348: Leaves of Absence

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Section: Human Resources
Subject: Leaves of Absence
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Policy

Family & Medial Leave (FMLA)

Massey Services provides leave according to the Family and Medical Leave Act of 1993 (FMLA), which provides for unpaid, job-protected leave to covered team members in certain circumstances.

Eligibility

To qualify for FMLA leave, you must: (1) have worked for Massey Services for at least 12 months, although it need not be consecutive, (2) worked at least 1,250 hours in the last 12 months, and (3) be employed at a worksite that has 50 or more team members within 75 miles. If you have any questions about your eligibility for FMLA leave, please contact the Benefits Department.

Leave Policy

If eligible, you may take up to 12 or 26 weeks of family or medical leave, whichever is applicable (as explained below), within the relevant 12-month period defined below. While you are on FMLA leave, Massey Services will maintain your group health insurance coverage at the same level and under the same circumstances as when you were actively working. Upon returning from approved FMLA leave, you have the right to be restored to the same job or an equivalent position, subject to the terms, limitations, and exceptions provided by law.

Leave Entitlement

If eligible, you may be able to take up to 12 weeks of unpaid FMLA leave in a 12-month period, which is defined using a “rolling” method that is measured backward from the date you use any FMLA leave for any of the following reasons:

- the birth of a child and in order to care for that child (leave to be completed within one year of the child's birth)
- the placement of a child with you for adoption or foster care and in order to care for the newly placed son or daughter (leave to be completed within one year of the child's placement)
- to care for a spouse, child, or parent with a serious health condition
- to care for your own serious health condition, which renders you unable to perform any of the essential functions of your position
- a qualifying exigency of a spouse, child, or parent who is a military member on covered active duty or called to covered active duty status (or has been notified of an impending call or order to covered active duty)

You may take up to 26 weeks of unpaid FMLA leave in a single 12-month period, beginning on the first day that you take FMLA leave to care for a spouse, child, parent or next of kin who is a covered service member and who has a serious injury or illness related to active duty service, as defined by the FMLA's regulations (known as military caregiver leave).

Both Spouses Employed by Massey Services

Spouses who are both employed by Massey Services and eligible for FMLA leave may be limited to a combined total of 12 weeks of leave during the 12-month period if leave is requested:

- for the birth of a child and in order to care for that child;
- for the placement of a child with the team member for adoption or foster care and in order to care for the newly placed child; or
- to care for a team member's parent with a serious health condition.
- combined total of 26 weeks in a single 12-month period if the leave is either for:
- military caregiver leave; or
- a combination of military caregiver leave and leave for other FMLA-qualifying reasons.

Notice of Leave

If your need for FMLA leave is foreseeable, you must give Massey Services at least 30 days' prior written notice. If this is not possible, you must at least give notice as soon as practicable (within one to two business days of learning of your need for leave). Failure to provide this notice may be grounds for delaying FMLA-protected leave, depending on the particular facts and circumstances.

Additionally, if you are planning a medical treatment or a series of treatments or you are taking military caregiver leave, you must consult with Massey Services first regarding the dates of this treatment to work out a schedule that best suits the needs of the team member or the covered military member, if applicable, and Massey Services.

Where the need for leave is not foreseeable, you are expected to notify Massey Services within one to two business days of learning of your need for leave, except in extraordinary circumstances. Please submit a written request for leave to the Benefits Department by either sending an email to benefits@masseyservices.com or by calling (407) 645-2500.

Certification of Need for Leave

If you are requesting leave because of your own or a covered relative’s serious health condition, you and the relevant health care provider must supply appropriate medical certification. You may obtain Medical Certification forms from the Benefits Department. When you request leave, Massey Services will notify you of the requirement for medical certification and when it is due (at least 15 days after you request leave). If you provide at least 30 days’ notice of medical leave, you should also provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may result in denial of FMLA-covered leave until it is provided.

Massey Services, at its expense, may require an examination by a second health care provider designated by Massey Services. If the second health care provider’s opinion conflicts with the original medical certification, Massey Services, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion. Massey Services may require subsequent medical recertification. Failure to provide requested certification within 15 days, when practicable, may result in delay of further leave until it is provided.

Massey Services 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.

Reporting While on Leave

If you take leave because of your own serious health condition or to care for a covered relative, you must contact Massey Services every 30 days, or as applicable (based on the medical certification provided), regarding the status of the condition and your intention to return to work. In addition, you must give notice as soon as practicable (within two business days if feasible) if the dates of leave change or are extended or initially were unknown.

