

NOTICE TO EMPLOYEES

SICK, PARENTAL AND FAMILY CARE (SPF) ABSENCE

The absence provisions described below are consistent with the Family and Medical Leave Act of 1993 (FMLA) except where more generous benefits are granted by the Commonwealth. The FMLA requires qualifying employers to provide at least 12 weeks of leave (with or without pay) with benefits within a 12 month period for the reasons described in *Sick, Parental and Family Care (SPF) Absence* below as long as the employee was employed at least one year and worked at least 1,250 hours during the previous 12 month period.

Sick, Parental and Family Care (SPF) Absence

SPF Absence is a paid or unpaid absence from work with benefits due to the serious health condition of an employee, the serious health condition of a qualifying family member when the employee is attending to the medical needs of the family member, or for the birth, adoption or foster care placement of a child. SPF Absences are designated as FMLA leave in accordance with the provisions of the FMLA. The definition of a serious health condition is included on the Serious Health Condition Certification form. Family member for this purpose is a spouse, parent, child, or other person qualifying as a dependent under IRS eligibility criteria. A parent can be a biological parent or an individual who stood as a parent (in loco parentis) to the employee when the employee was a child. A child can be a biological child, adopted child, foster child, stepchild, legal ward, or a child in the care of a person who is standing as a parent (in loco parentis); a child must be under age 18, or if 18 years or older, must be incapable of self-care because of a mental or physical disability.

Absence Requests

All requests for SPF Absences, including paid SPF Absences, as described above, shall be made at least two weeks in advance, if circumstances permit. When not foreseeable, requests shall be made as soon as practicable to ensure protection under the FMLA. This request shall be made in writing on the Request for SPF Absence form.

SPF Absence Eligibility

Not all employees are eligible to use SPF Absence. Eligibility is determined based on two factors: One year of service (at least 26 pay periods of leave service credit) and 1,250 hours worked during the 12 month period preceding the date of the first absence of each event. An event is a specific reason or medical condition for which an SPF Absence is approved. Regular hours and overtime hours worked and all military absence hours count toward the 1,250 hour requirement; holidays and other paid and unpaid absences do not count.

Once eligibility is determined for the SPF event, the employee remains eligible for that SPF event for the next 12 months as long as SPF Absence entitlement is available and the absence is medically certified as required. At the end of the 12 month period, eligibility will be re-measured. Eligibility is also re-measured for each new or different SPF event.

SPF Absence Entitlement

Employees who meet SPF eligibility are entitled to up to six months* of SPF Absence within a rolling year for all SPF events. If an employee has in excess of six months of paid leave, the entitlement is not limited to six months. Because a rolling year is the 12 month period measured backward from the date of each absence, an employee's entitlement can change by the day. All SPF Absences described below are designated as FMLA Leave. The following absences run concurrently with and are deducted from the SPF Absence entitlement:

- a. All sick leave without pay, parental leave without pay and family care leaves without pay with benefits;
- b. All paid SPF Absences used during the first 12 weeks[†] of absence in a rolling year;

* Any time six months is referred to it means 982.5 hours for employees with a standard work schedule of 37.5 hours per week; 1,048 hours for employees with a standard work schedule of 40 hours per week; or a prorated amount for part-time employees.

† Any time 12 weeks is referred to it means 450 hours for employees with a standard work schedule of 37.5 hours per week; 480 hours for employees with a standard work schedule of 40 hours per week; or a prorated amount for part-time employees.

- c. All full-time paid SPF absences that are contiguous to and continue beyond the first 12 weeks of absence in a rolling year; and
- d. All intermittent paid SPF absences of two consecutive weeks or more (workdays that fall within a fourteen calendar day period) and are used after the first 12 weeks of absence in a rolling year.

For a birth, adoption, or foster care SPF event, the absence begins upon the employee's request; however, it may not be used prior to the date of birth, custody, or placement, except when required for adoption or foster care placement to proceed. The SPF event shall expire one year from the date of birth, adoption, or placement for foster care, regardless of whether or not the entire SPF Absence entitlement has been used.

- a. The absence code for unpaid parental leave shall not be used while disabled from childbirth. Paid or unpaid sick leave is available prior to birth, if necessary, or after the birth when a female employee is unable to work due to childbirth as certified by a physician.
- b. Female employees who are disabled before or after childbirth are required to provide the Serious Health Condition Certification form to your Human Resource Office as described in ***Required Documentation*** below.

