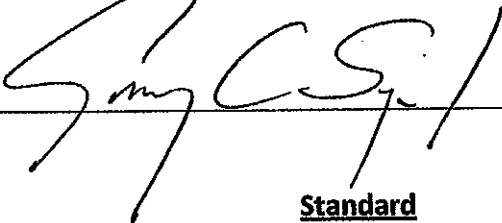


**Catholic Charities Disabilities Services
Agency Standard and Procedure**

Standard Category	HR
Standard Title	Family and Medical Leave Act (FMLA)
Original Issue Date	
Latest Revision Date	January 4, 2011
Number of Pages	6
Attachments	<ul style="list-style-type: none"> • Request for family and medical leave of Absence (CC-7 Form) • Certification of physician or practitioner (CC-7a Form) • Employer Response to Employee Request for Family or Medical Leave (CC-7b Form) • Employer Response to Employee Request for FMLA for Military Caregiver or Qualifying Exigency Leave (CC-7m Form)
Approved by: Gary Siegel, Executive Director	

Standard

It is the practice of Catholic Charities of the Diocese of Albany to grant up to 12 weeks of family and medical leave during any 12-month period to eligible employees, in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid, unpaid or a combination of both depending on the circumstances of the leave as specified in this standard.

The agency will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this standard. Each time an employee takes leave, the agency will compute the amount of leave the employee has taken under this standard and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An employee who uses the full 12 weeks of family and medical leave and needs additional time beyond the 12 weeks may request an extension. Each request will be evaluated on a case-by-case basis, to determine if the extension can be granted and still meet the operational needs of the agency.

If spouses both work for Catholic Charities of the Diocese of Albany, they may be limited to a combined total of 12 weeks of FMLA during any 12 month period. Leaves will need to be coordinated to ensure the operational needs of the agency are met.

Eligibility

To qualify to take FMLA under this standard, the employee must meet all of the following conditions:

- A. 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. For eligibility purposes, if an employee was on the payroll

for only part of a week or is on leave during the week, they will be considered to have been employed for an entire week.

- B. The employee must have worked at least 1250 hours during the 12month 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 1250 hours eligibility test for an employee under FMLA.
- C. 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. The placement of a child for adoption or foster care and to care for the newly placed child;
 - 3. To care for a spouse, child or parent with a serious health condition; or
 - 4. The serious health condition (described below) of the employee; or
 - 5. Effective 01/28/08 Qualifying Exigency Leave – an employee’s spouse, son, daughter, or parent is on active duty or called to active duty status as a member of the National Guard or Reserves in support of a contingency operation; or
 - 6. Effective 01/28/08 Military Caregiver Leave – to care for a spouse, son, daughter, parent, or next of kin who is 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.

Effective June 22, 2010 the U.S. Department of Labor (DOL) clarified the definition of “son and daughter” under FMLA to ensure that an employee who assumes the role of caring receives parental rights to family leave regardless of the legal or biological relationship. The employer may require a statement stating what the employee’s relationship to the child in situations around FMLA.

Serious Health Condition

“Serious health condition means” an illness, injury, impairment, or physical or mental condition that involves either:

- 1. Inpatient care (i.e. an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (i.e. inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
- 2. Continuing treatment by a health care provider, which includes:
 - a. A period of incapacity lasting more than three consecutive, full calendar days, and any period of subsequent treatment for incapacity related to the same condition that also includes:
 - i. Treatment two or more times by or under the supervision of a health care provider (i.e., in person visits, the first within seven days and both within 30 days of the first day of incapacity); or

- ii. One treatment by a health care provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (i.e., prescription of medication, physical therapy); or
- b. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
- c. Any period of Incapacity of treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
- d. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment, or
- e. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

Employees with questions about what illnesses are covered under this FMLA policy or under the agency's sick leave policy are encouraged to consult with their designated HR contact.

The employee is required to provide a doctor's certification of the serious health condition. The certification process is outlined below.

