

## Family Medical Leave Act (FMLA) Policy for Managers

### INTRODUCTION

The purpose of Gallagher's Family and Medical Leave of Absence (FMLA) Policy is to provide eligible employees up to 12 weeks of unpaid leave to fulfill family obligations relating to the birth, adoption or foster placement of a child, or to handle critical issues arising out of their own or a qualifying family member's **serious health condition** (a term described below).

### POLICY/PROCEDURE

#### 1.0 Description of Family & Medical Leave of Absence (FMLA)

An approved leave of absence is available to eligible employees for up to 12 weeks\* of unpaid time in a rolling 12-month period under specific circumstances. The rolling 12-month period is measured backward from the date an employee begins an FMLA leave.

**Example:** If an employee uses 8 hours of FMLA on 1/23/2023, those 8 hours of FMLA are "refreshed" or re-accrued beginning on 1/23/2024. FMLA is accrued incrementally, not all at once.

FMLA leave is triggered once an employee has been absent *in excess of three (3) or more consecutive days, or as otherwise provided under the Federal Family and Medical Leave Act of 1993*. An employee returning from an approved leave will be restored to the position held when the leave began, or to an equivalent position if that position is no longer available.

Depending upon the need, FMLA leave may be taken in one of three ways: continuous; intermittent; or reduced schedule. FMLA taken on an intermittent or reduced schedule basis must be medically necessary due to the nature of the serious health condition of the employee or their family member. In addition, FMLA consideration is needed for time off during the work day for regular and scheduled appointments; (e.g., pre-natal or other recurring medical appointments). If leave is requested on this basis, the employee must first make reasonable efforts to schedule medical treatment during non-work time.

*\*Some state and local laws provide for more or less than 12 weeks under certain circumstances. An employee should contact Gallagher's Leave Administrator or their local HR Leader to determine whether any state and local law applies to their situation. Regardless of an employee's state law, an employee may be eligible for at least the federal FMLA leave entitlement.*

#### 2.0 Eligibility

##### 2.1 Length of Service Requirement

To be eligible for FMLA, the employee must satisfy two preconditions: (a) at least 12 months of credited service\*\* with Gallagher; and (b) at least 1,250 hours actually worked during the 12 months prior to the effective date of the requested leave.

*\*\* Some state laws have lower service requirements for their equivalents to the federal FMLA. Contact Gallagher's Leave Administrator or the HR Leader to determine if this will apply to your situation.*

## **2.2 Type of Leaves Eligible for FMLA Coverage (see the Military FMLA policy for other covered leaves)**

- The birth of the employee's child and to care for such child; (The leave must be completed within 12 months of birth.)
- The placement of a child with the employee for adoption or foster care; (The leave must be completed within 12 months of placement.)
- Care for a child (*including a child for whom the employee stands in the place of a parent*), spouse, parent, or domestic partner (as defined by the [Gallagher Domestic Partner Policy](#)) with a **serious health condition**; or
- The employee's own **serious health condition** which renders the employee unable to perform the functions of their position.

## **2.3 FMLA for the Purpose of Bonding with New Child**

Eligible employees may request FMLA to bond with a newborn or newly placed child. If your employee will be delivering the child, they may also be eligible for STD benefits. Please see the [Short-Term Disability \(STD\) Procedures Document](#) for more information on this benefit. Child bonding leave may be taken on a continuous basis, or intermittent basis. Intermittent bonding leave must be taken in increments of no less than one (1) week, unless a different state law expressly permits employees the option to bond in lesser increments. A one (1) week increment means five (5) consecutive working days (i.e. if The Hartford approves the claim beginning on a Tuesday then the one (1) week increment will be through the following Monday). Contact the Gallagher Leave Administrator if you have questions about your state's laws. If your employee would like to add their newborn or newly placed child to Gallagher's medical coverage, please inform your employee to go to [myHR](#) to initiate a Life Event which must be completed within 31 days of the event.

## **2.4 Paid Parental Leave**

Employees may be eligible for Gallagher's Paid Parental Leave for bonding if they meet the eligibility requirements as defined in the [Paid Parental Leave policy](#) (PPL). Generally

speaking, this benefit provides qualifying employees with up to four (4) weeks of paid leave to bond with a newborn, newly adopted, or newly placed eligible foster child.

