

XIII. FMLA (FAMILY AND MEDICAL LEAVE POLICY)

MBCI complies with the Family and Medical Leave Act of 1993 (the “Act” or “FMLA”). The following briefly describes eligibility and notice requirements for those employees needing to take FMLA leave. For further information, please contact the Office of Human Resources.

A. Eligibility

To be eligible for FMLA leave, an employee must have at least one (1) year of service with MBCI, have worked at least 1,250 hours during the twelve (12) month period preceding the commencement of the leave, and must work at a location employing fifty (50) or more employees in a seventy-five (75) mile radius.

B. Description of Time-Off Benefit

An eligible employee is entitled to a total of twelve (12) workweeks of unpaid leave during a twelve (12)-month period for one (1) or more of the following reasons:

1. The birth of a son or daughter and to care for such child;
2. The placement of a son or daughter with the employee for adoption or foster care;
3. To care for a spouse, or son, daughter, or parent, if such spouse, son, daughter or parent has a serious health condition; and/or
4. A serious health condition that makes the employee unable to perform the functions of his or her position.
5. A qualifying exigency arising out of the fact that a spouse, son or daughter (of any age), or parent is a covered military member, is on active duty (or has been notified of an impending call or order to active duty) in the National Guard or Reserves or is a retired member of the Armed Forces or Reserves and has been notified of an impending call or order to active duty in support of a contingency operation.

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a current service member of the Armed Forces, including the National Guard or Reserves, may take up to 26 weeks of Military Caregiver Leave to care for a service member who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. This 26 weeks of Military Caregiver leave is measured in a “rolling 12-month period.” The amount of time which may be taken for Military Caregiver Leave will be determined by the balance in an employee’s 26-week leave entitlement period, measured backward from the date of the employee’s most recently requested FMLA start date. This is a rolling 12-month period.

The leave entitlement described in this policy applies on a per covered service member, per injury basis. However, no more than 26 weeks of FMLA, Active Duty, or Military Caregiver Leave may be taken in the rolling 12 month time period described above.

C. Employment of Both Spouses

If both spouses are employed by MBCI, they will be limited to a combined total of twelve (12) weeks if the family leave is due to the birth or placement of a child, or serious health condition of a parent. Each may take up to twelve (12) weeks, however, if the leave is for his or her own serious health condition or to care for a child or spouse with a serious health condition. When both spouses are employed by MBCI, service member caregiver leave is limited to a combined 26 work weeks during the relevant 12 month period, counting all leave based on FMLA and Active Duty leave.

D. Intermittent Leave and Leave on a Reduced Basis

FMLA leave taken because of the serious health condition of either the employee or a covered family member can be taken intermittently (*i.e.*, not all at once) or through a reduced work schedule if the health care provider certifies that such arrangement is medically necessary. When an employee takes leave intermittently or through a reduced schedule, that leave will be subtracted from the amount of the employee's remaining available leave on an hour-for-hour basis.

Leave taken due to the birth or placement of a child must be taken in one unbroken period unless approved in advance by MBCI. Decisions regarding requests for intermittent or reduced work schedule leaves in birth, adoption and foster care situations will be based on the business needs of MBCI.

E. Calculation of the 12-Month Period

The twelve-month period in which the twelve (12) weeks of FMLA or the twenty six (26) weeks of Military Caregiver leave may be taken is a "rolling" twelve-month period, measured backward from the date an employee commences any FMLA leave. Thus, each time an employee commences FMLA leave, the amount of FMLA leave entitlement will be any balance of the twelve (12) weeks that has not been used during the twelve (12) months preceding the first day on which FMLA leave commences. Any FMLA leave taken because of the birth or placement of a child must be completed within the twelve-month period following the date of birth or placement.

