

4.1 Family Medical Leave Act

Revised 6/1/04, 7/1/05, 8/1/07, 10/9/09; 1/31/14

Purpose

To comply with the Family and Medical Leave Act (FMLA) of 1993.

Policy

In accordance with the Family Medical Leave Act that went into effect on August 5, 1993 and most recently amended by the National Defense Authorization Act for FY 2010 ("NDAA"), the Agency provides eligible employees up to twelve (12) weeks of leave for family and medical reasons and twenty-six weeks (26) for two types of military family leave.

Eligibility

Employees are *covered* by the FMLA when they are employed at a worksite that has 50 or more employees within a 75 mile radius. Eligible employees must have (a) worked for the Agency for at least 12 months, and (b) worked at least 1250 hours in the last 12 months.

Reasons for Leave: Eligible employees may take family/medical leave for any of the following reasons: (a) the birth of a son or daughter and in order to care for such son or daughter; (b) the placement of a son or daughter with the employee for adoption or foster care; (c) to care for a spouse, son, daughter, parent, or next of kin with a *serious health condition*; (d) because of their own *serious health condition* which renders the employee unable to perform the essential functions of the position, or (e) because of a qualifying exigency arising out of the fact that the employee's spouse, son/ daughter or parent is on covered active duty or called to covered active duty status in support of a contingency operation as a member of the National Guard or Reserves and the Regular Armed Forces.

Leave because of reasons (a) or (b) above must be completed within the 12-month period beginning on the date of birth or placement.

A *serious health condition* is defined as:

- A condition that requires inpatient care at a hospital, hospice or residential medical care facility,
- 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.

Generally, a *serious health condition* is one that results in a period of 3 consecutive days of incapacity with the first visit to the health care provider being within 7 days of the onset of the incapacity and a second visit within 30 days of the incapacity. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

Married Couple Both Employed at the Agency: If a husband and wife are both Agency employees 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 only take a combined total of 12 workweeks of leave. The leave must be taken within twelve (12) months of the birth or placement of the child. If a husband and wife are both Agency employees and each wish to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 workweeks of leave.

In accordance with the National Defense Authorization Act:

- Eligible employees may take up to 12 weeks family medical leave for a *qualifying exigency* related to a military member on covered active duty or who has been notified of an impending call or order to covered active duty. Covered family members include spouse, parent, and child; or
- An eligible employee who is the spouse, son, daughter, parent, or next of kin of a military member shall be entitled to a total of **26 workweeks** for military related medical treatment to care for the service member. Under the caregiver leave the twelve month period will be calculated rolling forward from the first day of leave.

The *qualifying exigency* must be for one of the following:

- Short-notice deployment
- Military events and related activities
- Child care and school activities
- Making/updating financial and legal arrangements
- Counseling
- Rest and recuperation (up to 15 calendar days)
- Parental care
- Post-deployment activities, and
- Additional activities that arise out of covered active duty, provided that the employer and employee agree on the timing and duration of the leave.

Military Caregiver Leave: An eligible employee can take up to 26 *workweeks* in a *single* 12 month period. However, only 12 of the 26 *workweek* total may be for a FMLA qualifying reason other than to care for a covered service member. The *single* 12 month period begins on the first day that the employee takes military caregiver leave and ends 12 months later.

Light Duty: Employees who accept light duty assignments while recovering from a serious health condition will not be charged with FMLA leave while performing light duty, provided the Employee has not exhausted his/her twelve (12) week annual FMLA allotment at the time light duty commences.

Calculation of Leave Allowable: To determine eligibility of an Employee for FMLA leave, the Agency will, at the time of the Employee's request, use the "rolling backward" method. With the rolling backward method, each time an employee takes FMLA leave, the remaining leave entitlement at that time would be the balance of the twelve (12) weeks that has not been used during the immediately preceding twelve (12) months; i.e., we will take a "snap-shot" of the preceding twelve (12) months to determine how much of the twelve (12) week leave time has already been used and then allow for the remainder to be used with the current request for leave.

Intermittent / Reduced Schedule Leaves: Family and Medical Leave need not always be taken in one continuous leave period. Leave may be taken "intermittently" or on a "reduced schedule" basis when medically necessary and with prior Agency approval. Generally, intermittent leave is

leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time. Reduced schedule leave is leave that reduces an Employee's number of scheduled working hours per day or per week. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the Agency's operations.