Military Caregiver Leave

Military Caregiver Leave entitles an employee who is the spouse, son, daughter, parent or "next of kin" of a covered servicemember with a serious illness or injury that happened in the line of duty to take leave up to 26 weeks in a 12 month period. Spouses both employed by Catholic Charities of the Diocese of Albany are limited to a combined total of 26 weeks in a single 12 month period. The servicemember can designate a "next of kin" in writing. If no designation, the following order of priority is used to determine who "next of kin" is: blood relative with legal custody of servicemember, sibling, grandparent, aunt/uncle, first cousin. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, therapy, outpatient, or has been placed on the temporary disability retirement list by the military.

Qualifying Exigency Leave

An employee is eligible for up to a total of 12 weeks of leave during a 12 month period for qualifying exigencies arising out of the fact that the employee's family member (spouse, child or parent) who is a member of the National Guard or Reserves is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency cooperation. Please note that "next of kin" definition applicable under Military Caregiver Leave does not apply to qualifying exigency leave.

Examples of a qualifying exigency are:

1. **Short notice deployment** – notified of impending call or order to active duty seven (7) days or less before deployment

2. **Military events and related activities** – attendance at official ceremony, program or event sponsored by military that is related to active duty. Attendance at family support programs or informational briefings
3. **Childcare and school activities** – arrange for alternative childcare, provide childcare on urgent immediate basis, enroll in new school or attend meetings at school/daycare. A covered child is defined as being biological, adopted, foster child, step child, or legal ward of a covered military member, or a child for whom a covered military member stands in loco parentis, who is either under the age of 18 or age 18 or older and incapable of self-care because of a mental or physical disability at the time the FMLA is to commence.
4. **Financial and legal arrangements**
5. **Counseling**
6. **Rest and recuperation**- spend up to five (5) days leave with a covered military member who is on short-term temporary rest and recuperation leave.
7. **Post-deployment activities** – attend arrival ceremonies, reintegration briefings or events or other official ceremonies sponsored by the military for up to 90 days after termination of active duty. Or, to address issues arising from the death of a covered military member while on active duty status.

Use of Paid and Unpaid Leave

- A. The agency will respond to an employee's request for FMLA within reasonable time.
- B. An employee who is taking leave because of the employee's own serious health condition or the serious health condition of a family member must use all accrued CLT or MLT leave prior to being eligible for unpaid leave. If an employee takes paid leave for a condition that progresses into a serious health condition, then the agency may designate all or some portion of related leave taken as FMLA.
- C. An employee, who has been approved under FMLA to take time off, as defined by FMLA, will be able to access accrued MLT after meeting the requirement for taking the first week as CLT. If no CLT is available, the first week will be unpaid.
- D. If eligible for disability benefits, benefits will run concurrently with FMLA. For example, if disability benefits provide six weeks of coverage for the birth of a child, those six weeks of disability benefits will count towards the 12 weeks of FMLA entitlement. The employee will be required to use accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement.
- E. An employee who is taking leave for the adoption or foster care of a child must use all paid leave prior to being eligible for unpaid leave.
- F. The amount of paid leave time used for the employee's own serious illness must be offset by the amount of any temporary disability pay that is received (i.e. NY State Short-Term Disability or workers' compensation benefits).

Intermittent Leave or a Reduced Work Schedule

- A. An employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) 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 over a 12-month period.

B. The agency 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.

C. For the birth, adoption or foster care of a child, the agency 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 within one year of the birth or placement of the child.

D. If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee will be required to provide proof of medical necessity. The employee should try to reach an agreement with the agency before taking intermittent leave or working a reduced hour schedule.

Employee Status and Benefits during Leave

A. While an employee is on leave, the agency will continue the employee's benefits during the leave period at the same level and under the same conditions as if the employee were continuing to work.

B. 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 employee is required to reimburse the agency the entire amount the agency paid for the employee's benefit premiums during the leave period.

C. Under current agency practice, the employee pays a portion of the benefit premium. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must make arrangement to continue paying their share of the premium. Failure to make these payments as agreed may affect the employee's insurance coverage, as well as that of any covered dependents.

