

Supplemental Addendum on Leaves of Absence for New York Employees

TITLE: Supplemental Guidance on Leaves of Absence for New York Employees

DOCUMENT NUMBER: CHR-OPS-Leaves 001.02

VERSION: 1.0

EFFECTIVE DATE: June 1, 2018

New York employees

Purpose

The Leave of Absence Standard adopted by Stryker provides guidance regarding how Stryker handles certain leaves for eligible employees. The Leave of Absence Standard is designed to apply to all eligible employees. Because of unique aspects related to leaves of absence in New York, this document provides supplemental guidance to the Leave of Absence standard that will ensure uniform administration of leaves of absence for Stryker New York employees.

Scope

This Standard applies to all Stryker (“the Company”) employees working within the state of New York, or who routinely perform work in New York and whose work is directed and controlled in New York.

Related documents

Leave of Absence Standard CHR-OPS-Leaves-001.

General requirements

This standard will identify the Company’s general policy and administration of employee leaves of absence that are covered by New York law.

Procedure

1.0 New York Paid Family Leave

- 1.1 **Overview of leave provisions:** In addition to leave under the Family and Medical Leave Act (“FMLA”), both “Basic FMLA Leave” and “Military Family Leave” described in CHR-BEN-001, employees who work within the state of New York have additional leave requirements as dictated by the New York Paid Family Leave (“NYPFL”).
- 1.2 A Company with employees working in New York for 30 or more days in a calendar year is required to provide Paid Family Leave coverage. Family Leave is a benefit for people who work in New York; it does not matter where the Company is headquartered or where the employee lives. NYPFL is provided by The Hartford.
- 1.3 Under New York law, NYPFL leave may be used for one of the following reasons:
 - 1.3.1 The birth, adoption, or foster care of an employee’s child within 12 months following birth or placement of the child (“Bonding Leave”). Leave can be utilized even if the birth took place prior to the effective date of the NYPFL legislation so long as it is within 12 months from the date of the birth, adoption or foster care.
 - 1.3.2 To care for a seriously ill family member (spouse, declared domestic partner, child (biological, adopted, foster, step-, child of a domestic partner, or the child to whom the employee stands in loco parentis, parent in law, grandparent and grandchild) with a serious health condition (“Family Care Leave”); or address important needs related to a family member’s military service (excludes grandparent and grandchild).

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2.0 Eligibility

2.1 Employees must be employed by a covered Company at the time they apply for Paid Family Leave. Employee eligibility requirements are as follows:

2.1.1 Employees with a regular work schedule of 20 or more hours per week are eligible after 26 weeks of employment

2.1.2 Employees with a regular work schedule of less than 20 hours per week are eligible after 175 days worked

2.1.3 Employees whose regular work schedules are temporary or seasonal may opt out of Paid Family Leave in limited circumstances.

2.1.4 Employees who hold more than one job may take NYPFL from both jobs, but they must do so with both Companies at the same time

2.1.5 Citizenship and immigration status do not impact the worker's eligibility for NYPFL

2.2 Bonding with a child

2.2.1 A parent may take NYPFL during the first 12 months following the birth, adoption, or fostering a child. This includes children born, fostered or adopted in 2017 as long as the leave is taken within the first 12 months of the birth, adoption or fostering.

2.2.2 Spouses with different employers are both eligible to take NYPFL at the same time. If both spouses work for the Company, we can deny NYPFL to one of the spouses if they have asked for the same period of time off to bond with the same child. Stryker will make every effort to allow both New York employees to have the same timeframe off and will review each request to determine the impact to the business at the time of the request.

2.3 Family care

2.3.1 A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

2.3.1.1 Inpatient care in a hospital, hospice, or residential health care facility; or

2.3.1.2 Continuing treatment or supervision by a health care provider. Conditions such as the common cold, the flu, earaches, upset stomach, minor ulcers, routine dental or orthodontia problems, and periodontal disease do not meet the definition of a serious health condition. This listing is not all inclusive and Stryker will review each request for leave of absence at the time of the request to determine eligibility.

2.4 Active military duty deployment

2.4.1 Employees can take leave to assist with obligations arising out of deployment of the military member, for example:

2.4.1.1 Making alternative child care arrangements for a child of a deployed military member

2.4.1.2 Attending certain military ceremonies and briefings and

2.4.1.3 Making financial or legal arrangements to address the military member's absence.

2.4.1.4 This leave is in addition to the federal FMLA regulations

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2.5 Childbirth

- 2.5.1 The documentation required for a NYPFL claim to bond with a new child is dependent upon whether the applicant is the birth mother or the second parent. A second parent is a parent other than the birth mother.
- 2.5.2 The birth mother must submit the birth certificate to their Benefit team, if available, or documentation of pregnancy or birth from a health care provider. The document must include mother's name and the child's due date or date of birth.
- 2.5.3 If it is the second parent they must submit a birth certificate naming them as a parent. If the birth certificate is not available naming them as a parent, the second parent may submit a Voluntary Acknowledgement of Paternity or a Court Order of Filiation naming them as a parent.
- 2.5.4 **If those documents are not available the second parent can submit the birth mother's health care provider and a marriage certificate or evidence of a civil union or domestic partnership to demonstrate the relationship to the birth mother. If none of the other documents are available, the second parent may submit other documentation showing a parental relationship to the child for case by case evaluation.**