When planning medical treatment, a Employee should consult with his/her supervisor and his/her healthcare provider before scheduling treatment, in order to determine the schedule that least disrupts the departmental schedule while allowing the Employee to receive medical treatment. Leave due to qualifying exigencies may also be taken on an intermittent basis.

In the case of the birth or placement of a child by adoption or foster care, an intermittent or reduced schedule leave may be approved by the Employee's supervisor if staffing and workload permit. Intermittent or reduced schedule leave to care for a qualified sick family member or for an Employee's own serious health condition will be approved if the leave is medically necessary. When intermittent or reduced leave is requested, the Agency may require the Employee to transfer temporarily to an alternative position which better accommodates recurring periods of leave or a reduced schedule, provided that the positions have equivalent pay and benefits.

Procedure for Requesting Leave: Employees desiring to take Family and Medical Leave must give at least thirty (30) days advance notice prior to commencement of leave if the need for leave is foreseeable. If thirty (30) days' notice is not possible, the Employee must give as much notice as possible under the circumstances and comply with the Agency's call-in procedures. Failure to comply with the Agency's normal and customary FMLA notice and procedural requirements may result in delay or denial in FMLA leave.

FMLA Request Form: An Employee must complete an FMLA Request Form. The request must describe and provide sufficient information, including the anticipated timing and duration of the leave, for the Agency to determine if the leave may qualify for FMLA protection. The Employee must also inform the Agency if the requested leave is for a reason for which FMLA leave was previously taken or certified. A sample FMLA Request Form is attached as Exhibit A.

Certification of Physician: A Certification Letter from the healthcare provider must be provided for any leave request based on a qualifying family member's or Employee's own serious health condition. The Employee should see Human Resources to request copies of the application forms including the Healthcare Provider Certification Letter.

The Agency's FMLA Application will identify the *due date* for the Healthcare Provider Certification Letter. The *due date* will be no less than 15 calendar days from when you receive the certification letter form. Failure to provide a complete and sufficient medical certification, in a timely fashion, may result in a denial of your FMLA request.

Certification from the healthcare provider must contain, at a minimum:

1. The date the serious health condition began;
2. The possible duration of the condition;
3. The appropriate medical facts regarding the condition;

4. If the leave is based on the care of a spouse, child or parent, a statement that the Employee is needed to provide care and an estimate of the amount of time that need will continue;
5. If the leave is based on the Employee's own serious health condition, a statement that the Employee is unable to perform the essential functions of his/her job; and
6. In the case of intermittent leave or leave on a reduced hour basis for planned medical treatment, the date the treatment(s) is expected to be given and the duration of the treatment(s).

A sample Certification Letter is attached as **Exhibit B**. If the Agency believes that the Certification requires clarification or authentication, or is otherwise inadequate, the Agency HR Manager may contact the physician to obtain additional information, provided the Agency has first given the Employee written notice of any deficiency in the certification and seven (7) days to cure the deficiency.

The Agency also reserves the right to require certification from a covered military member's health care provider if you are requesting military caregiver leave and certification in connection with military exigency leave.

Second Opinion / Recertification: The Agency may, at its own expense, require the Employee to provide a second or third opinion from a healthcare provider if the Agency reasonably believes the Employee's request for leave is not properly substantiated. Second opinions and recertification will not be required for covered service members.

In certain situations, the Agency may ask for Recertification. If the initial Certification specifies a period of incapacity that is greater than thirty (30) days, the Agency will not request a Recertification until the initial period has passed. In all cases, the Agency may request Recertification at least every six (6) months. Additionally, in the case of intermittent leave, the Agency may ask the Employee to provide a fitness-for-duty certification every thirty (30) days if the Employee has used intermittent leave during that period and reasonable safety concerns exist.

Notice of Eligibility: The Agency will provide the Employee with a Notice of Eligibility and Rights & Responsibilities Letter within five (5) business days of receiving the Employee's request for leave under the FMLA. The Notice will notify the Employee of his or her eligibility to take FMLA leave as well as his or her rights and responsibilities under the FMLA. The Notice may also detail additional information required from the Employee regarding his or her leave request. A sample Notice of Eligibility is attached as **Exhibit C**.