Use of Paid Leave for SPF Absence

Upon commencement of each SPF Absence, all applicable accrued sick leave (including sick family and additional sick family leave) must be used before any other paid or unpaid absence. Sick leave is only required to be used and may only be used for reasons in which sick leave is ordinarily used. After all applicable, accrued sick leave is used, employees may choose to use accrued annual, personal, and holiday leave. Employees also may choose to use anticipated annual, personal and/or sick leave in accordance with anticipation rules. All forms of paid leave used, beginning with sick leave, will run concurrently with the commencement of and be deducted from the SPF Absence as described under the ***SPF Absence Entitlement*** section above.

Use of Intermittent or Reduced-time Absence

SPF Absences that are medically necessary may be taken on an intermittent or reduced-time basis only during the initial 12 weeks of absence in a rolling year. For parental absence, approval is at the agency's discretion. For all intermittent or reduced-time absences, the employee shall attempt to develop a schedule, working cooperatively with the supervisor, which meets the employee's needs with consideration to the times that are least disruptive to normal operations, subject to the approval of the health care provider. Employees are expected to continue to follow applicable procedures for requesting absences, including the call-off notification procedures.

SPF Absences After 12 Weeks

If eligibility is established and entitlement is available, requests for SPF Absences after the first 12 weeks of absence in a rolling year shall be approved only when: the period of absence is full-time and is expected and medically certified to be at least two consecutive weeks; or the employee has a catastrophic illness or injury that poses a direct threat to life or to the vital function of major bodily systems or organs as determined using the same criteria as the Leave Donations Policy. In addition, paid leave that was not used at the commencement of the absence may be used subject to the ordinary provisions for the use of those leave types.

Required Documentation

Documentation from a health care provider must be provided for all SPF events. Failure to provide timely and complete documentation may result in the delay or denial of SPF Absence. For parental leave, proof of the child's birth, adoption or foster care placement must be provided within 60 days of the event. For all other SPF reasons, medical documentation on the Serious Health Condition Certification form must be provided within 15 calendar days of receiving a written request for medical documentation. Until full and complete information is received, the request for leave will be provisionally approved but could ultimately be denied if complete information is not provided or the medical information provided does not certify a serious health condition. Medical recertification of the need for SPF Absence may be requested as often as every 30 calendar days in connection with intermittent absence, upon expiration of the initial certification and/or upon changed circumstances. A second and third medical opinion may be ordered at the University's expense.

Extended Sick, Parental and Family Care (ESPF) Absence Entitlement

Employees are entitled to up to six months of ESPF Absence without benefits when a request for absence is made in writing, proof of the need for continuing absence is provided on the Serious Condition Certification form and the absence is contiguous to the expiration of SPF Absence. In addition, when the one year of service eligibility requirement has not been met and the ESPF Absence is for at least two consecutive weeks ESPF Absence will also be provided. Note: Only one occasion within a rolling year will be approved.

Options When Not Eligible or Entitled to SPF or ESPF Absence

When not eligible or entitled to SPF or ESPF Absence, the employee will be involuntarily separated from employment unless one of the following options is chosen: use paid leave that was not used at the commencement of the absence subject to ordinary provisions for the use of those leave types, return to work, or resign the position. IMPORTANT: An employee who wishes to apply for a regular or disability retirement must do so prior to resigning or being separated from employment.

Return to Work

Employees should notify their supervisor at least 24 hours in advance of their expected return to work. If the Serious Health Condition Certification form does not cover the period of absence, an updated Serious Health Condition Certification form or other type of release from the health care provider to return to work will be required. If the health care provider releases the employee to return to work with limitations, the job duty restrictions must be documented by the health care provider and approval to work with restrictions must be granted in writing by SPF Coordinator in the Human Resources Office before returning to work.

Return to Work Rights

Upon return from an SPF Absence, employees have the right to return to the same or equivalent position held before commencing SPF Absence. After commencing ESPF Absence, employees have limited return rights. Rights usually are to, during the remainder of the six month period, a vacant position in the same or equivalent classification to which there are no seniority claims and which the agency intends to fill. Rights can vary by union. Refusal to return to a position that is offered will terminate these return rights.

Benefits While on SPF Absence

The following benefits continue during SPF Absence.

1. Annual, sick, and personal leave continue to accrue based on regular hours paid.
2. Group life insurance coverage will continue to be state paid.
3. Health benefits through the PEBTF will continue as long as the employee continues to pay the applicable employee contributions and buy-ups during the paid/unpaid SPF Absence.
 - a. Employees enrolled in the PEBTF using unpaid SPF Absence will receive notice regarding the payment amount and due date. Any delinquency in payment to the PEBTF will result in termination of the employee's health benefits.
 - b. Employees must contact their local Human Resource Office to add any new dependents to medical/hospital and supplemental benefits contracts within 60 days of birth or of assuming custody of a child.

Questions concerning SPF Absence or the benefit entitlements may be referred to your SPF Coordinator, Linda S. Harrison, within the Human Resource Office at (814) 732-1348.