

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

personal, professional, or educational development opportunities, subject to approval by the employee's supervisor and the Chief. An extended leave may not exceed six months from the last day at work. A request for such leave must be in writing, stating the reason for the leave and intention to return to work at a specified date. During the leave, the employee will not earn annual leave or sick leave, and the leave will not be counted for subsequent benefits eligibility or for automatic pay adjustments. On return, MBCI will try to place the employee in the same position or one of the like status and pay. If such position is not available, the employee will be eligible for normal termination benefits. Employees who have less than one year of full-time, regular employment are ineligible to receive extended leaves of absence under this paragraph.

C. Civil Leave

An employee subpoenaed or summoned by Tribal Court, Federal Court, State Court, or political subdivision thereof, to serve either as a juror or a witness, for that jurisdiction, may be granted civil leave with pay during the period of such service. Request for civil leave must be made to the employee's supervisor in advance, and such request must be accompanied by a copy of the court subpoena or summons.

An employee subpoenaed or summoned in private litigation by some party other than the Federal Government, the Tribal Government, the State Government, or political subdivision thereof, to testify in a capacity that is not official, but as an individual, is ineligible for civil leave. Such employee must take annual leave or leave without pay, as appropriate.

D. Administrative Leave

An employee may be granted administrative leave with pay with the approval of his supervisor and the Chief, if, in their judgment, the employee can serve MBCI by temporarily performing duties not specifically related to the job.

In emergency situations, the Chief may excuse any or all employees from duty for all or part of any work day, with pay. Examples of such emergencies would be extreme weather conditions, disaster, or other natural phenomenon which might reasonably prevent employees from working or reporting to work.

The Chief also has the sole discretion to grant administrative leave for an individual or group for governmental or other purposes. If an employee has been approved for annual or sick leave, prior to a day when administrative leave is granted, the period of time covered by the administrative leave will not be deducted from the employee's annual or sick leave.

Administrative leave under this section D must be approved in writing. All administrative leave approved shall be included in a Human Resources Quarterly Report to the Tribal Council's Committee on Human Resources, Training and Development. Such written notification shall include: the dates administrative leave was granted; the job titles or divisions within the Tribe for which administrative leave was granted; and the reason administrative leave was granted. The Human Resources Quarterly Report must be provided to the Tribal Council's

Committee on Human Resources, Training and Development on or before the tenth (10th) day of the calendar month immediately following the quarter to which the Human Resources Quarterly Report pertains.

XV. VOLUNTARY LEAVE TRANSFER PROGRAM (DONATED LEAVE)

The Voluntary Leave Transfer Program is intended to give employees with accrued leave the opportunity to help those employees with a long-term medical emergency who lack sufficient leave to provide for their income maintenance during extended periods of absence from work.

Employees of MBCI may donate accrued, unused annual leave or sick leave to an Employee Leave Emergency Pool for use by employees who have a medical emergency and have insufficient leave available. Employees entitled to use the Emergency Leave Emergency Pool may not be in a probationary period and must otherwise be eligible for leave. Any request to use the Employee Leave Emergency Pool must be approved by the Office of Human Resources.

Employees should be aware of the tax consequences related to use of the Voluntary Leave Transfer Program Employee Leave Emergency Pool. Under recent IRS guidance, the dollar value of leave received by an employee is includable in the recipient employee's gross income under § 61 of the Internal Revenue Code, and is "wages" subject to employment taxes. *See* IRS PLR-152644-06 at 7 (Feb. 9, 2007); *see also* IRS Rev. Rule 1990-29. Employees who donate leave are not subject to income tax liability or withholding tax liability in connection with the donated leave time. *See* IRS PLR-152644-06 at 7 (Feb. 9, 2007); *see also* IRS Rev. Rule 1990-29. The Human Resources Department shall make a reasonable effort to notify employees of the taxability of the donation and/or receipt of leave under the Voluntary Leave Transfer Program. IRS guidance on the issue is subject to change, and employees are solely responsible for keeping informed as to those developments.

"Medical emergency" means a serious medical condition of an employee or family member that is likely to require the employee's absence from duty for a prolonged period and is reasonably likely to result in a substantial loss of income to the employee because of unavailability of leave. A medical emergency must be supported by a physician's certification that the medical condition is serious and is of expected long duration. All medical conditions that will result in absence from work in excess of the hours an employee is scheduled to work in a bi-weekly pay period are considered a condition of long duration.

"Family member" has the same definition of immediate family under the Sick Leave Policy. To be eligible to participate in the program, an employee must have exhausted all available paid leave and must have been, or reasonably expect to be, on unpaid leave for at least the number of hours in the employee's biweekly work schedule. Additionally, the employee must comply with procedures in place regarding the Voluntary Leave Transfer Program.

The Office of Human Resources will administer the Emergency Leave Emergency Pool by maintaining a ledger account for the purpose of accepting, distributing, and monitoring donated annual or sick leave. Contributions of annual or sick leave into the Emergency Leave