



37-35 - FAMILY/MEDICAL LEAVE

This policy was adopted on May 18, 1998 and last revised Aug. 1, 2025.

Our Standard:

We believe our employees are our greatest asset.

Our Policy:

BAYADA Home Health Care provides leaves of absence in accordance with the federal Family and Medical Leave Act (FMLA). FMLA provides eligible employees with the opportunity to take unpaid, job-protected leave for specified reasons.

Our Procedure:

1.0 DEFINITIONS.

The following definitions apply to this policy and FMLA leave.

1.1 Non-Military Definitions.

- a. **Spouse** - A husband or wife in a marriage recognized by state law, including, but not limited to, common law marriage and/or same-sex marriage.
- b. **Loco Parentis** - Commonly understood to refer to a relationship in which a person has put themselves in the situation of a parent by assuming and discharging the obligations of a parent to a child with whom they have no legal or biological connection. It exists when an individual intends to take on the role of a parent.
- c. **Parent** - A biological, foster, or adoptive parent or an individual who stood in loco parentis to an employee when the employee was a minor.
- d. **Child** - A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis.
- e. **Serious Health Condition** - 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 healthcare provider for a condition that either prevents the employee or a qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement includes an incapacity of more than three (3) consecutive calendar days and two (2) visits to a healthcare provider or one (1) visit to a healthcare provider and a continuing regimen of care; any period of incapacity due to pregnancy or prenatal care; chronic, permanent or long-term conditions; or absences due to multiple treatments (other situations may meet the definition of continuing treatment).
- f. **Healthcare Provider** - A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices; podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist), authorized to practice in the state and performing within the scope of their practice as defined under state law; physician assistants, nurse practitioners, nurse midwives, and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice under state law; and any healthcare provider which BAYADA's group health plan accepts certification of the existence of a serious health condition to substantiate a claim for benefits.

1.2 Military Family Leave Definitions.

- a. **Covered service member** - is either:
 - A current service member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness incurred in the line of duty for which the Service member is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list; or
 - A "covered veteran" undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

- b. **Covered veteran** - An individual discharged under conditions other than dishonorable during the five (5) years prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. The period between October 28, 2009, and March 8, 2013, is excluded in determining this five (5) year period.
- c. **Serious injury or illness (FMLA)** - Current service members and veterans are distinct from the FMLA definition of "serious health condition." For current service members, the term "serious injury or illness" means an injury or illness that was incurred by the service member in the line of duty while on active duty in the Armed Forces or that existed before the beginning of active duty and was aggravated by such service, that may render them medically unfit to perform the duties of their office, grade, rank, or rating. Serious injury or illness includes a condition(s) for which the service member is receiving continuing medical treatment, therapy services, or recuperation in outpatient status, or for a service member on the temporary disability retired list.
- d. **Serious health condition** - For covered veterans, means a serious injury or illness that was incurred in the line of duty while on active duty in the Armed Forces or that existed before the beginning of active duty and was aggravated by such service and manifested itself before or after the individual assumes veteran status, and is:
 - A continuation of a serious injury or illness that was incurred or aggravated when they were a member of the Armed Forces and rendered them unable to perform the duties of their office, grade, rank, or rating;
 - A physical or mental condition for which the covered veteran has received a United States Department of Veteran Affairs (VA) Schedule for Rating Disabilities (VASRD) rating of 50% or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave;
 - A physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; or
 - An injury, including a psychological injury, that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
- e. **Qualifying exigencies** - Include activities such as short-notice deployment, military events, arranging alternative childcare, making financial or legal arrangements related to the deployment, rest and recuperation, counseling, parental care, and post-deployment activities.
- f. **Next of kin** - The nearest blood relative of the service member, other than the service member's spouse, parent, son, or daughter, in the following order of priority:
 - Blood relatives who have been granted legal custody of the service member by court decree or statutory provisions;
 - Brothers, sisters, grandparents, aunts, uncles, and first cousins, unless the service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of Military Caregiver leave.
- g. **Single 12- period** - Military Caregiver Leave begins on the first day leave is taken to care for a covered service member and ends 12 months thereafter, regardless of the method used to determine leave availability for other FMLA-qualifying reasons.

