

# Family and Medical Leave Act



*Effective 1/16/2009*

## **FAMILY AND MEDICAL LEAVE**

In accordance with the Family and Medical Leave Act of 1993 (the "FMLA"), Clement Pappas & Co. Inc. will grant up to twelve (12) weeks of unpaid, job-protected family and medical leave in a 12-month period to eligible employees for the employee's own illness; to care for an ill spouse, child, or parent; for the birth or adoption of a child or placement of a child in the employee's home for foster care; or for exigent circumstances associated with the employee's spouse, son, daughter, or parent being called to active duty ("basic leave entitlement").

Clement Pappas & Co. Inc. also will grant up to twenty-six (26) weeks of unpaid leave in a single 12-month period for an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty ("covered service member leave entitlement").

This policy summarizes these benefits. Your Human Resources Department has additional details and the certification forms referenced in this policy.

## **EMPLOYEE ELIGIBILITY**

To be eligible for family and medical leave, an employee must have at least 12 months of employment with Clement Pappas & Co. Inc. and at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave.

Employees also must work at a location in the United States or in any territory or possession of the United States where at least 50 employees are employed by Clement Pappas & Co. Inc. within 75 miles.

## **BASIC LEAVE ENTITLEMENT**

Eligible employees may take an unpaid leave of absence under the following circumstances:

- For incapacity due to pregnancy, prenatal medical care, or childbirth;
- To care for the employee's child after birth or placement for adoption or foster care;
- For placement with the employee of a son or daughter for adoption or foster care;
- To care for the employee's spouse, son, daughter, or parent with a serious health condition;
- For a serious health condition that makes the employee unable to perform the functions of the employee's job; or
- For qualifying exigencies when the employee's spouse, son, daughter, or parent is on active duty

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or called to active duty status by the National Guard, Reserves, or as a retired member of the regular armed services or reserves in support of a contingency operation (“exigency” leave). Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending counseling sessions, and attending post-deployment reintegration briefings.

**COVERED SERVICE MEMBER LEAVE ENTITLEMENT**

Clement Pappas & Co. Inc. also provides a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member for purposes of this leave entitlement is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties and for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

The 12-month period for purposes of this leave entitlement begins when an employee starts using his or her leave. Leave taken under the employee’s basic leave entitlement also will count toward the 26-week entitlement during this 12-month period.

**DEFINITION OF SERIOUS HEALTH CONDITION**

A “serious health condition” is generally defined as an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**AMOUNT OF LEAVE**

An eligible employee is entitled to a total of up to 12 weeks for his/her basic leave entitlement in a 12-month period, measured backward from the date the leave in question begins. The 12-month period for purposes of the covered service member leave entitlement begins when an employee starts using his or her leave. Leave taken under the employee’s basic leave entitlement also will count toward the 26-week covered service member leave entitlement during the 12-month period used for covered service member leave.

Spouses employed by Clement Pappas & Co. Inc. are jointly entitled to a combined total of 12 weeks of family and medical leave during a 12-month period for the birth or care of a newborn son or daughter, or for placement of a son or daughter for adoption or foster care, or to care for a parent who has a serious health condition. When an employee utilizes covered service member leave, this limitation also applies to the 26-week entitlement.

Leave for birth and care or placement of a son or daughter for adoption or foster care, must conclude within 12 months of the birth or placement.

**USE OF INTERMITTENT OR REDUCED SCHEDULE LEAVE**

An employee does not need to use this leave entitlement in one block. Under some circumstances, employees may take family and medical leave intermittently or on a reduced leave schedule when medically necessary or in connection with exigency leave. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee’s usual number of working hours per workweek or workday.

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Clement Pappas & Co. Inc. will consider, but is not required to grant, intermittent or reduced-schedule family and medical leave for the birth and care or placement for adoption or foster care of a child.

An employee must make a reasonable effort to schedule intermittent or reduced scheduled leave to minimize disruption to work, consistent with the health care provider's treatment plan. When an employee utilizes intermittent or reduced schedule leave for planned medical treatment, Clement Pappas & Co. Inc. may temporarily transfer the employee to an alternative position with equivalent pay and benefits, if doing so will be less disruptive to Clement Pappas & Co. Inc. during the period that intermittent or reduced-schedule leave is utilized.

Only the amount of leave taken will count against the employee's basic or covered service member leave entitlement.

## **EMPLOYEE NOTICE & CERTIFICATION REQUIREMENTS**

### *Notice of Leave*

Employees must give written notice to the HR representative for their site at least thirty (30) days in advance of the need for family and medical leave if the need for leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or an immediate family member. If an employee fails to give 30 day advance written notice for foreseeable leave, Clement Pappas & Co. Inc. may delay the taking of the leave until at least 30 days after the date notice was provided. When 30 day notice is not possible or the leave is unforeseeable, the employee must provide notice as soon as practicable and generally must comply with the employer's normal call-in procedures. Absent unusual circumstances, when an employee fails to comply with Clement Pappas & Co. Inc. procedures for reporting absences and requesting leave, Clement Pappas & Co. Inc. may delay or deny the leave request.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information to put Clement Pappas & Co. Inc. on notice of an employee's need for FMLA leave may include that the employee is unable to perform job functions; the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees must also inform Clement Pappas & Co. Inc. if the requested leave is for a reason for which leave was previously taken or certified.

### *Certification of the Need for Leave*

For leave taken because of one's own serious health condition; to care for a parent, son, or daughter with a serious health condition; or, for a covered service member with a serious injury or illness, Clement Pappas & Co. Inc. will require that the employee provide a completed medical certification by an authorized health care provider.