When the Agency has enough information to determine that the leave is being taken for an FMLA-qualifying reason, the Agency will provide the Employee with a Designation Notice. The Designation Notice will inform the Employee that the leave will be designated as FMLA-protected and the amount of leave to be counted against his or her FMLA leave entitlement. The Agency will provide the Employee with a Designation Notice within five (5) business days after the Agency determines whether the leave requested qualifies as FMLA leave. A sample Designation Notice is attached as **Exhibit D**.

Requirement to Exhaust Paid Leave: Employees are required to use and exhaust all accrued paid time off (PTO) concurrent with FMLA leave. Once all PTO is exhausted, the remaining leave will be unpaid and be considered Leave Without Pay (LWOP). The substitution of paid leave time

for unpaid leave time does not extend the allowable applicable leave period. While on leave, Employees may not accrue PTO, including workers' compensation and/or disability leave.

Benefits Continuation While on Leave: An Employee on an approved FMLA may continue group health insurance coverage during the leave upon the same terms in place for all similarly situated employees who are not on FMLA leave.

In the event the Employee's right to payment is exhausted or payment is not adequate to cover the Employee's portion of the premium before the completion of the leave period, the insurance premiums, or portion thereof, normally paid by an Employee must be paid directly to the Agency during the time in which the Employee does not receive compensation. Premiums are due on a monthly basis, in advance of the coverage period.

The Agency will pay the individual life insurance premiums for Employees on LWOP status if they have at least five (5) years of service in the North Carolina Local Government Employee Retirement System or if they are receiving Workers' Compensation benefits.

An Employee's failure to pay his/her portion of the insurance premiums owed for dependent / spouse coverage will result in termination of the coverage after proper notice, at the end of thirty (30) days following commencement of the leave, or at the end of thirty (30) days following the date premiums became due.

An Employee who fails to return to work following FMLA leave is required to reimburse the Agency for premiums paid by the Agency to continue the employee's insurance coverage during the unpaid portion of the leave. This does not apply if the Employee is medically unable to return to work.

Additional Voluntary Benefits Continuation While on Leave: An Employee on an approved FMLA may continue his or her voluntary participation in other benefits programs, including but not limited to 401K, Roth IRA, Supplemental Life Insurance, Dependent Life Insurance, AFLAC, Flexible Spending Account, Dependent Care Account, Vision and Dental, offered by the Agency during the leave upon the same terms in place for all similarly situated employees who are not on FMLA leave.

In the event the Employee is on LWOP or the Employee's payment is not adequate to cover the Employee's portion of the premiums for participation in these voluntary benefits programs before the completion of the leave period, the premiums normally paid by an Employee must be paid directly to the Agency during the time in which the Employee does not receive compensation. Premiums are due on a monthly basis, in advance of the coverage period.

An Employee's failure to pay his or her portion of the premiums owed for his or her participation in these voluntary benefits programs will result in termination of the coverage after proper notice, at the end of thirty (30) days following commencement of the leave, or at the end of thirty (30) days following the date premiums became due.

Accrual of Benefits While on Leave: Vacation, sick leave and accrued holiday time will not continue to accrue during any portion of a FMLA leave that is unpaid. However, Employees retain benefits accrued prior to but not used during the leave.

Reinstatement Upon Return From Leave: Eligible Employees will be reinstated to their former position, or to an equivalent position, with equivalent pay, benefits, and working conditions upon

return from FMLA in accordance with these guidelines. If an Employee has been on leave due to his/her own serious health condition, a fitness for duty statement will be required to determine whether the Employee can perform the essential functions of the job.

However, reinstatement is not always required for certain highly compensated "Key Employees". If the Agency determines that reinstatement of a Key Employee would cause substantial and grievous economic injury to the operations of the Agency, reinstatement may be denied.

An Employee requesting FMLA leave will generally be notified, at the time of the request if he or she is a "Key Employee." If such notice cannot be given immediately, because of the Agency's need to determine whether the Employee is a Key Employee, notice will be given as soon as practical after receipt of the leave request (or the commencement of the leave, if earlier).

If the Agency determines, after the leave has begun, that the Agency will not be able to reinstate the Key Employee at the end of the leave, the Key Employee will be notified by the Human Resources Department in writing, and the Key Employee will be given a reasonable time in which to return to work. In such a case, the Key Employee's insurance coverage will continue in effect throughout the entire FMLA leave period.

