

Aitkin County Board of Commissioners
Request for County Board Action/Agenda Item Cover Sheet

200
Agenda Item #

To: Chairperson, Aitkin County Board of Commissioners Date: 4-16-14

Via: Roxy Traxler, Interim County Administrator

From: Bobbie Danielson, Human Resources Manager *Bobbie Danielson*

Title of Item:
Policy Update, Section 5.5, Family and Medical Leave Policy

Requested Meeting Date: 4-22-14 Estimated Presentation Time: _____

Presenter: Bobbie Danielson, Human Resources Manager

Type of Action Requested (check all that apply)

- For info only, no action requested Approve under Consent Agenda
- For discussion only with possible future action Adopt Ordinance Revision
- Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
- Approve/adopt proposal by motion Approve/adopt proposal by resolution (attach draft resolution)
- Authorize filling vacant staff position
- Request to schedule public hearing or sale Other (please list) _____
- Request by member of the public to be heard
- Item should be addressed in closed session under MN Statute _____

Fiscal Impact (check all that apply)

- Is this item in the current approved budget? Yes No (attach explanation)
- What type of expenditure is this? Operating Capital Other (attach explanation)
- Revenue line account # that funds this item is: _____
- Expenditure line account # for this item is: _____

Staffing Impact (Any yes answer requires a review by Human Resources Manager before going to the board)

- Duties of a department employee(s) may be materially affected. Yes No
- Applicable job description(s) may require revision. Yes No
- Item may impact a bargaining unit agreement or county work policy. Yes No
- Item may change the department's authorized staffing level. Yes No

BD
HR Review

Supporting Attachment(s)

- Memorandum Summary of Item
- Copy of applicable county policy and/or ordinance (excerpts acceptable)
- Copy of applicable state/federal statute/regulation (excerpts acceptable)
- Copy of applicable contract and/or agreement
- Original bid spec or quote request (excluding complex construction projects)
- Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
- Bid/quote comparison worksheet
- Draft County Board resolution
- Plat approval check-list and supporting documents
- Copy of previous minutes related to this issue
- Other supporting document(s) (please list) _____


Provide eleven (11) copies of supporting documentation NO LATER THAN Wednesday at 12:00 pm to make the Board's agenda for the following Tuesday. Items WILL NOT be placed on the Board agenda unless complete documentation is provided for mailing in the Board packets. (see reverse side for details)

AITKIN COUNTY HUMAN RESOURCES

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To: Aitkin County Commissioners
Roxly Traxler, Interim County Administrator

From: Bobbie Danielson, HR Manager 

Date: April 16, 2014

Subject: Policy Update, Section 5.5, Family and Medical Leave Policy

Background Information

The Personnel Policy Manual is updated on an on-going basis. The proposed re-write of Section 5.5 related to the Family and Medical Leave Act is attached. The most notable updates include the expanded military-related leave protections. To the extent that federal statute or regulations change, this policy shall be construed as consistent with those changes.

This was sent to department heads for review and input on April 8, 2014, and discussed at the April 10, 2014, Department Head meeting. Payroll has also had the opportunity to review and provide input.

Action Requested

Motion to adopt the Family and Medical Leave Policy, Section 5.5, as proposed; noting this replaces the current Section 5.5 Family and Medical Leave policy.

Current Policy

ARTICLE 5: EMPLOYEE BENEFITS AND SERVICES

SUBJECT 5.5: FAMILY AND MEDICAL LEAVE

Effective: 11/28/00

PURPOSE:

To comply with the Family and Medical Leave Act.

A. GENERAL PROCEDURES:

Eligible employees may request a family and/or medical leave of absence for up to 12 weeks of leave in any 12-month period under certain circumstances. Employees are eligible after one year of employment and after 1,250 hours of work over the previous 12 months. An eligible employee's FMLA entitlement is limited to a total of 12 work weeks of leave during any 12-month period measured forward from the date the employee's first FMLA leave began.

Employees must utilize accrued paid leave during a family and/or medical leave of absence. It will be the policy of Aitkin County to require all employees to first use their paid vacation, personal or sick leave for any part of the twelve (12) week mandated period. The County will then provide only enough unpaid leave to total twelve (12) weeks of leave (Board approved 6/8/93).

B. REASONS FOR TAKING LEAVE:

Pursuant to the FMLA, a leave may be granted for any of the following reasons:

- For the birth of the employee's child and to care for the newborn child;
- For placement with the employee of a son or daughter for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a "serious health condition" that makes the employee unable to perform the employee's job.