Leave Is Unpaid

FMLA leave is unpaid. You will be required to substitute any accrued and unused PTO days, vacation days, and/or extended illness pay (team member illness only) as a part of the leaves:

- If you request leave because of a birth, adoption, or foster care placement of a child, any accrued and unused paid leave will first be substituted for unpaid family/medical leave and run concurrently with your FMLA leave.
- If you request leave because of your own serious health condition, or to care for a covered relative with a serious health condition, any accrued paid time (PTO, vacation, and/or extended illness, as applicable) will be substituted for any unpaid family/medical leave and run concurrently with your FMLA leave.

The substitution of paid leave time for unpaid FMLA leave time does not extend the 12 or 26 weeks (whichever is applicable) of the FMLA leave period. In no case can the substitution of paid leave time for unpaid leave time result in your receipt of more than 100% of your salary. Your FMLA leave runs concurrently with other types of leave, for example, accrued vacation time that is substituted for unpaid FMLA leave and any state family leave laws, to the extent allowed by state law.

Medical and Other Benefits

During approved FMLA leave, Massey Services will maintain your health benefits as if you continued to be actively employed. If paid leave is substituted for unpaid FMLA leave, Massey Services will deduct your portion of the health plan premium as a regular payroll deduction. If your leave is unpaid, you must pay your portion of the premium by check or credit/debit card by contacting the Benefits Department. Your health care coverage will cease if your premium payment is more than 30 days

late. If your payment is more than 15 days late, we will send you a letter to this effect. If we do not receive your premium payment within 15 days after the date of this letter, your coverage may cease. If you elect not to return to work for at least 30 calendar days at the end of the leave period, you will be required to reimburse Massey Services for the cost of the health benefit premiums paid by Massey Services for maintaining coverage during your unpaid leave, unless you cannot return to work because of a serious health condition or other circumstances beyond your control.

Exemption for Key Employees

Key employees, defined as salaried and FMLA-eligible team members who are among the highest paid 10% of all team members at a worksite or within 75 miles of that worksite, may not be returned to their former or an equivalent position following FMLA leave if restoration of employment will cause substantial and serious economic injury to the operations of Massey Services. This fact-specific determination will be made by Massey Services on a case-by-case basis. Massey Services will notify you if you qualify as a key team member, if Massey Services intends to deny reinstatement and of your rights in these instances.

Intermittent and Reduced Leave Schedule

If medically necessary, FMLA leave occasioned by a serious health condition may be taken intermittently (in separate blocks of time due to a serious health condition) or on a reduced leave schedule (reducing the usual number of hours you work per workweek or workday). FMLA leave may also be taken intermittently or on a reduced leave schedule for a qualifying exigency relating to covered military service.

If leave is unpaid, Massey Services will reduce your salary based on the amount of time actually worked. In addition, while you are on an intermittent or reduced leave schedule, Massey Services may temporarily transfer you to an available alternative position that better accommodates your leave schedule and has equivalent pay and benefits.

Returning from Leave/Reasonable Accommodation

If you take leave because of your own serious health condition (except if you are taking intermittent leave), you are required, as are all team members returning from other types of medical leave, to provide medical certification that you are fit to resume work. Otherwise, you will not be permitted to resume work until it is provided.

Team members whose leave lasts longer than 12 weeks (26 weeks for military caregivers) and who fail to return to work promptly at the end of the approved leave period will be presumed to have voluntarily resigned. However, should a team member with a disability or a team member with another health condition not be able to return to work, Massey Services' Reasonable Accommodation of Individuals with Disabilities policy (see Policy 347) may be applicable. Please contact the Benefits Department for more information regarding possible accommodations.

State or Local Family and Medical Leave Laws and Other Company Policies

Where state or local family and medical leave laws offer more protections or benefits to team members, the protections or benefits that are more favorable to the team member, as provided by these laws, will apply.

NON-FMLA LEAVE Policy

When a team member needs time away from work due to their own serious health condition, but do not meet the qualifications for FMLA (employed for at least one year and worked 1,250 hours during the previous 12-month period) or has exhausted FMLA, they need to discuss the matter with the Benefits Department. A reasonable accommodation may be granted, refer to policy 357 Reasonable Accommodation.

Medical certification will be required, and a certification of health condition (Certification of Health Care Provider Form) may also be required. This certification includes the date on which the health condition began; the probable duration of the condition; appropriate medical facts regarding the condition; and a statement that the team member is unable to perform their job functions Additional recertification may be required to be submitted to the Benefits Department.