2.0 ELIGIBILITY.

- 2.1** Eligible employees, including those who are injured in a work-related accident or incident, are entitled to unpaid, job-protected leave for specified family and/or medical reasons if the following criteria are met:
 - a. Have worked for BAYADA for at least 12 months within the last seven (7) years. The 12 months of service do not need to be consecutive;
 - b. Have worked for BAYADA at least 1,250 hours during the prior 12 months; and/or
 - c. Currently, work at a BAYADA office where at least 50 employees are employed by BAYADA within 75 miles.
- 2.2** If an employee has taken FMLA time in the past year, BAYADA uses a rolling 12-month period, measured backward from the date the employee uses any FMLA leave, to determine eligibility. Each time an employee takes FMLA, the remaining leave entitlement is the balance of the 12 weeks that have not been used during the immediately preceding 12 months.
 - 2.2.1** **MetLife** manages and tracks any remaining leave entitlement benefits for each leave any employee uses.

3.0 SITUATIONS TRIGGERING FMLA LEAVE.

- 3.1** FMLA provides eligible employees with unpaid, job-protected leave for reasons listed below. Up to 12 weeks of leave in a 12-month period may be taken for any one (1) or a combination of the following reasons:
- a. The birth of a child, or to bond with or care for a newly born child within 12 months of birth;
 - b. The placement of a child for adoption or foster care within 12 months of placement;
 - c. To care for an immediate family member, including spouse, child, or parent, if such immediate family member has a serious health condition;
 - d. For an employee's own serious health condition that makes the employee unable to perform their job; and/or
 - e. To address certain qualifying exigencies that arise because an employee's spouse, child, or parent is on covered active duty or called to covered active duty status with the Uniformed Services.
- 3.2** For leave to care for a covered service member with a serious injury or illness, see the Military Leave section below.

4.0 USING FMLA LEAVE.

- 4.2** When medically necessary or otherwise permitted, an employee may take leave intermittently or reduce their schedule. There is no requirement to take leave in a single time period.
- 4.2.1** FMLA leave taken for the birth or baby bonding or the placement of a child for adoption or foster care must be completed within 12 months after the date of birth or placement. Additionally, leave may be taken intermittently or on a reduced schedule upon approval by BAYADA.
- 4.2.2** FMLA leave taken for the employee's serious health condition, the employee's immediate family member, or a covered service member may be taken intermittently or on a reduced schedule when medically necessary.
- 4.2.3** While on intermittent leave, employees will be paid for hours during which they perform work. Employees should use their accrued sick time, vacation time, or floating holidays, if available, for any unpaid FMLA leave. If employees do not have any accrued sick time, vacation time, or floating holidays, the intermittent FMLA leave will be unpaid. The use of paid leave for any unpaid FMLA leave does not extend the length of FMLA leave. If eligible, employees will also continue to accrue vacation, floating holidays, and sick time while on intermittent leave.
- 4.2.4** If both the employee and the employee's spouse are employed by BAYADA and eligible for FMLA leave, they will be permitted to take only a combined total of 12 weeks of leave during a 12-month period if the leave is for the birth and bonding with the baby, the placement of a child for adoption or foster care, or to care for the child after placement.

5.0 HOW TO REQUEST FMLA LEAVE.

- 5.1** To request FMLA leave, notify your supervisor or next-level supervisor. The supervisor or next-level supervisor will contact the Leave Management Office (LVM) at LeaveManagement@bayada.com to request FMLA leave for their direct report.
- 5.2** MetLife administers FMLA for BAYADA. Upon notification that an employee is requesting FMLA, the employee will receive any required paperwork from MetLife.
- 5.3** During FMLA leave, the employee must report any absence changes to MetLife and inform their BAYADA manager. Each time an employee needs to utilize intermittent FMLA leave, they must inform both their BAYADA manager and report the absence time to MetLife as soon as possible.
- 5.4 Expected Leave.**
- 5.4.1** If the need for leave is anticipated in advance, employees must provide 30 days' notice to take FMLA leave. When scheduling planned medical treatment, the employee must consult with



BAYADA and must make reasonable efforts to schedule the treatment in a way that does not unduly disrupt BAYADA's operations, subject to the healthcare provider's approval.

5.5 Unexpected Leave.

5.5.1 When the need for leave is unexpected, employees must notify their supervisor as soon as possible.

5.6 Content of Notification.

5.6.1 When seeking FMLA leave, employees do not need to mention FMLA specifically but must provide sufficient information for BAYADA and/or MetLife to determine if the requested leave may qualify for FMLA protection, including the anticipated timing and duration of the leave. For example, sufficient information may include:

- a. An employee is unable to perform the functions of their job;
- b. A family member is unable to perform daily activities;
- c. An employee is pregnant;
- d. An employee has been hospitalized overnight;
- e. An employee or a family member is under the continuing care of a healthcare provider;
- f. An employee needs leave due to a qualifying exigency caused by a covered military member being on active duty or called to covered active duty; and/or
- g. If the leave is for a family member, the condition must render the family member unable to perform daily activities, or the family member must be a covered service member with a serious injury or illness.