A "serious health condition" means an illness, injury impairment, or physical or mental condition that involves one of the following:

1. Hospital Care

~~Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.~~

~~2. Absence Plus Treatment~~

~~a. A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:~~

~~(1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or~~

~~(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.~~

~~3. Pregnancy~~

~~Any period of incapacity due to pregnancy, or for prenatal care.~~

~~4. Chronic Conditions Requiring Treatments~~

~~A chronic condition which:~~

~~(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;~~

~~(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and~~

~~(3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).~~

~~5. Permanent/Long term Conditions Requiring Supervision~~

~~A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider. Examples include Alzheimer's, a severe stroke or the terminal stages of a disease.~~

~~6. Multiple Treatments (Non-Chronic Conditions)~~

~~Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.); severe arthritis (physical therapy), and kidney disease (dialysis).~~

~~C. ADVANCE NOTICE AND MEDICAL CERTIFICATION:~~

~~Employees may be required to provide advance notice and medical certification. A family and/or medical leave of absence may be denied if requirements are not met:~~

~~• An employee must ordinarily provide 30 days' advance notice when the leave is foreseeable;~~

~~• A medical certification to support a request for leave because of a serious health condition may be required. Second or third opinions, at the expense of the County, and a fitness for duty report to return to work may also be required.~~

~~D. JOB BENEFITS AND PROTECTION:~~

~~For the duration of the leave, an employee's health coverage under any group health plan will be maintained. An employee must continue to pay his or her share of group health plan premiums that had been paid by the employee prior to the leave.~~

~~Upon return from leave, most employees will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.~~

~~A FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.~~

~~E. INTERPLAY BETWEEN LEAVES:~~

~~If a leave qualifies as both Family and/or Medical Leave and Parenting Leave pursuant to Minnesota Chapter 181, the leaves will run concurrently and the leave used will count against the employee's entitlement under both types of leave.~~

~~F. INTERPLAY WITH COLLECTIVE BARGAINING AGREEMENTS:~~

~~If an applicable collective bargaining agreement provides for an employment benefit plan with greater family or medical leave rights than those established by the FMLA, the terms of the collective bargaining agreement shall be adhered to.~~

~~Attachment 5A Family Medical Leave Act Request Form~~

Proposed re-write of Section 5.5.

ARTICLE 5: EMPLOYEE BENEFITS AND SERVICES

SUBJECT 5.5: FAMILY AND MEDICAL LEAVE

Adopted: April 22, 2014 [pending board approval]

To the extent that federal statute or regulations change, this policy shall be construed as consistent with those changes.

Federal Department of Labor Wage and Hour Division 29 CFR Part 825
February 6, 2013 Register

Aitkin County will comply with the Family and Medical Leave Act of 1993, as amended. The employer posts the mandatory FMLA Notice and upon hire provides all new employees with notices required by the U.S. Department of Labor (DOL) on Employee Rights and Responsibilities under the Family and Medical Leave Act on the bulletin board in the courthouse, on the Intranet, and in each staffed building.

The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

If you have any questions, concerns, or disputes with this policy, you must contact the Human Resources Department.

A. General Provisions

Under this policy, Aitkin County will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

B. Eligibility

To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

1) The employee must have worked for the employer for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement stating the employer's intention to rehire the employee after the service break.

Proposed re-write of Section 5.5.

2) The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for an employee under FMLA. All periods of absence from work due to or necessitated by USERRA-covered service is counted in determining an employee's eligibility for FMLA leave.

C. Type of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- 1) The birth of a child and in order to care for that child.
- 2) For placement with the employee of a child for adoption or foster care and to care for the newly placed child.
- 3) To care for the employee's spouse, child or parent (not parent in-law) with a serious health condition (described below). *Note, in some circumstances this may include "in loco parentis", meaning whoever is standing in the place of a parent, such as same-sex couples, grandparents, or other non-biological parents if they have held themselves out as the parent. It requires a statement explaining the family scenario relationship and each will be reviewed on a case by case basis.*
- 4) The serious health condition (described below) of the employee.

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider.

Employees with questions about what illnesses are covered under this FMLA policy are required to consult with the Human Resource Department. FMLA eligibility is determined on a case by case basis.

- 5) Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the military member is on covered active duty or called to covered active duty.

An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service.

Proposed re-write of Section 5.5.

The qualifying exigency must be one of the following: 1) short-notice deployment, 2) military events and activities, 3) child care and school activities, 4) financial and legal arrangements, 5) counseling, 6) rest and recuperation to a maximum of 15 calendar days for each instance, 7) post-deployment activities, and 8) Eligible employees may also take leave to care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty. Such care may include arranging for alternative care, providing care on an immediate need basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility. 9) Additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

“Covered active duty” means:

(a) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and

(b) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.

6) Military caregiver leave (also known as covered service member leave) to care for an injured or ill service member or covered veteran.

An employee whose son, daughter, parent or next of kin is a covered service member may take up to 26 weeks in a single 12-month period to care for the covered service member.

The term “covered service member” means:

(a) 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 is otherwise on the temporary disability retired list, for a serious injury or illness; or

(b) a covered veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves), and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. An eligible employee must commence leave to care for a covered veteran within five years of the veteran's active duty service. Some

Proposed re-write of Section 5.5.

exceptions may apply to the single 12-month period; each request will be considered on a case by case basis.