Leave

Team members with accrued unused PTO or vacation time, are required to take this time as part of the leave. This time is paid when the leave is started.

Insurance

Subject to the terms, conditions, and limitations of the applicable plans, Massey services will continue to provide its portion of any health insurance benefits the team member was receiving prior to the

leave and throughout the duration of the leave. While on leave, team member must make arrangement to pay for any payroll deductions that will be missed during the leave (e.g. medical, dental, vision, life, disability)

Reinstatement

There is no guarantee of position or location, however, if the team member returns to work by the predetermined return date Massey will do it’s best to place the team member in the same, or similar position and/or location. To be reinstated in any capacity, the Benefits Department must receive a completed medical certification (Return to Work Certification) verifying their ability to return to work and stating any accommodations or limitations which might apply.

Team members who fail to return to work at the end of the approved leave will be presumed to have voluntarily resigned. If a team member is not able to return to work, and resigns their position, a medical certification of the health condition must be received within 30 days of the resignation. If the certification is not received on a timely basis, the Company may recover from the team member the health benefit premiums if paid for the team member during the period of unpaid leave.

MILITARY LEAVE OF ABSENCE

Employees who are required to fulfill military obligations in a branch of the Armed Forces of the United States or in state military or national guard service are eligible to receive the required time off and be reinstated in accordance with federal and state law. This time will be unpaid, except where state or federal law dictates otherwise. The team member may use earned, unused vacation time for military leave, but team members are not required to use vacation time for military leave.

Military orders should be presented to your manager or the Human Resources Department as early as possible before the need for leave. Team members are required to provide advance notice of their service obligations to the company unless military necessity makes it impossible. You must also notify the Human Resources Manager or your manager of your intent to return to employment after military leave within the timeframe prescribed by law or in your orders.

For team members on military leave, the leave will expire ninety (90) days after release from active military service. Normally, there is no obligation to reinstate individuals who remain in active service for more than five (5) years unless a period of additional service is imposed by law.

Where state or local military leave laws offer more protections or benefits to employees, the protections or benefits that are more favorable to the team member, as provided by these laws, will apply.

WORKERS' COMPENSATION

Team members absent from work due to a job-related injury or illness will be placed on a Workers' Compensation Leave of Absence until they have a written release by a physician to return to work. (Compensation will be in accordance with the State Workers' Compensation Program.)

Team members absent from work on Workers' Compensation Leave of Absence, will continue to have Medical Insurance for the first 30 days of such leave by paying the team member portion of the premium on or before the due date. If the team member does not qualify under the Family Medical Leave Act, after the first 30 days, the team member will have the option of continuing Medical Insurance for 60 days by paying the total premium (Total Company and Team member Portion) on or before the designated due date.

If the team member does not qualify under the Family Medical Leave Act, after this 90 day period the team member's leave of absence will be considered qualifying event for COBRA and the team member will have the option of continuing the Medical Insurance under COBRA by paying the "Total Company and Team member Portion of Premium, plus 2% administrative costs." The total cost and the length of time coverage is offered will be in accordance with current applicable laws. If the team member fails to make the premium due date each month, the coverage will be immediately canceled.

Light Duty

When a team member is able, they will be expected to return to the office to perform light duties. Light duty can be calling and scheduling re-inspections, calling delinquent renewals, calling customers regarding complaints after service has been rendered, calling cancellations, calling delinquent pest and lawn accounts, stuffing envelopes, scheduling difficult-to-reach pest prevention and lawn accounts, etc. These duties will accommodate all restrictions provided.

Reinstatement

- Team members on Worker's Compensation Leave will continue to accrue service time as if there were no break in service.
- A medical release is required prior to reinstating a team member who has been on Workers' Compensation leave.
- If medical documentation indicates a team member on Workers' Compensation Leave may return to work and fails to do so, the team member will be presumed to have voluntarily resigned.
- Any team member on a Workers' Compensation Leave of Absence will be considered as having voluntarily resigned if it is determined they have secured other employment.
- Upon returning to work, team members will be reinstated to the former job and rate of pay, or one of comparable status and pay, unless present circumstances make such reinstatement unreasonable. In such cases, every effort will be made to assign team members to positions, which they are qualified to perform.
- Should a position not be available when the team member returns to work, the team member will receive first preference for any comparable job, which becomes available.

The Company’s policies of FMLA leave and Reasonable Accommodation may also apply in certain situations.

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