F. Required Substitution of Available Annual and Sick Leave

An employee will be required to use all available annual and sick leave during any leave taken under the FMLA, Active Duty Leave, or Military Caregiver Leave. For example, an employee who has five (5) days of annual or sick leave available, and seeks twelve (12) weeks of FMLA leave, must first use the annual or sick leave during the first five (5) days of FMLA leave with the balance of FMLA leave as unpaid leave. FMLA leave also runs

concurrently with workers' compensation leave. Use of Voluntary Leave Transfer Program Emergency Leave shall not be included in any calculation of FMLA leave eligibility. FMLA leave does not run concurrently with Voluntary Leave Transfer Program Emergency Leave.

G. Requests for Leave

When the need for leave is foreseeable, such as for an expected birth, placement of a child, or planned medical treatment, the employee must provide MBCI with at least thirty (30) days written notice before the leave is to begin.

If this is not possible, the employee must notify MBCI of the need for leave as soon as practicable, at least within 1 or 2 business days of when the need for leave becomes known to the employee. Failure to provide notice may be grounds for delay of leave and/or disciplinary action for absenteeism.

FMLA requires that you make reasonable efforts to cooperate with MBCI in scheduling FMLA leave to avoid unduly disrupting MBCI operations. Please give MBCI as much notice as possible. Request forms are available through the Office of Human Resources.

H. Certification

Where leave is taken for a serious health condition, an employee will be required to provide a health-care-provider certification. Employees will be provided with the appropriate form for submission to a healthcare provider. If FMLA leave is requested for a serious health condition, a second medical opinion may be requested at MBCI's expense. If the first and second medical opinions differ, MBCI may pay for a third and final Medical Certification that will be binding on all parties. The employee may obtain a copy of the second and third medical opinions upon written request.

Where the leave is foreseeable and at least thirty (30) days' notice has been provided, the certification should be provided before the leave begins. When the leave is not foreseeable, or less than thirty (30) days' notice has been provided, MBCI will inform the employee when the requested certification must be provided. MBCI may require subsequent medical re-certification on a reasonable basis.

Employees taking leave due to their own serious health condition may be required to provide a certification of fitness for duty prior to returning to work. **Failure to comply with any of the certification requirements may result in disciplinary action, up to and including termination of employment.**

I. Benefits/Restoration of Position

Ordinarily, an employee who takes FMLA leave will either be placed in the position held when the leave commenced or an equivalent position. However, if an employee fails to return to work on the workday after the expiration of an approved FMLA leave, then the employee will be deemed to have resigned employment.

The taking of FMLA leave will not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. Employees will not accrue any additional benefits during any period of leave under the FMLA, unless annual and sick leave benefits are running concurrently.

During any period that an eligible employee takes FMLA leave, MBCI will allow the employee to maintain coverage under the group health insurance plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in active employment continuously for the duration of such leave. MBCI will deduct any employee's health coverage payment as a regular payroll deduction.

During unpaid leave, the employee will be required to submit premium payments to MBCI if the employee desires to maintain coverage. Payments are due at the same time as they would be made by payroll deduction. Health coverage will cease, retroactive to the last day for which payment was received, if payment becomes more than 30 days late.

If an employee fails to return to work at the end of FMLA leave, the employee will be required to reimburse MBCI for the cost of health coverage paid by MBCI during the unpaid leave unless the employee's reason for not returning to work is directly related to a serious health condition or other circumstance beyond the employee's control.

MBCI may require the employee to periodically report on the employee's status and intention to return to work.

J. Notification of Rights

MBCI will provide to any employee who requests leave under the Act additional written guidance regarding the requested leave. MBCI will designate all periods of leave taken by an employee as either FMLA or non-FMLA leave. If you have any questions about the policy, please contact the Office of Human Resources.

XIV. LEAVES OF ABSENCE

A. Military Leave

Military leave will be granted for a period not to exceed twenty (20) working days in any calendar year. During such Military leave, the employee will receive the employee's normal pay without regard to any compensation received from the employee's military unit for such services. Any military leave of absence required beyond 20 days per year must be taken as annual leave, or leave without pay, as appropriate. Where the military exercise to be participated in is voluntary, granting of leave shall be at the discretion of the Chief.

B. Extended Leaves of Absence

Extended leaves of absence without pay may be granted for personal needs such as