D. For voluntary benefits or Flexible Spending Accounts for which the employee normally pays through payroll deduction, the employer will continue making payroll deductions while the employee is on *paid* leave. While the employee is on *unpaid* leave, the employee may request continuation of such benefits and pay their portion of the premiums. The agency may recover the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

Employee Status after Leave

A. An employee who takes leave under this standard will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one that is virtually identical in terms of pay, benefits and working conditions.

B. The agency may choose to exempt certain highly compensated employees from this requirement and not return them to the same or similar position.

Agency procedure

1. All employees requesting leave under this policy must either provide verbal notice to Human Resources or their supervisor, or complete the FMLA Request Form (CC-7) and submit it to Human Resources. Failure of the employee to provide a written request for leave does not affect eligibility for FMLA leave.
2. The agency will provide individual notice of eligibility to each employee requesting leave as soon as practicable. For employees on intermittent or recurring leave for the same incident, this notice will be provided every six months.
3. When an employee plans to take leave under this policy, the employee must give the agency 30 days' notice. If it is not possible to give 30 days' notice, the employee must give as much notice as is practicable. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the agency's operations.
4. If an employee fails to provide 30 days' notice for a foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date that the employer receives notice. While on leave, employees are requested to report periodically to the agency regarding the status of the medical condition and their intent to return to work.
5. The agency reserves the right to grant or designate an employee's request for a leave as an FMLA leave, based on the criteria and definitions provided by the Act.
6. In some cases, an employee who needs time off for his/her own serious health condition may be ineligible for this leave under FMLA, but may be eligible for accommodation under the New York State Human Rights Law. While there is no guarantee of approval, every consideration for this type of request will be evaluated on a case-by-case basis to determine the agency's ability to accommodate the leave request and still meet the operational and program needs of the agency.

CATHOLIC CHARITIES OF THE DIOCESE OF ALBANY

**REQUEST FOR FAMILY AND MEDICAL LEAVE OF ABSENCE (CC-7 Form)
(Family and Medical Leave Act of 1993)**

Employee's Name: _____ Today's Date: _____

Address: _____

City: _____ State: _____ Zip: _____

Reason for taking leave: (check one)

- To care for my child after birth, or placement for adoption or foster care;
- To care for my spouse, son or daughter, or parent, who has a serious health condition;
- For my own health condition that makes me unable to perform my job;
- To care for a covered servicemember with a serious illness or injury;
- For a qualifying exigencies arising out of the fact a family member (spouse, child or parent) is on active duty, or has been notified of an impending call or order to active duty.

For leaves to be taken all at once: Starting Date _____ Return-to-Work Date _____

For leaves to be taken on an intermittent or reduced-workweek basis, list the schedule of time off that will be required:

Please be sure to include any supporting documentation to help determine your eligibility (Certification Form CC-7a and/or Disability Form DB-450)

Employee's Signature: _____ Date: _____

Agency's Signature: _____ Date: _____

Name and Address of Catholic Charities Agency: _____

**CATHOLIC CHARITIES OF THE DIOCESE OF ALBANY
 CERTIFICATION OF PHYSICIAN OR PRACTITIONER (CC-7a Form)
 (Family and Medical Leave Act of 1993)**

1. Employee's Name: _____
2. Patient's Name (if other than employee): _____
3. Relationship to Patient: _____
4. Date Condition Began: _____
5. Probable Duration of Condition: _____
6. Regimen of treatment to be prescribed (Indicate number of visits, general nature and duration of treatment, including referral to another provider of health services. Include schedule of visits or treatment, if it is medically necessary for the employee to be off work on an intermittent basis or to work less than the employee's normal schedule of hours per day or days per week):
 - a. By Physician or Practitioner:
 - b. By another provider of health services, if referred by Physician or Practitioner:

IF THIS CERTIFICATION RELATES TO CARE FOR THE EMPLOYEE'S SERIOUSLY ILL FAMILY MEMBER, SKIP ITEMS 7,8 AND 9 AND PROCEED TO ITEMS 10 THROUGH 14 ON THE SECOND PAGE, OTHERWISE, CONTINUE BELOW.

Check YES or NO in the boxes below, as appropriate.