5.6.2 Employees must respond to questions from BAYADA or MetLife to determine if absences are potentially FMLA-qualifying. Failure to provide reasons for FMLA leave may result in a delay or denial of leave.

5.6.3 When employees seek leave due to FMLA-qualifying reasons for which MetLife has already approved the leave, the employee must specifically provide the qualifying reason for the leave or the need for FMLA leave.

5.6.4 Employees should inform MetLife if the request for leave is for a reason for which FMLA leave was previously taken or certified.

6.0 BAYADA NOTIFICATIONS.

6.1 To the extent required by law, BAYADA will inform employees whether they are eligible or ineligible for leave under FMLA. If an employee is eligible for FMLA leave, MetLife will provide the employee with a notice that specifies any additional information required, as well as any rights and responsibilities regarding taking FMLA leave. If an employee is not eligible, MetLife will provide a reason for the ineligibility.

6.2 BAYADA will inform employees if the leave will be designated as FMLA-protected and, to the extent possible, will note the amount of leave counted against the employee's leave entitlement. The employee will be notified if BAYADA determines that the leave is not FMLA-protected. Under certain circumstances and to the extent permitted by law, BAYADA may retroactively designate leave as FMLA with appropriate written notice to employees.

6.3 Depending upon the type of leave the employee takes, BAYADA may require employees to submit documentation supporting their request. If an employee has already begun leave, BAYADA or MetLife will mail a copy of this notice to the employee's address or send it electronically via email with the employee's consent. Employees are responsible for ensuring their current address is on file.

7.0 MEDICAL CERTIFICATION.

7.1 Initial Medical Certification.

- 7.1.1** If an employee is requesting leave for their own serious medical condition or to take care of a seriously ill spouse, child, or parent, they will need to provide medical certification supporting the need for leave. The certification must be signed by the employee's medical provider and provided within 15 calendar days of BAYADA's request for certification (additional time may be permitted in some circumstances, like state-approved absence or accommodations for Americans with Disabilities).
- 7.1.2** If an employee fails to provide the medical certification, the commencement of leave may be delayed, the designation of FMLA leave may be withdrawn, or the request for leave may be denied.
- 7.1.3** If the employee's certification is incomplete or insufficient, the employee will be informed and provided seven (7) calendar days to correct the documentation. Additional time may be allowed in extenuating circumstances.

7.2 Recertification.

- 7.2.1** BAYADA may require subsequent medical recertification. Once the recertification has been requested, the employee will have 15 days to provide the updated documentation. Failure to submit the requested recertification within 15 days, when practicable, may result in a delay in further leave until it is provided. Extenuating circumstances where an employee is unable to provide updated documentation within the 15 days (e.g., in the hospital) may be considered. BAYADA would inform MetLife to allow additional time depending on the circumstances.

8.0 COORDINATION OF LEAVE.

- 8.1** To the extent applicable, and unless otherwise prohibited by law, FMLA leave will run concurrently with relevant state and local leave laws.
- 8.2** Employees who reside in a state that does not provide relevant paid leave benefits will be required to use any available accrued and unused paid sick time before using accrued paid vacation hours and/or floating holiday pay. Once the accrued sick, vacation, and floating holiday pay banks are exhausted, an employee's remaining FMLA leave will be unpaid until the FMLA is exhausted.
 - 8.2.1** The use of paid leave (e.g., sick time, vacation, and/or floating holidays) does not extend the length of FMLA leave. The paid leave will run concurrently with the employee's FMLA entitlement. Additionally, the use of paid leave during unpaid FMLA will not result in the employee receiving more than 100% of their regular wages.
- 8.3** Employees who reside in a state that provides disability benefits and/or paid family medical benefits may be unable to use or be compensated for any accrued sick, vacation, or floating holiday hours while on FMLA. Please refer to the state-specific guides for further clarification on whether additional accrued time off can be used with the state disability benefits by visiting the [Leave Management Website](#). Regardless, in no instance will an employee be able to receive more than 100% of their regular wages. Please contact the LVM Office with any questions.
- 8.4** An employee with a serious health condition may also qualify for benefits under Short-Term Disability or Long-Term Disability insurance policies. Unless otherwise prohibited by law, FMLA will run concurrently with the period of short-term disability. The use of Short-Term Disability benefits does not extend the length of FMLA leave.

