

POLICY NO. P19-02

CITY OF COLDWATER PAID MEDICAL LEAVE ACT (“PMLA”) FACT SHEET AND POLICY GUIDE

This policy outlines an Eligible Employee’s benefits and rights under Michigan’s Paid Medical Leave Act (“PMLA”). The function of this policy is to provide Eligible Employees with a general description of their PMLA rights. In the event of any conflict between this policy and the applicable law, Eligible Employees will be afforded all rights required by law. Nothing in this policy, however, gives Eligible Employees greater rights to continued employment than they would have had if they had not taken PMLA leave. The PMLA and its implementing regulations are very detailed. Specific questions regarding this policy should be directed to the City Manager’s office.

EMPLOYER COVERAGE

PMLA applies to all Michigan employers (other than the US government, another state or political subdivision of another state) that employs 50 or more individuals. The City is therefore a covered employer and thereby has elected the following:

- Lump Sum Method for providing PML to Eligible Employees; and
- the benefit year to be January 1st through December 31st.

EMPLOYEE ELIGIBILITY

“Eligible Employee” means an individual engaged in service to the City in the business of the City and from whom the City is required to withhold for federal income tax purposes, except for the following:

- (1) an individual who is exempt from overtime requirements under Section 13(a)(1) of the Fair Labor Standards Act, 29 USC 213(a)(1);
- (2) an individual who is not employed by a public agency, as that term is defined in Section 3 of the Fair Labor Standards Act, 29 USC 203, and who is covered by a collective bargaining agreement that is in effect;
- (3) an individual employed by the United States government, another state, or a political subdivision of another state;
- (4) an individual employed by an air carrier as a flight deck or cabin crew member that is subject to Title II of the Railway Labor Act, 45 USC 151 to 188;
- (5) an Employee as described in Section 201 of the Railway Labor Act, 45 USC 181;
- (6) an Employee as defined in Section 1 of the Railroad Unemployment Insurance Act, 45 USC 351;
- (7) an individual whose primary work location is not in the State of Michigan;
- (8) an individual whose minimum hourly wage is determined under Section 4b of the Improved Workforce Opportunity Wage Act, 2018 PA 337, MCL 408.934b;
- (9) an individual described in Section 29(1)(/) of the Michigan Unemployment Security Act, 1936 (Ex Sess) PA 1, MCL 421.29;
- (10) an individual employed by an employer for 25 weeks or fewer in a calendar year for a job scheduled for 25 weeks or fewer;

- (11) a variable hour Employee as defined in 26 CFR 54.4980H-1; and
- (12) an individual who worked, on average, fewer than 25 hours per week during the immediately preceding calendar year.

LEAVE ENTITLEMENT

- The City will frontload Eligible Employees 40 hours of PML beginning January 1st of each benefit year, or on the date that the individual becomes eligible during the benefit year on a prorated basis.
- New hires will be required to wait until the 90th calendar day after commencing employment before using PML.
- PML will be paid at the Eligible Employee's normal hourly rate of pay or base wage. Calculation of the normal hourly rate of pay does not include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay or gratuities.
- Eligible Employees transferred from a department within the organization will retain all accrued PML earned during benefit year. Rehired Eligible Employees will start anew.
- Eligible Employees will not be allowed to carry-over unused PML into a new benefit year. Therefore, any unused PML on December 31st will be forfeited.
- PML eligibility will be determined for the proceeding benefit year by calculating Eligible Employees "average" number of hours worked in the preceding benefit year.
- Terminated Eligible Employees will not be paid out, or compensated, for any unused PML hours at separation.

PERMISSIBLE USES OF PML

Permissible uses of PML are defined as the following:

- (1) Eligible Employee, or an Eligible Employee's family member's, mental or physical illness, injury, health condition or treatment of the same;
- (2) Eligible Employee, or an Eligible Employee's family member's, preventative medical care;
- (3) Eligible Employee, or an Eligible Employee's family member, is a victim of domestic violence or sexual assault;
- (4) If Eligible Employee's primary workplace is closed by an order of a public health official due to a public health emergency;
- (5) If Eligible Employee needs to care for his/her child whose school or place of care was closed by a public health official; or

- (6) If it is determined by health authorities that the Eligible Employee's, or an Eligible Employee's family member's, presence in the community would jeopardize the health of others because of exposure to a communicable disease.

DEFINITION OF "FAMILY MEMBER"

A "family member" is defined as the following:

- (1) Biological, adopted or foster child, stepchild or legal ward, or child to whom the Eligible Employee stands in loco parentis;
- (2) Eligible Employee or his/her spouse's biological parent, foster parent, stepparent, adoptive parent, or legal guardian;
- (3) An individual who stood in loco parentis to the Eligible Employee when he/she was a minor child;
- (4) Eligible Employee's lawful spouse (not domestic partners);
- (5) Grandparent or grandchild; or
- (6) Biological, foster, or adopted sibling.

OTHER/ADDITIONAL PROVISIONS

- PML will run concurrent with the Family Medical Leave Act (FMLA), if applicable to Eligible Employee;
- PML shall be worked out as far in advance as possible, requesting leave with Eligible Employee's immediate superior at the earliest possible date;
- Eligible Employees will be permitted to use partial PML days in one-hour increments;
- The City will not require details of domestic violence, sexual assault, or medical condition;
- Any/all information disclosed will be treated as confidential;
- At the discretion of the City Manager, the City may require an Eligible Employee produce documentation from a medical provider showing care on behalf of the Eligible Employee and/or the Eligible Employee's family member. If requested, the City must give the Eligible Employee a minimum of three (3) days to produce documentation. The City will not be responsible for Eligible Employee's cost incurred in acquiring documentation; and
- Eligible Employees may be denied leave and may be subject to discipline and discharge for failing to follow notice, procedural or documentation requirements.

Eligible Employees who believe their PMLA rights have been violated will be required to file an administrative Complaint with the Michigan Department of Licensing and Regulatory Affairs within six (6) months of the date of the occurrence.

City Council adopted: _____