

**Subject: PERSONNEL POLICY #17**  
**LEAVES OF ABSENCE**

Regular full-time and part-time employees become eligible to request medical, personal or military leaves of absence after 90 days of continuous employment.

**Leave of Absence Use**

To accommodate situations that necessitate absence from work, Choices In Community Living provides three types of leave:

- Medical Leave
- Personal Leave
- Military Leave

When considering a request for leave of absence, the agency considers the following:

- The nature of the request,
- The effect on work requirements, and
- Consistency with the policy guidelines and procedures.

The agency also complies with the federal Family and Medical Leave Act of 1993 that entitles eligible employees to unpaid leave from work for up to twelve (12) weeks for specified medical and family reasons.

**A. Medical Leave of Absence**

Choices In Community Living employees may apply for a medical leave of absence without pay after completing 90 days of continuous employment. Employees may use paid time off, if available, in this order: sick Leave, personal time and vacation. The agency will consider a medical leave period as continuous if an employee is unable to return to work for more than ten (10) regularly scheduled work days following his or her return from a prior medical leave of absence. Choices In Community Living will not grant any leave for a total or continuous period or periods of time that exceeds twenty-six (26) workweeks in any rolling fifty-two (52) week period. The terms and conditions of an employee's leave depend upon his/her eligibility under the Family and Medical Leave Act of 1993 ("FMLA") as defined in Section B. If an employee is FMLA eligible, the FMLA policy in Section B governs the first twelve (12) weeks of his/her medical leave of absence. The agency's policy in Section C governs the FMLA eligible employee's medical leave when it extends beyond the limits of the FMLA policy. The extended medical leave of absence, however, is not governed by the FMLA. The agency's policy in Section D governs employees who are not eligible under FMLA.

## **B. Family and Medical Leave Act of 1993 ("FMLA")**

1. **General:** Subject to the terms and conditions set forth in this policy, an eligible employee is entitled to up to twelve 12 work weeks of unpaid leave during any twelve (12) month period due to:
  - a. the birth of a child to the employee;
  - b. the placement of a child with the employee for adoption or foster care;
  - c. the care of a child , spouse or parent who has a "Serious Health Condition" (defined below);
  - d. the employee's own "Serious Health Condition" which makes him or her unable to perform the functions of the employee's job.
  
2. **Eligibility:** Eligibility for a Family or Medical Leave of Absence under this policy requires an employee tot meet all of the following requirements:
  - Employed by the agency for at least twelve (12) months prior to the date on which medical leave begins and
  - Worked a minimum of 1250 hours during the previous twelve (12) months immediately prior to the date on which medical leave begins and
  - Employed at a worksite within a 75-mile radius where Choices In Community Living employs 50 or more employees.
  
3. **Family Leave of Absence under the FMLA:** Upon notice and application to the human resources director, Choices In Community Living will grant a Family Leave of Absence to an eligible employee for the following reasons:
  - a. the birth of a child to the employee;
  - b. the placement of a child with the employee for adoption or foster care;
  - c. the care of a child , spouse or parent who has a "Serious Health Condition", currently defined, for FMLA purposes, as an illness, injury, impairment, or physical or medical condition that involves either:

**Hospital Care:** An incident of inpatient care (i.e., an overnight stay in a hospital or similar medical facility, including any period of incapacity\* or subsequent treatment in connection with or consequent to such inpatient care).

**Absence Plus Treatment:** 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:

- a. Treatment two or more times by a doctor or other "health care provider"; or
- b. 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.

**Pregnancy:** Any period of incapacity due to pregnancy or for prenatal care.

**Chronic Conditions Requiring Treatments:** A chronic condition is one which requires periodic visits for treatment by a doctor or other health care provider; continues over an extended period of time (including recurring episodes of a single underlying condition); and may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

**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 may include Alzheimer's, a severe stroke, or the terminal stages of a disease.