9.0 JOB BENEFITS AND PROTECTION.

- 9.1** If an employee and/or their family participate in our group health plan, BAYADA will maintain health benefits during the leave period according to the associated plan documents while the employee is on FMLA. The employee will remain financially responsible for their portion of the health benefit premiums on a weekly basis.
- 9.1.1** Unless there is an agreement to other arrangements, whenever an employee receives pay from BAYADA during FMLA leave, their portion of the group health plan premium will be deducted from their paycheck.
- 9.1.2** If the employee fails to pay their weekly health benefit premiums, they may be terminated from BAYADA's group health policy.
- 9.1.3** If an employee fails to return to work from FMLA leave for any reason other than circumstances beyond their control, or due to the continuation, recurrence, or onset of a serious health condition affecting the employee, an immediate family member, or a covered service member, which qualifies for FMLA leave, and also fails to pay their portion of the health benefit premiums while on leave, their benefits may be retroactively canceled.
- 9.2** Unless otherwise prohibited by law, vacation, floating holidays, and sick time will stop accruing while an employee is on continuous FMLA leave.
- 9.3** Upon returning from FMLA leave, employees will be reinstated to the same or equivalent position. However, FMLA does not guarantee reinstatement if the position has been eliminated.
- 9.4** If an employee fails to return to work following the expiration of their FMLA, their position will no longer be protected under FMLA. BAYADA's obligations to restore the employee to their original position or an equivalent position will end, and the employee may be subject to BAYADA's standard leave of absence policies.
- 9.5** BAYADA will not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.
- 9.6** 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. State-specific requirements are outlined below.

10.0 MILITARY FAMILY LEAVE.

FMLA leave may also be available for eligible employees in connection with certain service-related medical and non-medical needs of family members. There are two (2) types of leave under the FMLA:

- a. Military Caregiver Leave; and
- b. Qualifying Exigency Leave.

10.2 Military Caregiver Leave.

- 10.2.1** Unpaid Military Caregiver Leave is designed to allow eligible employees to care for certain family members who have sustained serious injuries or illnesses in the line of duty while on active duty.
- 10.2.2** Military Caregiver Leave is a special leave entitlement under the FMLA that allows eligible employees to take up to 26 weeks of leave to care for a covered service member during a 12-month period.
- 10.2.3** To be eligible for Military Caregiver Leave, the employee must be a spouse, parent, child, or next of kin, as defined above, of the covered service member and meet all other eligibility standards noted above regarding FMLA leave.

- 10.2.4** Military Caregiver Leave applies on a per-injury basis for each service member. Consequently, an eligible employee may take separate periods of caregiver leave for each covered service member and/or each serious injury or illness of the same covered service member. However, a total of no more than 26 workweeks of Military Caregiver Leave may be taken within any single 12-month period.
- 10.2.5** Within the single 12-month period, an eligible employee may take a combined total of 26 weeks of FMLA to leave, including up to 12 weeks of leave for any other FMLA-qualifying reason (e.g., birth or adoption of a child, serious health condition of the employee or close family member, or a qualifying exigency). For example, during a single 12-month period, an eligible employee could take up to 14 weeks of FMLA leave to care for a covered service member when combined with up to 12 weeks of FMLA leave to care for a newborn child.
- 10.2.6** Military leave may be taken intermittently or on a reduced schedule if medically necessary.
- 10.2.6.1** If on intermittent leave, employees will be paid for the hours when they perform work. Employees may choose to use their accrued sick time, vacation time, or floating holidays, if available, for any unpaid FMLA leave. If employees do not have any accrued sick time, vacation time, or floating holidays, the intermittent FMLA leave will be unpaid. If eligible, employees will also continue to accrue vacation, floating holidays, and sick time while on intermittent leave.
- 10.2.6.2** Each time an employee utilizes intermittent FMLA leave, they must inform both their BAYADA manager and report the absence time to MetLife as soon as possible.
- 10.2.6.3** If intermittent leave is anticipated based on planned medical treatment, the employee must consult with BAYADA and make reasonable efforts to schedule the treatment so as not to unduly disrupt BAYADA's operations, subject to the healthcare provider's approval.
- 10.2.7** In certain situations, BAYADA may temporarily transfer the employee to an available alternative position with equal pay and benefits.

10.3 Qualifying Exigency.

Eligible employees may take unpaid Qualifying Exigency Leave to tend to certain exigencies (emergencies) arising out of the covered active duty or call to the covered active duty status of a military member (the employee's spouse, son, daughter, or parent).