Disability/Workers' Compensation Benefits: Employees on FMLA leave due to their own serious health condition may be eligible for payments from other sources such as Workers' Compensation or disability insurance. Employees should ask the Human Resources Department for more information if they think they are eligible for these benefits. The pay allowances while on disability leave are based on an Employee's length of service, as well as the laws of the state of employment.

Aggregate Date, Service Date and Annual Review Date: Employees who return from LWOP status will have their aggregate date, Agency service date and annual review date adjusted to reflect the time the Employee was actually off of the Agency's payroll.

Other Non-FMLA Leaves of Absence: Notwithstanding the FMLA policy outlined above, an Employee may qualify for other non-FMLA leaves of absence including Administrative Leave, Disaster Response Leave, Extended Family Leave, Extended Medical Leave, Military Leave and Parent-Child School Leave. However, none of these non-FMLA leaves of absence shall entitle an Employee to the FMLA-protected benefits detailed above including, but not limited to, Reinstatement upon Return from Leave and Benefits Continuation. Employees who qualify for FMLA leave may not automatically qualify for other non-FMLA medical leaves. Employee shall be required to apply and be approved for such leave independent of their FMLA-protected leave and will be subject to the terms and conditions of the applicable non-FMLA leave policy.

4.2 Administrative Leave (Leave without Pay for up to 30 days)

Effective 1/1/99, 12/9/09, 2/1/2010; Revised 1/23/2013

Policy

Administrative leave is leave without pay and may be granted for compelling personal reasons after the 90-day introductory period. The length of leave will be determined by the circumstances surrounding the situation but generally may not exceed 30 calendar days. Each case will be considered on its own merit.

Written request must be made to the supervisor stating the reason for the leave and the date of expected return. Final approval for the leave will be made by the department director.

Employees are responsible for all insurance premiums for individual and dependent coverage. Employees are also responsible for all premiums associated with the Employee's continued voluntary participation in other benefits programs, including, but not limited to 401K, Roth 401K, Supplemental Life Insurance, Dependent Life Insurance, ALFAC, Flexible Spending Account, Dependent Care Account, Vision and Dental, offered by the Agency.

In the event the Employee is on leave without pay status, or the Employee's payment is not adequate to cover the Employee's portion of the premiums for participation in these voluntary benefits programs before the completion of the leave period, the premiums normally paid by an Employee must be paid directly to the Agency during the time in which the Employee does not receive compensation. Premiums are due on a monthly basis, in advance of the coverage period.

No benefit time will be accrued while on leave without pay. This includes vacation, sick and holiday hours.

An Employee's failure to pay his or her portion of the premiums owed for his or her participation in these voluntary benefits programs will result in termination of the coverage after proper notice, at the end of thirty (30) days following commencement of the leave, or at the end of thirty (30) days following the date premiums became due.

Upon returning from leave without pay, employees will be offered a similar position to the one when going on leave, not necessarily the same shift and assignment. The employee may bid at the next shift bid for a new assignment.

Should an employee decide not to return at the end of Administrative Leave, they will be paid for all vacation leave and 25% of accrued sick leave (as defined in the sick leave and vacation benefit leave policies). Failure to return from Administrative leave will be considered a resignation.

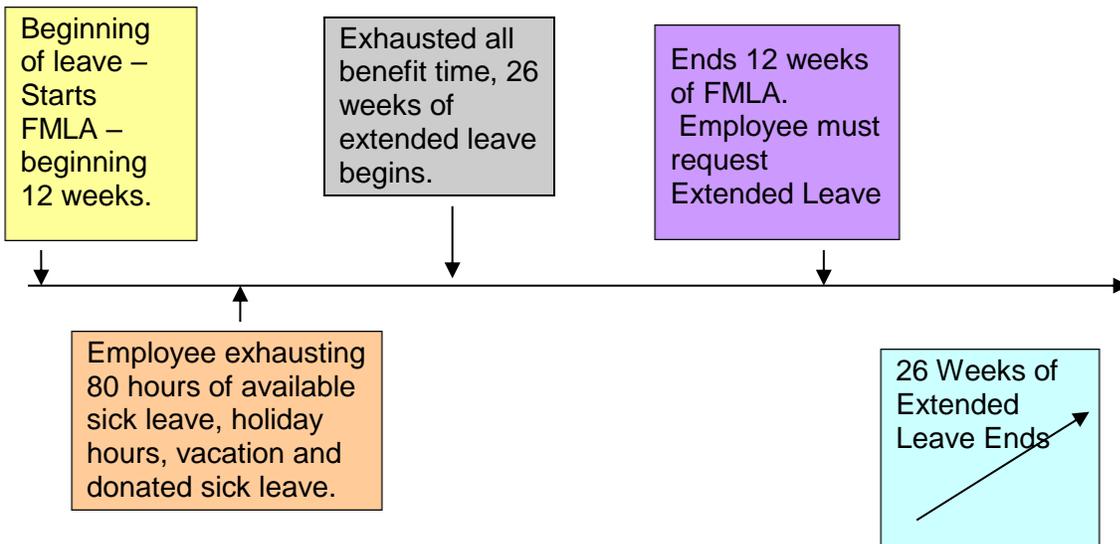
4.4 Extended Leave Without Pay (LWP) for more than 30 days
 Effective 2/1/2010; Revised 1/23/2013; 4/18/2013