**Multiple Treatments (Non-Chronic Conditions):** Any period of absence to receive multiple treatments (including any period of recovery thereof) by a doctor or other 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 (3) consecutive days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation), severe arthritis (physical therapy), kidney disease (dialysis).

Ordinarily, unless complications arise or inpatient care is required, the common cold, flu, earaches, upset stomachs, minor ulcers, headaches, other than migraines, routine dental or orthodontia problems, periodontal diseases are examples of conditions that do not meet the definition of a "Serious Health Condition" and do not qualify for FMLA leave.

*\*For FMLA purposes, "Incapacity" is defined to mean inability to work, attend school or perform other regular daily activities due to the "Serious Health Condition", treatment therefore, or recovery thereof.*

4. **Medical Leave of Absence under the FMLA:** Upon notice and application to the human resources director, Choices In Community Living will grant a Medical Leave of Absence to an eligible employee because of a "Serious Health Condition" that makes the employee unable to work at all or unable to perform any one of the essential functions of his/her position.

**Notice and Application Procedures for Family and Medical Leaves under the FMLA:**

Upon notice and application to the human resources director, Choices In Community Living will grant Family or Medical Leave of Absence, or renewals thereof, to employees who submit medical certification and/or other information verifying eligibility, according to the following procedure:

Employees may give notice and request for a Family or Medical Leave of Absence either orally or in writing. When practical, the agency will require employees to make written notice and request on leave forms available from human resources. Where foreseeable, employees must give thirty (30) days notice prior to the beginning of the requested leave. Other situations require employees to give notice within a reasonable time, generally not more than two (2) business days after the need for the leave becomes known to the employee. However, if an employee fails to give notice of the reason for an FMLA qualifying leave within two (2) business days after returning to work from the leave, the employee may not subsequently assert FMLA protections for the absence.

The granting of a Family or Medical Leave of Absence prior to the receipt of any required medical certification or other verifying information and documentation is conditional. Failure to provide the requested certifications, verifying information, or documentation in a timely manner may result in a delay of the employee's continuation of FMLA leave. The agency will give an employee a reasonable opportunity to cure the deficiencies in any incomplete certification. However, if the employee does not produce the requested certifications, information or documentation, the agency will not consider his/her leave under FMLA.

For a FMLA leave requested because of the employee's own "Serious Health Condition" or because it is necessary for the employee to care for his/her spouse, son, daughter or parent who has a "Serious Health Condition", the employee must submit a medical certification (on a provided form) to Choices In Community Living. The medical condition, based on reasonable medical certainty, must verify that the employee is unable to work at all, or is unable to perform any one of the essential functions of the employee's job or position because of a "Serious Health Condition", or that the employee's parent, spouse, or child is affected by a "Serious Health Condition" that requires care by the employee. When the leave is foreseeable and the employee provides at least thirty (30) days notice, the employee should provide the medical certification before the leave begins—generally within two (2) business days after the employee gives

Choices In Community Living notice of the leave. If thirty (30) days notice is not possible, the employee must provide the medical certification within fifteen (15) calendar days after Choices In Community Living's request. Such other medical information as Choices In Community Living requests, and is permitted by law, may be required. Second and third medical opinions may be required, at Choices In Community Living's expense, to further validate the employee's certification.

The employee must provide such information and documentation verifying entitlement to a Family or Medical Leave for the birth/care or placement of a son or daughter, as Choices In Community Living may request.

A Family Leave taken after the birth or placement of a child, pursuant to paragraphs **3.a or 3.b**, above, must be taken in a single continuous period of time, unless Choices In Community Living and the employee agree to an intermittent or reduced schedule. Choices In Community Living must approve an intermittent or reduced schedule in advance of the leave, in its sole discretion.

The duration of each Family or Medical Leave of Absence and any renewals thereof shall be specifically stated in the request and in the granting of the leave.