- 10.3.1** Up to 12 weeks of Qualifying Exigency Leave is available in any 12-month period, as measured by the same method that governs the measurement of other forms of FMLA leave described above.
- 10.3.2** Qualifying Exigency Leave may be combined with leave for other FMLA-qualifying reasons. Under no circumstances may the total exceed 12 weeks in any 12-month period (with the exception of Military Caregiver Leave as noted above). The employee must meet all other eligibility standards stated above.
- 10.3.3** Persons who can be ordered to active duty include active and retired members of the Regular Armed Forces, certain members of the retired Reserve, and various other Reserve members, including the Ready Reserves, the Selected Reserves, the Individual Ready Reserve, the National Guard, state military, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve, and Coast Guard Reserve.
- 10.3.4** A call to active duty for purposes of leave taken because of a qualifying exigency refers to a Federal call to active duty. A State call to active duty is not covered unless under order of the President of the United States pursuant to certain laws. Contact the LVM office with any questions.

10.3.5 Qualifying emergent situations include:

- a. **Short notice deployment** - to address any issue that arises out of short notice (within seven (7) days or less) of an impending call or order to cover active duty;
- b. **Military events and related activities** - to attend any official military ceremony, program, or event related to covered active duty or call to covered active duty status, or to attend certain family support or assistance programs and information briefings;
- c. **Childcare/school activities** - to arrange for alternative childcare to provide childcare on an urgent, immediate need basis; to enroll in or transfer to a new school or daycare facility, or to attend meetings with staff at a school or daycare facility;
- d. **Financial and legal arrangements** - to make or update various financial or legal arrangements or to act as the covered service member's representative before a federal, state, or local agency in connection with service benefits;
- e. **Counseling** - to attend counseling for the employee, for the service member, or for a child or dependent when necessary as a result of duty under a call or order to cover active duty;
- f. **Rest/recuperation** - to spend time with a service member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to 15 calendar days of leave for each instance of rest and recuperation;
- g. **Parental care** - to care for the service member's parent who is incapable of self-care. The parent must be the service member's biological, adoptive, step, or foster father or mother, or any other individual who stood in loco parentis to the service member when the individual was under 18 years old;
- h. **Post-deployment activities** - to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of up to 90 days following termination of the service member's active duty status. This also encompasses leave to address issues that arise from the death of a service member while on active duty status; and
- i. Any additional activities as agreed to by the employer/employee.

10.4 **Documentation for Military Family Leave.**

10.4.1 Employees seeking to utilize Military Caregiver Leave will submit appropriate certification from the employee and/or covered service member completed by an authorized healthcare provider within 15 days.

10.4.2 An employee seeking qualifying Exigency Leave will submit appropriate supporting documentation in the form of a copy of the service member's active duty or rest and recuperation orders or other military documentation indicating the appropriate military status and the dates of active duty status, along with a statement outlining the nature and details of the specific exigency, the amount of leave needed, and the employee's relationship to the service member, within 15 days.

10.4.3 MetLife will coordinate with the employee to provide documentation of the Qualifying Exigency Leave or need for Military Caregiver Leave.

10.5 Military Caregiver Leave and Qualifying Exigency Leave are governed by and managed in accordance with the FMLA and applicable regulations, and nothing in this policy should be construed to be inconsistent with those regulations.

11.0 **ADDITIONAL INFORMATION.**

Please visit the [Leave Management Website](#) for additional information.

12.0 **LIMITED NATURE OF POLICY/STATE-SPECIFIC REQUIREMENTS.**

12.1 This policy should not be construed to confer any express or implied contractual relationship or rights to any employee not expressly provided for by the FMLA.

12.2 BAYADA reserves the right to modify this or any other policy as necessary, and in its sole discretion, to the extent permitted by law. State and/or local leave laws may also apply.

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

13.0 STATE-SPECIFIC AMENDMENT.

Please click this [link](#) to a grid containing the regulations under which FMLA is managed for each state. If you need assistance, please contact the LVM office.

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References: Family Medical Leave Act of 1993 & Regulations, 29 CFR Part 825; The New Jersey Family Leave Act, N.J.S.A 34:11B-1; New Jersey Security & Financial Empowerment Act (NJ SAFE Act) P.L. 2013 C.82; Hawaii Administrative Rules Title 12, Chapter 27 Hawaii Family Leave Law; MN Ch 239, art 3, §181.941; NY Paid Family Leave Law (PFL) 2018.