## **2.5 Intermittent FMLA**

FMLA can be taken intermittently or on a reduced schedule for an employee's own serious health condition, or to care for a qualifying family member with a serious health condition. Time approved under Intermittent FMLA for the employee's own illness or a qualifying family member can be taken in increments as small as 15 minutes.

## **3.0 Leave Denial**

Employees are not eligible for FMLA leave if:

- Eligibility requirements are not met (that is, if an employee has fewer than twelve months of credited service, or has worked less than 1,250 hours in the preceding twelve months)
- Medical verification of a **serious health condition** is not provided
- FMLA leave entitlements have exhausted (that is, 12 weeks of FMLA leave have already been taken in current 12-month eligibility period as defined in section 2.1)
- Leave request is for the care of a family member not covered under the FMLA

## **4.0 Employee's Responsibilities**

Provide your manager at least thirty (30) days advance notice of the need for leave when possible. If that is not possible (for example, due to a medical emergency, uncertain adoption/foster placement, an unforeseen change in circumstances, etc.), you are expected to provide as much advance notice as reasonably possible under the circumstances.

1. **File a claim with The Hartford at 888-877-0751 or online at <https://abilityadvantage.thehartford.com>**
2. Employees should apply for State or Local Paid Family and Medical Leave benefits, if applicable. If you are unsure if you work in a state with a Paid Family and Medical Leave, contact Gallagher's Leave Administrator [ajgloa\\_AJGLOA@ajg.com](mailto:ajgloa_AJGLOA@ajg.com).
3. Timely submit all required medical certifications and forms to The Hartford and provide documentation of need for on-going leave as requested.
4. Maintain cooperation and communication with The Hartford concerning the status of your leave.
5. If taking FMLA on an intermittent or reduced schedule basis, you will be provided a special Gallagher FMLA Timesheet from the Gallagher Leave Administrator. You

will need to complete the timesheet weekly and send to your manager for review. Your manager will submit the timesheet to the Gallagher Leave Administrator and Payroll. **Non-exempt employees only: The Gallagher FMLA timesheet must be completed in lieu of recording time off in the Time Module in myHR**

6. You must report each intermittent absence to The Hartford within two (2) business days by calling 888-877-0751 or online at <https://abilityadvantage.thehartford.com>. Failure to report your absence timely to The Hartford could result in your absence not being approved for FMLA and subject to Gallagher's Attendance Policy. If you are on a leave due to your own serious health condition: You may not perform any work until you are released, in writing, by your healthcare provider. You should also not utilize your work email address if out on a continuous basis. In certain circumstances, your access to certain active directories and resources may be suspended. In addition, you may be asked to provide delegate access to client-based communications, calendaring applications, and the like. You may also be asked to temporarily return sensitive company equipment while on leave.
7. Provide The Hartford Claim Analyst with the healthcare provider's release statement before you return to work.
8. In the event of an overpayment, , Corporate Payroll will collect the the overpaid amount promptly according to the Company's standard practice which can be found in the HR Toolkit under [Compensation & Hours of Work](#).

**NOTE:** An employee's failure to timely contact The Hartford to open a claim or failure to provide medical certification in support of a FMLA claim may result in delay, ineligibility for leave, denial, interruption or suspension of benefits, and, in some cases, may subject an employee to adverse employment action which may include termination of employment.

## **5.0 Manager's Responsibilities**

When an employee requests time away from work, they do not need to expressly assert their rights under the FMLA or even mention the FMLA in their request for leave to be protected by FMLA. There is no "magic language" or words required; the employee need only state that the leave is needed.

**MANAGER TIP:** If an employee does not specifically state that a leave is needed but is out for 3 or more consecutive days due a condition which is (or that you suspect may be) FMLA-qualifying (such as one for which they are receiving care from a healthcare provider) you must instruct the employee to file an FMLA claim with The Hartford. Do not delay or deny an employee's entitlement to FMLA leave. **You may not disregard or**