- | | YES | NO |
|--|--------------------------|--------------------------|
| 7. Is inpatient hospitalization of the employee required? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Is employee able to perform work of any kind? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. If 'Yes' to '8', is employee able to perform the functions of position? | <input type="checkbox"/> | <input type="checkbox"/> |

(Please answer this question after reviewing statement or job description from employer regarding essential functions of the employee's position, or, if none was provided, after discussing with the employee.)

Signature of Physician/Practitioner: _____

Type of Practice/Specialization: _____ Date _____

Employee Signature: _____ Date _____

(Continued)

CERTIFICATION OF PHYSICIAN OR PRACTITIONER (CC-7a Form), Continued

COMPLETE ITEMS 10 THROUGH 14 FOR CERTIFICATION RELATING TO CARE FOR THE EMPLOYEE'S SERIOUSLY ILL FAMILY MEMBER, ONLY:

- | | YES | NO |
|---|--------------------------|--------------------------|
| 10. Is inpatient hospitalization of the family member (patient) required? | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Does or will the patient require assistance for basic medical, hygiene, nutritional need, safety or transportation? | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. After review of the employee's signed statement (See item 14, below), is the employee's presence necessary or would it be beneficial for the care of the family member? (This may include psychological comfort.) | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Estimate the period of time the employee will need to take care of or be present with the family member: _____ | | |

ITEM 14 IS TO BE COMPLETED BY THE EMPLOYEE WHO NEEDS FMLA FOR FAMILY

14. When Family Leave is needed to care for a seriously ill family member, the employee shall state the type of care that he/she will provide and an estimate of the time period during which this care will be provided, *including a schedule if leave is to be taken intermittently or on a reduced leave schedule.*

15. Signature of Physician/Practitioner: _____

Type of Practice/Specialization: _____ Date: _____

Employee's Signature: _____ Date: _____

CATHOLIC CHARITIES OF THE DIOCESE OF ALBANY

**Employer Response to Employee Request for Family or Medical Leave (CC-7b Form)
(Family and Medical Leave Act of 1993)**

TO: _____ DATE: _____
(Name of Employee)

FROM: _____
(Name of Employer Representative)

SUBJECT: **Request for Family/Medical Leave**

On _____ you notified us of your need to take Family/Medical leave due to:

- The birth of a child, or the placement of a child for adoption or foster care; or
- A serious health condition affecting your spouse, child, or parent for whom you need to provide care; or
- Your own serious health condition

You notified us that you need this leave beginning on _____ and that you expect the leave to continue until on or about _____.

This is to inform you that:

_____ You are eligible (see attached rights and responsibilities)

_____ You are **not** eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):

You have not met the FMLA's 12 month length of service requirement. As of the first date of requested leave, you will have worked approximately _____ months toward this requirement.

You have not met the FMLA's 1,250 hours worked requirement

If you have any questions, contact _____ at _____.

Comments:

Employer's Signature: _____ Date: _____
(Name of Authorized Agency Representative)

NOTE: If you meet the eligibility requirements for taking FMLA leave you must return the documents outlined under Rights and Responsibilities in order for us to complete your approval for leave.

Rights and Responsibilities for taking FMLA leave

Please review the following items that have been checked. This information is needed in order to complete your approval for leave.

_____ Sufficient certification to support your request for FMLA

- Disability Paperwork – form DB-450
- Medical Certification Form CC-7a

_____ Sufficient documentation to establish the required relationship between you and your family member. _____

_____ Other information needed:

You will have the following responsibilities while on FMLA leave:

- ❖ You will be required to use any and all accrued CLT and/or MLT prior to taking unpaid leave.
- ❖ We will maintain your benefits while you are on leave.
- ❖ If you normally pay a portion of the premiums for your benefits, these payments will continue during the period of paid FMLA leave.
- ❖ If any portion of your leave is unpaid, you are obligated to make arrangements and repay your portion of the premiums. Please note that if you fail to make arrangements, any unpaid premiums will be deducted from your paycheck(s) upon return from leave.
- ❖ You have a 30-day grace period in which to make payment. If payment has not been made timely, your benefits may be canceled.
- ❖ For your own personal medical leave, you will be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until such certification is provided.
- ❖ For FMLA leaves for immediate family members, you will not be required to present a fitness-for-duty certificate prior to being restored to employment.
- ❖ You will be required to furnish us with periodic reports of your status and intent to return to work while on FMLA leave.
- ❖ You may be required to furnish re-certification every 30 days relating to a serious health condition.
- ❖ If the circumstances of your leave change and you are able to return to work earlier than the date indicated on this form, you will be required to notify us prior to the date you intend to report for work to make arrangements.