2.6 Adoption

- 2.6.1 To use NYPFL in an adoption situation, the employee is required to provide the court document finalizing the adoption or a document that indicates that the adoption is in process to their myHR team. Examples of proof of a pending adoption would include a signed statement from an attorney, adoption agency, or adoption related social services provider indicating that employee is in process of adopting a child.
- 2.6.2 If the second parent is not named in that document, they must also file documentation verifying the relationship to the parent named in the adoption.
- 2.6.3 A second parent's claim for paid family leave to bond with a child: must be supported by documentation in the form of:
 - 2.6.3.1 If available, a birth certificate;
 - 2.6.3.2 If no birth certificate is available, a voluntary acknowledgment of paternity or court order of filiation.
 - 2.6.3.3 If the documents in (1) and (2) herein are not available, then the employee must provide a copy of documentation of pregnancy or birth from a health care provider that includes the mother's name and the child's due or birth date and a second document verifying the parent's relationship with the birth mother or child (*i.e.* marriage certificate, civil union documents, or domestic partner documents).
 - 2.6.3.4 If the documents herein are not available a parent may submit other documentary evidence of parental relationship for evaluation on a case-by-case basis.

2.7 Serious health condition

- 2.7.1 A claim for NYPFL to care for a family member with a serious health condition requires a completed medical certification, completed by recipient's health care provider.

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- 2.7.2 An authorization for personal health disclosure form is required by the HIPAA Privacy Rule and must be completed by the care recipient and retained on file with the health care provider in order to submit the required medical information.

2.8 Active military deployment

A claim for NYPFL to assist loved ones when a family member is deployed abroad on active military duty generally requires either a PFL-5 "Military Qualifying Event" certification or a US DOL "Certificate of Qualifying Exigency for Military Family Leave." The forms include military documentation of the family member's deployment or impending deployment, active duty orders or other notice from the military and documentation for the reason for the leave.

3.0 Benefits

- 3.1 For the approved leave term, the Company will maintain the employee's healthcare coverage. Any employee contributions to employee benefit plans must be maintained during the leave to continue coverage. If the employee's premium payment is more than 30 days late, the Company may elect either to cancel benefits coverage (after written notice to the employee at least 15 days in advance) or to pay for the coverage and to obtain reimbursement by payroll deduction when the employee returns to work. An employee who fails to return from a leave will be obligated to reimburse the Company for the cost of company-paid benefits, except when the employee's failure to return from leave is due to the continuation, recurrence or onset of a serious health condition or due to other circumstances beyond the employee's control.
- 3.2 The use of FMLA leave will not result in the loss of any employment benefit that accrued or was earned prior to the start of the employee's leave. The period of leave will be treated as credited service for purposes of all benefit accrual, accumulation, vesting or eligibility to participate in a benefit plan.
- 3.3 For any leave that is paid during the FMLA period, the employee will continue to receive voluntary benefit coverage (e.g. supplemental life insurance, employee stock purchase plan, etc.) according to the terms of the plan. All voluntary benefit coverage that the employee wishes to maintain during unpaid FMLA leave is the responsibility of the employee. The employee will either make arrangements for payments during the leave, or will reimburse the Company by payroll deduction at the conclusion of the leave.
- 3.4 Each year the percentage that they NY employee can receive may change. It will be the Benefits Manager's responsibility to update the Standard and advise the myHR LOA team of the change.

4.0 Return to work

- 4.1 Before you will be allowed to return to work following a leave of absence or transfer, you must provide the Benefits team with a certification from your health care provider that you can perform safely all of the essential duties of your position, with or without reasonable accommodation. If you do not provide such a release prior to or upon reporting for work, you will be sent home until a release is provided. This time before the release is provided will be unpaid.
- 4.2 Upon return from NYPFL leave, an employee will be restored to his/her same position or to an equivalent position with equivalent pay, benefits, and other employment terms. The employee will not lose any employment benefit that accumulated, accrued or was earned prior to the start of the leave. The Company may deny an employee's request to return to work prior to the prearranged expiration of the leave.

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- 4.3 Performance Review: Any performance review will reflect the employee's performance for the time actually worked. Employees will not be treated any differently for review, salary or bonus purposes because they were on leave on an NJFLA leave. Employees must meet all other eligibility requirements for merit increases and bonus payments.

Document change history

Version no.	Revision level	Reason and description of revision	Issue date	Effective date
1.0	Initial Release of policy	Not Applicable		June 1, 2018