**sidestep the FMLA process, regardless of the employee's preferences or the manager's intentions.**

1. Instruct the employee to file a claim with The Hartford at 888-877-0751 or <https://abilityadvantage.thehartford.com>
2. Remind the employee that if they are taking leave due to birth or adoption of a child that they may add the child to their medical coverage within 31 days of birth or completed placement for adoption. Employees should add a Life Event in myHR to do so.
3. Respond to communications from The Hartford in a timely manner.
4. Act on decisions from The Hartford:
  - *Approvals – protect the employee's job and benefits during leave*
  - *Denials – handle in accordance with Company policy. Contact the Gallagher Leave Administrator for guidance. **Note:** Managers are not authorized to allow employees to be off work beyond the legally required job protection period unless they notify Payroll at [USPayroll\\_NoReply\\_LOA@ajg.com](mailto:USPayroll_NoReply_LOA@ajg.com) and The Leave Administrator at [ajgloa\\_AJGLOA@ajg.com](mailto:ajgloa_AJGLOA@ajg.com) that the employee will be using accrued, unused vacation time.*
5. The employee may request payout of accrued, unused vacation days to supplement the unpaid time. If/when the employee requests this vacation payout from you contact Payroll at [USPayroll\\_NoReply\\_LOA@ajg.com](mailto:USPayroll_NoReply_LOA@ajg.com) and the Leave Administrator at [ajgloa\\_AJGLOA@ajg.com](mailto:ajgloa_AJGLOA@ajg.com) to provide the exact number of vacation days to be paid. If the amount of days requested will cause the employee to exceed their maximum pay for the period, the vacation payout will be split over several pay periods until all the days requested have been paid. If the employee would like to receive payment for vacation days that have not been accrued and you approve, you will have to arrange for the employee to sign and provide you with a completed Advanced Vacation Repayment Agreement. **Note: The number of vacation days that will be paid out is limited to the period of time the employee remains on leave.**
6. Verify with The Hartford any applicable intermittent FMLA time taken, by responding to The Hartford's email communications. You will also have to sign off on the special Gallagher FMLA Timesheet provided by the Gallagher Leave Administrator and submit those timesheets directly to Payroll at [USPayroll\\_NoReply\\_LOA@ajg.com](mailto:USPayroll_NoReply_LOA@ajg.com) and Gallagher's Leave Administrator at [ajgloa\\_AJGLOA@ajg.com](mailto:ajgloa_AJGLOA@ajg.com)
7. In addition to completing the timesheet for Payroll, the employee must also report each intermittent absence to The Hartford within two (2) business days by calling 888-877-0751 or online

at <https://abilityadvantage.thehartford.com>. **Failure to report the absence to The Hartford within 2 days will result in the absence not being approved under FMLA and subject to Gallagher's Attendance policy.**

8. Do not permit the employee to perform any work for the Company while on continuous leave, unless they have provided a written release from a healthcare provider. Employees should not utilize their work email address if out on a continuous basis. In certain circumstances, managers may ask employees to temporarily return company equipment while on leave, or temporarily suspend access to certain systems.
9. **Email Corporate Payroll at [USPayroll\\_NoReply\\_LOA@ajg.com](mailto:USPayroll_NoReply_LOA@ajg.com) and Gallagher's Leave Administrator [ajgloa\\_AJGLOA@ajg.com](mailto:ajgloa_AJGLOA@ajg.com) when the employee returns to work in order to restart the employee's regular pay.**
10. See also the [Short-Term Disability \(STD\) Procedures document](#) for more information on leaves of absence resulting from an employee's own serious health condition.

#### **6.0 "FMLA-Only" claim and applying vacation**

FMLA eligible leaves that do not also involve STD benefits will be unpaid unless the employee has elected to use accrued, unused vacation to supplement the unpaid time. Vacation payout is requested by the manager through emailing Payroll at [USPayroll\\_NoReply\\_LOA@ajg.com](mailto:USPayroll_NoReply_LOA@ajg.com).

#### **6.1 Coordination with the Company-Provided Short-Term Disability (STD) Program**

Employees who take leave lasting more than 7 consecutive days due to their own **serious health condition** may be eligible for short-term disability, an income-replacement benefit offered by Gallagher. (See [STD Procedures](#))

STD runs **concurrently** with FMLA leave if an employee is eligible, and will be counted as part of the 12-week FMLA period. An employee may be eligible for more than 12 weeks of STD and may continue to receive STD benefits for their documented short term disability, even if FMLA job protection has exhausted.