Policy

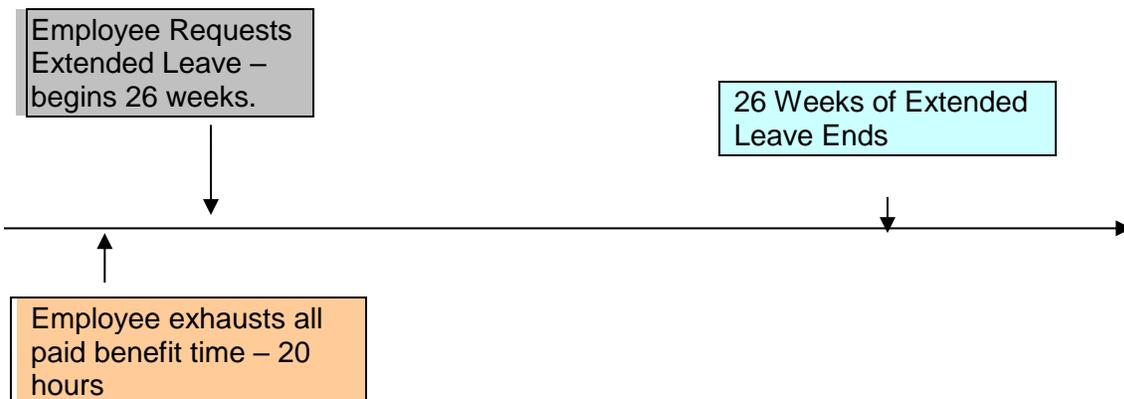
The Agency will grant eligible employees Extended Leave, leave without pay (LWP), for good and sufficient reason. Extended Leave will be considered for leave beyond FMLA and/or after the employee has exhausted all paid benefit time and donated sick time. If an employee is using benefit time to supplement short-term disability, the benefit time must be exhausted in order to be considered for LWP. Extended leave does NOT run concurrent to Worker’s Compensation. (See Workers’ Compensation Policy)

All regular, full-time employees are eligible to request Extended Leave. The Extended leave may be granted for up to a maximum of 26 weeks. (The 26 weeks may run concurrently with FMLA, but begins when paid time off is exhausted.)