Medical certification forms are available from the site HR Representative. If an employee requests intermittent or reduced-schedule leave, information that Clement Pappas & Co. Inc. will require will include certification that this type of leave is medically necessary and verification of the schedule for treatment, if applicable, as well as the expected duration and frequency of the need for leave.

For exigency leave, Clement Pappas & Co. Inc. will require that the employee provide documentation to support the request for leave, including documentation from the military confirming a covered military member's active duty or call to active duty status in support of a contingency operation.

The employee must provide Clement Pappas & Co. Inc. with the certification within 15 calendar days of Clement Pappas & Co. Inc. request. Failure to provide sufficient certification in a timely manner may result in delay or denial of the FMLA leave request. Employee leave will not be counted as family and medical leave unless timely and sufficient certification is provided.

Clement Pappas & Co. Inc. may request that an employee submit to a second and third medical opinion if it has reason to doubt the validity of the initial certification provided, except in the case of exigency or

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covered service member leave. Clement Pappas & Co. Inc. also may request that the employee recertify the need for continued FMLA protected leave in certain circumstances.

**EMPLOYER OBLIGATIONS**

Clement Pappas & Co. Inc. will inform employees requesting leave (i) whether they are eligible under the FMLA; (ii) whether any additional information is required from the employee; and (iii) the employees' rights and responsibilities related to the leave. If the employee is found not to be eligible for leave, Clement Pappas & Co. Inc. will provide to the employee the reason for ineligibility.

Clement Pappas & Co. Inc. also will inform employees if leave will be designated as FMLA protected and the amount of leave counted against the employee's leave entitlement. If Clement Pappas & Co. Inc. determines that the leave is not FMLA protected, Clement Pappas & Co. Inc. will notify the employee.

**INTEGRATION WITH PAID LEAVE & DISABILITY BENEFITS**

Clement Pappas & Co. Inc. requires the employee to use any accrued, unused paid leave while taking leave under the FMLA if the terms and conditions for using such paid leave are met. In such circumstances, the FMLA leave and paid leave will run concurrently. Similarly, if an employee is receiving workers' compensation benefits, leave taken in connection with the workers' compensation illness or injury may be designated as FMLA protected leave if the employee is eligible and the illness or injury qualifies as a serious health condition.

In cases where an employee is receiving disability or workers' compensation benefits while taking FMLA leave and the employee wishes to supplement such benefits so that the employee receives 100 percent of his/her income while taking leave, the employee should contact Human Resources with such a request to determine if paid leave can be used to supplement such benefits in such circumstances. In no circumstance will an employee be able to receive a combination of paid leave and benefits that exceeds 100 percent of the employee's regular income while taking FMLA leave, unless otherwise provided by state law.

**MAINTENANCE OF BENEFITS DURING FAMILY AND MEDICAL LEAVE**

Clement Pappas & Co. Inc. will maintain group health insurance coverage for an employee on family and medical leave on the same terms and conditions as if the employee continued to work, and the employee will continue to be responsible for the same portion of the employee's health insurance premiums and for payments for other Company benefit coverage as the employee paid before taking leave. During unpaid leave, the employee may arrange personal payment in accordance with the provisions of the applicable plans. If a required premium is not received within 30 days of the due date, the coverage may be dropped for the remainder of the leave.

If an employee does not return to work following the family and medical leave, such individual may be required to reimburse Clement Pappas & Co. Inc. for the group health insurance premiums it paid during the leave, unless the employee cannot return to work because of the employee's own serious health condition or the serious health condition of the employee's spouse, child or parent or because of other circumstances beyond the employee's control.

Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**RETURN TO WORK**

During family and medical leave, employees must report periodically to Clement Pappas & Co. Inc. on their status and their intent to return to work.

When an employee returns from family and medical leave, Clement Pappas & Co. Inc. will return the employee to the same position the employee held when the leave commenced, or to an equivalent position that has equivalent benefits, pay and other terms and conditions of employment to the extent the employee would have been entitled to return to such position and retain such terms and conditions of employment had he or she not taken leave.

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Clement Pappas & Co. Inc. is not required to restore “key” employees to their positions or to equivalent positions upon their return to work following family and medical leave when restoration to employment will cause Clement Pappas & Co. Inc. substantial and grievous economic injury. Clement Pappas & Co. Inc. will notify such “key” employees (certain highly compensated, salaried individuals) in writing of the decision denying job restoration. Such employees will be given a reasonable opportunity to return to work after such notification.

**FITNESS FOR DUTY**

Clement Pappas & Co. Inc. will require employees on leave for their own serious health condition to submit, prior to their return, a medical certification from their health care provider of their ability to return to work. The Company may delay restoration to an employee who fails to provide such certification. Clement Pappas & Co. Inc. may also require fitness-for-duty certifications for employees on intermittent leave when the Company has reasonable safety concerns relating to the employee’s return to work.

**PROHIBITED PRACTICES**

Under the FMLA, Clement Pappas & Co. Inc. cannot interfere with, restrain, or deny the exercise of any right provided by the FMLA or terminate the employment of or discriminate against any individual for opposing any practice or because of involvement in any proceeding relating to the FMLA. In addition, Clement Pappas & Co. Inc. cannot use the taking of family and medical leave as a negative factor in employment actions, such as hiring, promotions, or disciplinary actions.

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. However, Clement Pappas & Co. Inc. encourages all employees to first bring any concerns they have regarding this policy to the attention of the company by contacting the site Human Resources representative. Clement Pappas & Co. Inc. prohibits retaliation against any employee for bringing any complaint forward in good faith under this policy.

The FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

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