#### **6.2 State Disability Benefit**

Employees in jurisdictions which provide for state disability benefits are **required to apply** for those benefits, and will generally have their company-provided disability pay (if any) offset, where applicable, by the amount of any state-provided benefits.

#### **7.0 State/Local Law Provided Paid Sick or Family Leave**

Employees in some jurisdictions might have paid sick leave (PSL), paid family and medical leave (PFML) or paid family leave (PFL) benefits provided by state or local law.

Contact Gallagher's Leave Administrator to determine whether any apply to your situation. If available, PSL benefits will always exhaust concurrently with the unpaid FMLA benefit. The employee's manager is responsible for alerting Payroll about available PSL time and accurately tracking usage of that PSL time.

Employees in jurisdictions which provide for state paid sick or paid family leave benefits are **required to apply** for those benefits, and will generally have their company-provided disability pay (if any) offset, where applicable, by the amount of any state-provided benefits.

## **8.0 Job Protection**

When the employee returns from approved FMLA leave, they will be restored to the position they held when the leave began, or if that position is no longer available, to an equivalent position (generally speaking, an "equivalent" position means the same rate of pay and benefits, with similar working conditions, privileges and status). If an employee does not return to work when approved FMLA leave exhausts, the employee is not entitled to reinstatement to the same or an equivalent position. An employee approved for STD benefits which run beyond the FMLA job protection period will continue to receive the STD benefit according to the STD schedule, but job reinstatement is no longer guaranteed once FMLA has been exhausted.

**NOTE:** If the employee's job is eliminated due to the closure of a business unit or as part of a job elimination or reduction in force, which would have affected the status of the employee regardless of his/her FMLA leave, the employee is not entitled to reinstatement. Such job elimination may render the employee eligible to receive the same or equivalent benefits made available to other employees similarly situated (such as severance pay, if applicable).

## **9.0 Status of Employee Benefits During FMLA**

### **Vacation**

For purposes of determining vacation and optional days earned, an absence from work of no more than thirty (30) days is considered time worked and no accruals will be lost. In the event the employee's leave exceeds this duration, vacation accrual will be suspended until the first business day of the month following the employee's returns to active employment.

**Example:** If an employee returns on January 18 from an approved FMLA leave of more than thirty days duration, their vacation accrual will restart on February 1.

Unless managers approve a vacation request, or other state or federal laws provide for additional time off, employees are required to return to work once they have been released by their healthcare provider and leave eligibility has been exhausted.

Generally, once an employee physically returns to work following an absence of more than 1 month, any unused, accrued vacation and/or optional day remaining may not be taken until the employee has worked at least 30 business days.

### **Holidays**

Holidays run concurrently with FMLA and do not extend any periods of leave. If an employee is in an unpaid status during a holiday, they will not receive holiday pay.

### **Company-Provided Life and Long-Term Disability Plans**

Company paid benefits (i.e., company-provided life, LTD) will continue for the duration of an approved FMLA leave (except in cases where state laws supersede the federal FMLA). Note: If the FMLA leave ran concurrently with Company STD leave, company paid benefits may continue during the approved Company STD leave.

### **Medical/Rx, Dental Plan, Vision Plan, Flex Spending Accounts, , Legal Services Plan**

The Company will maintain the Company's contributions for the employee's elected benefits for the duration of the FMLA approved leave. If the employee will be unpaid for four or fewer pay periods due to unpaid leave and their payroll deductions for their portion cease, any missing contributions will be collected from their first paycheck after they return to work. If the employee will be unpaid for more than four pay periods, they will receive instructions to self-pay their benefits from the Gallagher Leave Administrator and they must pay their contributions with a personal check. If payment is not received by the indicated due date, benefits may be suspended or terminated. Any missing benefits still owed to Gallagher will be collected from their first paycheck and in some instances can result in a net zero pay.

### **401(k) Savings & Thrift Plan**

When FMLA is unpaid, ongoing contributions into an employee's 401(k) account will cease. Non-regular earnings paid to an employee during an unpaid FMLA leave may be subject to 401(k) deferral. If the employee has a loan, payroll deductions will be suspended. The employee should contact Empower directly at 844-465-4455 to make payments directly to Empower while on an unpaid leave. Upon return from unpaid leave, 401(k) contributions will be re-initiated and the payroll deduction of outstanding loan repayments will resume per the loan agreement. 401(k) contributions and loan repayments will not be retroactive. **FMLA leave time is counted toward the eligibility and vesting service requirements for any company matching contributions that may be offered by Gallagher.** Any company matching contribution will be based on the



employee's eligible compensation and contributions the employee made during the calendar year.