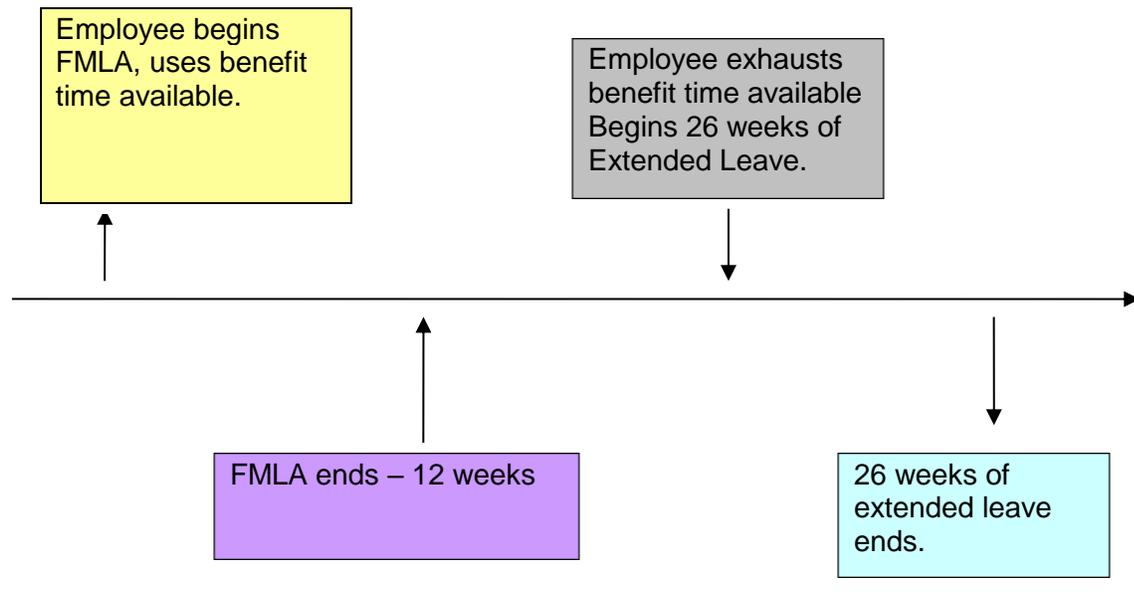
Example 1: Employee Eligible for FMLA, has some benefit time available.



Example 2: Employee Not Eligible for FMLA, has some benefit time available.



Example 3: Employee is eligible for FMLA and has 600 hours of benefit time available



The Employee shall be required to use and exhaust all appropriate benefit time; accrued Sick Leave (as defined in the Sick Leave Policy), Donated Sick Leave (as defined in the donation of sick leave policy), Holiday Time (as defined in the Holiday Time Policy) and Vacation Benefits Leave (as defined in the Vacation Benefits Leave Policy), in that order. Once all benefit time is exhausted, the remaining leave will be unpaid and be considered Extended Leave, or leave without pay (LWP). No benefit time will be accrued while on leave without pay. This includes vacation, sick and holiday hours.

Extended leave is intended to be taken in a block of time and will not be granted for intermittent leave. When an employee has exhausted the 26 weeks of allowable time, to be eligible to request an additional Extended Leave, an employee must have worked for the Agency for at least twelve (12) months since the previous Extended Leave ended and have worked at least 1,250 hours during the twelve (12) months prior to the onset of the leave period.

Requests for Extended Leave must be approved by the Department Director. Written requests and/or required documentation must be submitted to the department director for approval. Whenever possible, the request should be received by the department director at least 30 days prior to the beginning of the Extended Leave. The written request and/or documentation must be submitted to the Human Resources Department to be put in the employee's permanent personnel file.

An employee on *Extended Leave* is responsible for all individual and dependent medical and life insurance premiums. Premiums include both Medic and Employee *portions of the* premiums. *Employees are also responsible for all premiums associated with the Employee's continued voluntary participation in other benefits programs, including, but not limited to 401K, Roth 401K, Supplemental Life Insurance, Dependent Life Insurance, ALFAC, Flexible Spending Account, Dependent Care Account, Vision and Dental, offered by the Company.*

Employees on Extended Leave are responsible for payment to cover the Employee's and Medic's portion of the premiums for participation in these voluntary benefits programs before the completion of the leave period, the premiums normally paid by an Employee must be paid directly to the Agency during the time in which the Employee does not receive compensation. Premiums are due on a monthly basis, in advance of the coverage period.

An Employee's failure to pay the premiums owed for his or her participation in these benefits programs will result in termination of the coverage after proper notice, at the end of thirty (30) days following commencement of the leave, or at the end of thirty (30) days following the date premiums became due.

REPLACEMENT AND RETURN FROM EXTENDED LEAVE

Employees returning from Extended Leave will have their aggregate date, Agency service date and annual performance evaluation date adjusted equal to the amount of time they were actually off the payroll.

When the employee is on Extended Leave the employee's position may be filled if the employee is not otherwise eligible for FMLA leave. Upon returning from leave without pay, employees may be offered a similar position to the one when going on leave if available, but not necessarily the same shift and assignment. The employee may bid at the next shift bid for a new assignment.

Following a leave, the Agency reserves the right to ask for a completed physical ability assessment and/or be evaluated by a physician (to be approved by the Agency) prior to a full and unrestricted return to duty. Any assessment will be paid for by the Agency.