**General Family and Medical Leave Provisions under the FMLA:**

The maximum total amount of time available to an eligible employee for a Family and Medical Leave of Absence is twelve (12) workweeks during the rolling twelve (12) month period measured backward from the date leave is used. A workweek for purposes of this policy generally consists of five (5) eight (8) hour workdays or two 24 hour shifts twice a week for a full-time employee and one (1) 24 hour shift once a week for a part-time employee. If an employee works a schedule that changes from week to week, however, the agency will use the average amount of time worked per week over the twelve (12) week period just before the requested leave to determine the workweek.

An employee's entitlement to a Family Leave for the birth or placement of a son or daughter ends twelve (12) months after the date of the birth or placement. The maximum total amount of time available to both spouses for a Family Leave for the birth or placement of a child, provided under paragraphs **3.a or 3.b**, above, or for the care of a parent (but not a parent-in-law) with a "Serious Health Condition" is twelve (12) workweeks during the twelve (12) month period as defined above, if both are employed by Choices In Community Living.

An employee must provide as much notice as is reasonable and practicable under the circumstances. Employees will give notice of at least thirty (30) days where it is practicable and foreseeable for the employee to do so for the birth or placement of a child or for planned medical treatment.

A Family or Medical Leave of Absence shall be without pay, unless the employee is eligible for pay during the absence under the applicable weekly disability insurance policy. If eligible, the employee may elect to exhaust sick leave, personal days and/or vacation time, if available and in that order during any Family or Medical Leave. Eligibility for any such plans shall be determined according to the terms and conditions of that policy. The agency will charge time off, even though paid, against the maximum amount of Family and Medical Leave to which an employee is entitled. The agency will also charge the paid time off against any entitlement under any applicable paid vacation policy.

The employee's FMLA twelve (12) week leave entitlement also shall run concurrent with any applicable workers' compensation absence when the workers' compensation injury or illness meets the criteria for a "Serious Health Condition".

Employees requesting Family or Medical Leave because of their own "Serious Health Condition" or to care for a spouse, child, or parent so affected, may take an intermittent or reduced schedule leave where such schedule is medically necessary. Time off of work on an intermittent or reduced leave schedule will be charged proportionally against an employee's twelve (12) workweek entitlement as determined by Choices In Community Living.

For intermittent leave or leave on a reduced schedule, to take care of a seriously ill family member or for the employee's own "Serious Health Condition", there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical leave can best be accommodated through an intermittent or reduced leave schedule. Employees who require intermittent leave or leave on a reduced schedule must attempt to schedule the leave so as not to disrupt business operations. If the leave is required for medical treatment, the employee should consult with the appropriate Choices In Community Living designee and make a reasonable effort to schedule the leave, so as not to disrupt unduly the employer's operations. When notice is given of the need for leave, the employee may be required to attempt to reschedule the treatment, subject to the ability and approval of the health care provider. In addition, an employee may be assigned to an alternative position with equivalent pay and benefits that better accommodates his/her intermittent or reduced leave schedule.

Choices In Community Living will continue medical insurance and other employee elected benefits, where applicable, in effect for any employee who is on an approved Family or Medical Leave pursuant to this Section. When the employee is on leave, the employee may pay his/her employee contribution amount directly to Choices In Community Living on or before the day for which the premium contribution is due. If the employee is unable to do so, the agency will pay his/her premiums until the employee returns to work, at which time the agency will schedule a repayment plan for reimbursement from the employee.

If the employee fails to return from Family or Medical Leave (unless the failure to return is because of a "Serious Health Condition" of the employee or the spouse, child, parent for whom he/she is caring and is supported by a proper medical certification, or other circumstances beyond the employee's control), Choices In Community Living may recover any amounts owed by the employee to Choices In Community Living or otherwise, for any cost or obligation incurred by Choices In Community Living to keep that insurance in effect.

Choices In Community Living may also recover the amount of the employee's share of any premium paid by Choices In Community Living to keep the employee's medical insurance in effect. The amounts owed by an employee to Choices In Community Living shall be deducted from amounts owed to the employee by Choices In Community Living, to the extent permitted by law.