You have the following rights while on FMLA leave:

- ❖ You have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as a “rolling” 12 month period measured backward from the date of any FMLA leave usage.

❖ Your benefits will be maintained, under the terms and conditions listed above, during any period of unpaid leave under the same conditions as if you continued to work.

❖ You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)

❖ If you do not return to work following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

CATHOLIC CHARITIES OF THE DIOCESE OF ALBANY

**Employer Response to Employee Request for FMLA for Military Caregiver or Qualifying Exigency
Leave (CC-7m Form)
(Family and Medical Leave Act amended by the NDAA January 2008)**

TO: _____ DATE: _____
(Name of Employee)

FROM: _____
(Name of Employer Representative)

SUBJECT: **Request for Family/Medical Leave**

On _____ you notified us of your need to take Family/Medical leave due to:

- A qualifying exigency arising out of the fact that your spouse, child, or parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves
- You are the spouse, son or daughter, parent, or next of kin of a covered service member with a serious injury or illness.

You notified us that you need this leave beginning on _____ and that you expect the leave to continue until on or about _____.

This is to inform you that:

_____ You are eligible (see attached Rights and Responsibilities) for:

- Military Caregiver Leave (up to 26 weeks of leave)
- Qualifying Exigency Leave (up to 12 weeks of leave)

_____ You are **not** eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):

- You have not met the FMLA's 12 month length of service requirement. As of the first date of requested leave, you will have worked approximately _____ months toward this requirement.
- You have not met the FMLA's 1,250 hours worked requirement

If you have any questions, contact _____ at _____.

Comments:

Employer's Signature: _____ Date: _____
(Name of Authorized Agency Representative)

NOTE: If you meet the eligibility requirements for taking FMLA leave you must return the documents outlined under Rights and Responsibilities in order for us to complete your approval for leave.

Rights and Responsibilities for taking FMLA leave

Please review the following items that have been checked. This information is needed in order to complete your approval for leave.

_____ Sufficient documentation to establish:

- Military Caregiver Leave
- Qualifying Exigency Leave

_____ Sufficient documentation to establish the required relationship between you and your family member

_____ Other information needed:

You will have the following responsibilities while on FMLA leave:

- ❖ You will be required to use any and all accrued CLT and/or MLT prior to taking unpaid leave.
- ❖ We will maintain your benefits while you are on leave.
- ❖ If you normally pay a portion of the premiums for your benefits, these payments will continue during the period of paid FMLA leave.
- ❖ If any portion of your leave is unpaid, you are obligated to make arrangements and repay your portion of the premiums. Please note that if you fail to make arrangements, any unpaid premiums will be deducted from your paycheck(s) upon return from leave.
- ❖ You have a 30-day grace period in which to make payment. If payment has not been made timely, your benefits may be canceled.
- ❖ For FMLA leaves for immediate family members, you will not be required to present a fitness-for-duty certificate prior to being restored to employment.
- ❖ You will be required to furnish us with periodic reports of your status and intent to return to work while on FMLA leave.
- ❖ If the circumstances of your leave change and you are able to return to work earlier than the date indicated on this form, you will be required to notify us prior to the date you intend to report for work to make arrangements.

You have the following rights while on FMLA leave:

- ❖ You have a right under the FMLA for up to 12 weeks of unpaid leave for Qualifying Exigency Leave and up to 26 weeks of unpaid leave for Military Caregiver Leave in a 12-month period calculated as a "rolling" 12 month period measured backward from the date of any FMLA leave usage.
- ❖ Your benefits will be maintained, under the terms and conditions listed above, during any period of unpaid leave under the same conditions as if you continued to work.
- ❖ You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)
- ❖ If you do not return to work following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.