource policies and practices are guidelines and may be changed, modified or discontinued at any time by the Medical Center’s Senior Vice President of Human Resources, or designee, with or without notice. Exceptions do not invalidate the basic policy.