An employee returning from a Medical Leave of Absence will provide a medical fitness for-duty certification verifying that he/she is able to resume work at the time of return without restrictions, or, in the case of an employee who is disabled within the meaning of the Americans With Disabilities Act ("ADA"), that he/she is otherwise qualified (within the meaning of the ADA) to return to work to the human resources director. Choices In Community Living will delay reinstatement until the certification is provided. Choices In Community Living will terminate employees who do not provide this certification or a new medical certification for a "Serious Health Condition."

Choices In Community Living reserves the right to refer an employee to a physician of its choice to obtain further information concerning a period of absence. It also can require employees to obtain subsequent medical recertifications to support continuing Family or Medical Leave and/or to report periodically on their status and intent to return to work.

If an employee discovers that his/her circumstances have changed and the amount of leave originally anticipated is no longer necessary, the employee must provide Choices In Community Living reasonable notice (i.e., within two business days) of his/her intent to return to work.

An employee who returns from a Family or Medical Leave will return to the position held at the beginning of the leave or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment, provided, however, that an employee is not entitled to return to a position other than that to which he/she would have been entitled had the employee not taken the leave. An employee's right to reinstatement, however, may be affected if he/she is determined to be a "highly compensated employee", as defined by the Family and Medical Leave Act of 1993. Generally, an employee shall be notified of his/her "highly compensated employee" status at the time any Family or Medical Leave is requested or when it commences, if earlier.

A Family or Medical Leave of absence means that time previously worked for Choices In Community Living is not lost in computation of length of service and the benefits dependent thereon. Moreover, time spent during such an unpaid leave will not be credited toward the calculation of any applicable paid vacation time. However, any applicable paid vacation time accumulated and not exhausted during the Family or Medical Leave prior to the start of the leave period, shall be available to an employee upon his/her return from leave. An employee on said medical leave also would not be eligible for any paid holiday falling within the Family or Medical Leave period.

As with all other leaves of absence, failure of an employee to report to work at the time at which he/she is regularly scheduled to report at the termination of a Family or Medical Leave, or to secure an approved extension of leave in advance, will result in termination of employment.

It is the purpose of this Family and Medical Leaves of Absence Section to comply with the Family and Medical Leave Act of 1993. The interpretation of terms and the resolution of disputes under this provision shall be governed by that law, and its procedures. Enforcement procedures include complaints to the Wage and Hour Division of the Department of Labor and civil actions in court. It is unlawful to discriminate against an employee because of the exercise of rights under the Family and Medical Leave Act.



### **C. Extended Medical Leaves of Absence for FMLA-Eligible Employees**

Upon written application to the human resources director, Choices In Community Living will grant an extended medical leave of absence or renewal thereof without pay to an FMLA-eligible employee who (a) has exhausted the amount of medical leave to which he/she was entitled under Section B, (if any) and (b) continues to be absent and unable to work because of his/her medically diagnosed sickness, injury or disability. Choices In Community Living reserves the right to refer an employee to a doctor of its choice to obtain information concerning a period of extended absence. The employee may initially request an extended leave of absence orally, must put it in writing prior to the expiration of the extended leave then in effect. The duration of each leave of absence and any renewals thereof shall be specifically stated in the request and in the granting of the extended leave. No leaves will be granted for a total or continuous period or periods that exceed twenty-six (26) workweeks, in any rolling fifty-two (52) week period. Failure of an employee to report for work at the time that he/she is regularly scheduled to report at the conclusion of the medical leave of absence will result in termination of employment.

The terms and conditions of an extended medical leave of absence are different than those for an FMLA leave. An extended leave of absence without pay for medical purposes means that time previously worked for Choices In Community Living is not lost in computation of length of service and the benefits dependent thereon. However, time spent during such leave will not be credited toward the calculation of any applicable paid vacation time. An employee on said medical leave also would not be eligible for any paid holiday falling within this medical leave.