The term “serious injury or illness”:

(a) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the covered member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and

(b) in the case of a covered veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered service member, means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on an active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran, and is:

- (1) A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member’s office, grade, rank, or rating; OR
- (2) A physical or mental condition for which the covered veteran has received a VA Service Related Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; OR
- (3) A physical or mental condition that substantially impairs the veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; OR
- (4) An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Retroactive designation. If an employee is absent for a condition or event that is or progresses into a FMLA qualifying event and the employee subsequently requests a leave as provided under this policy, the employer may designate all or some portion of the related prior leave taken as FMLA, to the extent that the earlier leave meets the necessary qualifications.

D. Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (5) above under this policy during any 12-month period. The employer will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any FMLA leave under this policy. Each time an employee takes leave, the employer will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it

Proposed re-write of Section 5.5.

from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for the FMLA circumstance (6) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, the employer will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If a husband and wife both work for the employer and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may each take 12 weeks of leave for qualifying events. If a husband and wife both work for the employer and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may each take 26 weeks of leave.

E. Employee Status and Benefits During Leave

While an employee is on FMLA, the employer will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the employer will require the employee to reimburse the employer the amount it paid for the employee's health insurance premium during the leave period. An employee who returns to work for at least 30 calendar days is considered to have returned to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.

While on paid FMLA, the employer will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid FMLA, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Auditor's Office by the 1st day of each month. If the payment is more than 30 days late and other payment arrangements have not been made, the employee's health insurance coverage may be dropped for the duration of the leave. The employer will provide 15 days' notification prior to the employee's loss of coverage.

If the employee contributes to a life insurance or disability plan or other voluntary plans, the employer will continue making payroll deductions while the employee is on paid FMLA. While the employee is on unpaid FMLA, the employee may request continuation of such benefits and pay his or her portion of the premiums. If the employee does not continue these payments or make other payment arrangements, the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

F. Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the employer's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms and conditions of employment. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. With written notice to the employee at the time the employee gives notice of the need for FMLA leave (or when FMLA leave commences, if earlier), the employer may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

G. Use of Paid and Unpaid Leave

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid comp time, vacation, PTO, personal or sick leave prior to being eligible for unpaid leave, unless provided otherwise by law or a collective bargaining agreement. Accrued time off shall run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy.

An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and personal leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by the employer's sick leave policy) prior to being eligible for unpaid leave.

H. Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period) and the employee must make a reasonable effort to schedule treatments so as not to disrupt unduly the employer's operations.

The employer may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the employer and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken during the 12 month period beginning on the date of birth or placement of the child.

I. Certification for the Employee's Serious Health Condition

The employer will require certification for the employee's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Employee's Serious Health Condition.

The employer may directly contact the employee's health care provider for verification or clarification purposes using a health care professional, HR representative, or management official. Before the employer makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification.

The employer has the right to ask for a second opinion if it has reason to doubt the certification. The employer will pay for the employee to get a certification from a second doctor, which the employer will select. The employer may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the employer will require the opinion of a third doctor. The employer and the employee will mutually select the third doctor, and the employer will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

J. Certification for the Family Member's Serious Health Condition

The employer will require certification for the family member's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Family Member's Serious Health Condition.

The employer may directly contact the employee's family member's health care provider for verification or clarification purposes using a health care professional, HR representative, or management official. Before the employer makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification.

The employer has the right to ask for a second opinion if it has reason to doubt the certification. The employer will pay for the employee's family member to get a certification from a second doctor, which the employer will select. The employer may deny FMLA leave to an employee whose family member refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the employer will require the opinion of a third doctor. The employer and the employee will mutually select the third doctor, and the employer will pay for the opinion. This third opinion will be considered final. The employee will be

Proposed re-write of Section 5.5.

provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

K. Certification of Qualifying Exigency for Military Family Leave

The employer will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave.

L. Certification for Serious Injury or Illness of Covered Service member for Military Family Leave

The employer will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Service member.

M. Recertification

The employer may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days and only when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the employer may request recertification for the serious health condition of the employee or the employee's family member when the minimum duration expires or every six months in connection with a FMLA absence. The employer may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

N. Procedure for Requesting FMLA Leave

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the HR Department. Within five business days after the employee has provided this notice, the HR Department will complete and provide the employee with the DOL Notice of Eligibility and Rights.

When the need for the leave is foreseeable, the employee must provide the employer with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the employer's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

Proposed re-write of Section 5.5.

O. Designation of FMLA Leave

Within five business days after the employee has submitted the appropriate certification form, the HR Department will complete and provide the employee with a written response to the employee's request for FMLA leave using the DOL Designation Notice.

P. Intent to Return to Work From FMLA Leave

On a basis that does not discriminate against employees on FMLA leave, the employer may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.