### **Company Car Program**

If an employee who is out on leave also participates in the Company Car Program, their car allowance and insurance coverage will continue. The maximum period of time an employee on FMLA can continue on the Company Car Program is two (2) months from the date of leave. If this situation occurs, the manager is responsible for discontinuing the employee's participation in the program. Employees may be reinstated in the Company Car Program upon release by their healthcare provider to return to work.

### **10.0 Coordination with Workers' Compensation**

When an employee is injured while working or reports a work-related injury or illness and will miss time from work, the employee must open an FMLA claim with The Hartford and concurrently open a Workers' Compensation claim with their manager's assistance. (See Workers Comp Policy.) If the employee is subsequently denied workers' compensation benefits, they will be instructed at the time to open an STD claim with The Hartford and follow the standard STD process. If approved for STD, the employee will receive retroactive STD pay, if applicable.

### **11.0 Return to Work and Fitness for Duty**

The manager, in consultation with Gallagher's Leave Administrator and their Human Resources Leader, will take all reasonable steps to return an employee to the original position when possible. If the employee is unable to perform the essential functions of the position, every reasonable effort will be made to accommodate restrictions or to place the employee in another position in the organization within the spirit of applicable laws and regulations.

An employee returning from disability leave may be required to submit to a Fitness for Duty Medical Examination if there is a sufficient business-related reason to believe that ongoing limitations, related to the serious health condition that necessitated the leave, may interfere with the employee's ability to perform the essential functions of their job. The Company reserves the right to delay return to work until the employee is examined by a healthcare provider and submits a Fitness for Duty certification to their manager.

### **12.0 Definitions**

#### **Serious Health Condition**

The Company uses the definition of "**serious health condition**" provided by the federal Family Medical Leave Act of 1993 and its implementing regulations. A **serious health condition** may include heart attack, most cancers, back conditions requiring extensive

surgery, appendicitis, pneumonia, severe arthritis, treatments for allergies, stress or substance abuse (the Company still has the right to take action pursuant to a consistently applied policy prohibiting substance abuse), pregnancy, and other medical conditions or illnesses, provided that such conditions meet the requirements of a **serious health condition** under the federal FMLA.

**Serious health conditions** do not include, as a general matter, voluntary or cosmetic treatments, routine physical, eye or dental examinations, common cold, flu, ear ache, minor ulcers, upset stomach, headache (other than as medically diagnosed as migraines, for example), *unless complications arise or in-patient care is required*.

#### **Permanent/Long-Term Conditions**

Any period of incapacity that is permanent or long-term for conditions such as Alzheimer's, a severe stroke or the terminal stages of a disease. The patient need not be in active treatment but will be under continuing supervision of a healthcare provider.

#### **Multiple Treatments (Non-Chronic Conditions)**

Absence to receive multiple treatments by a healthcare provider for restorative surgery after an accident or injury, or for a condition that would result in absence of more than three consecutive calendar days if left untreated. Examples include chemotherapy for cancer, physical therapy for severe arthritis, and dialysis for kidney disease.

#### **Healthcare Provider**

Healthcare providers include authorized doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as shown by X-ray to exist), nurse practitioners, nurse midwives, clinical social workers who provide diagnosis and treatment, Christian Science practitioners, any healthcare provider recognized by an employer or its third-party health benefits manager, and a healthcare provider who practices in a foreign country who is authorized to practice under the laws of that country.

### **13.0 Contacts for Questions**

- Questions about the employee's claim while out on leave should be directed to their Hartford Claim Analyst.
- Questions about the policy and/or procedures listed above should be emailed to the Gallagher Leave Administrator at [ajgloa\\_AJGLOA@ajg.com](mailto:ajgloa_AJGLOA@ajg.com).
- Questions about pay while out on unpaid FMLA leave and notifications regarding vacation usage should be emailed to [USPayroll\\_NoReply\\_LOA@ajg.com](mailto:USPayroll_NoReply_LOA@ajg.com)

Last Updated: April 2024