Additionally, an employee who properly returns from an extended leave of absence will be assigned to the job classification or position held immediately prior to the commencement of his/her leave, if that job classification or position is vacant and Choices In Community Living decides to fill it. If it is not vacant or Choices In Community Living decides not to fill it, he/she will be placed in another position or job classification for which, in the judgment of Choices In Community Living, he/she has appropriate skills and ability. If no such vacancy exists, an employee returning from a leave of absence will remain on unpaid leave status, and will be considered, without having filed an application, for other vacancies that become available for a period of six (6) months. If the employee fails to accept placement into another position, he/she will be considered to have resigned voluntarily.

### **D. Unpaid Medical Leave of Absence For Employees Not Eligible For FMLA Leave**

Upon written application to the human resources director, Choices In Community Living will grant leaves of absence or renewals thereof without pay for up to ninety (90) days to full-time or part-time employees, who are absent from work and unable to work because of their medically diagnosed sickness, injury, or disability, but not eligible for FMLA, after their first ninety (90) days of employment. Choices In Community Living reserves the right to refer an employee to a doctor of its choice to obtain information concerning a period of absence. The initial leave of absence, which, under certain extenuating circumstances, may be requested orally but then must be reduced to writing, shall be for an initial period of five (5) days and shall not exceed thirty-five (35) calendar days. All renewals must be requested in

writing prior to the expiration of the leave then in effect and each concurrent leave shall not exceed thirty-five (35) calendar days. The duration of each leave of absence and any renewals thereof shall be specifically stated in the request and in the granting of the leave. No leaves will be granted for a total or continuous period or periods that exceed twenty-six (26) workweeks, in any rolling fifty-two (52) week period. Failure of an employee to report for work at the time that he/she is regularly scheduled to report at the conclusion of the medical leave of absence will result in termination of employment.

A leave of absence without pay for medical purposes means that time previously worked for Choices In Community Living is not lost in computation of length of service and the benefits dependent thereon. However, time spent during such leave will not be credited toward the calculation of any applicable paid vacation time. An employee on said medical leave would also not be eligible for any paid holiday falling within this medical leave pay period.

Additionally, an employee who properly returns from a medical leave of absence will be assigned to the job classification or position held immediately prior to the commencement of his/her leave, if that job classification or position is vacant and Choices In Community Living decides to fill it. If it is not vacant or Choices In Community Living decides not to fill it, he/she will be placed in another position or job classification for which, in the judgment of Choices In Community Living, he/she had appropriate skills and ability. If no such vacancy exists, an employee returning from a leave of absence will remain on unpaid leave status, and will be considered, without having filed an application, for other vacancies that become available for a period of six (6) months. If the employee fails to accept placement into another position, he/she will be considered to have resigned voluntarily.

#### **Personal Leave**

Employees may request a leave of absence under situations of disability, family illness, adoption, or severe hardship. Where practical, the notice and application request should normally be made on provided leave forms that are available from Human Resources. Where foreseeable, the request must be given thirty (30) days prior to the beginning of the requested leave. In other situations it must be given within a reasonable time, generally not more than two business days after the need for the leave becomes known to the employee. If the employee has medical insurance, to maintain the insurance, the employee must pay his/her contribution amount directly to Choices In Community Living on or before the day the premium is due. After required notification, coverage may be terminated if the payment is more than thirty (30) days late. If and when the employee returns to work, he/she may receive reinstated health coverage subject to the terms of the health insurance policy. To be reinstated, the employee will need to complete a new insurance enrollment form and the date the insurance form is completed will be the effective date.

One week prior to the expected return date, the employee must contact their supervisor regarding to get their schedule and to confirm information regarding the return. The employee is expected to report to

work at the completion of their leave. If the employee fails to report to work at the time at which he/she is regularly scheduled to report, it will be considered a voluntary resignation.