SUBMITTED BY: Kathleen Swantek	**DATE SUBMITTED:** 09/02	**SECTION:** Human Resources	
BOARD APPROVED ON: 07/87	**DATE REVISED:** 07/18/18, 09/20/18, 5/23/2024, 09/02/2026	**SUBJECT:** Unpaid Leave of Absence	
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I. APPLICATION

The provisions stated here apply to employees of Blue Water Developmental Housing, Inc. (BWDH).

II. DEFINITIONS

The following section lists the various ways in which an employee may obtain time off work, either paid or unpaid, to meet professional and personal needs.

The leave policy

You are eligible to take up to twelve (12) weeks (up to twenty-six (26) weeks for specified persons related to military personnel – see reasons for leave) of unpaid family/medical leave within any twelve (12) month period and be restored to the same or an equivalent position upon your return from leave provided you: (1) have worked for the company for at least 12 months, and for at least 1,250 hours in the last 12 calendar months; and (2) are employed at a work site that has 50 or more employees within a 75-mile radius.

FMLA, for any reason other than Military Caregiver Leave, will be calculated using the "look back" method. The "look back" method is a rolling calendar that calculates the balance by looking at the previous twelve (12) months. Any used FMLA during that period is subtracted from the available twelve (12) weeks. Military Caregiver Leave is calculated using a twelve (12) month period measured forward from the first day FMLA is used.

Reasons for leave

You may take family/medical leave for any of the following reasons:

(1) the birth of a son or daughter and to care for such son or daughter;
(2) the placement of a son or daughter with you for adoption or foster care and to care for the newly placed son or daughter;
(3) to care for a spouse, son, daughter, or parent ("covered relation") with a serious health condition; or
(4) because of your own serious health condition that renders you unable to perform an essential function of your position.

Leave for either of the first two reasons must be completed within the twelve (12) month period beginning on the date of birth or placement. In addition, in cases where a married couple are employed by the same company, the two spouses together may take a *combined total* of twelve (12) weeks' leave during any twelve (12) month period for reasons one (1) and two (2), or to care for a parent within reason three (3).

Bereavement Time

In the case of a death in the immediate family, BWDH provides for the use of sick time (See sick leave policy) to attend the funeral or interment and make necessary arrangements. If additional time is needed, vacation time may be used. When the death of a family member occurs while an employee is on a scheduled vacation, the staff member's vacation time may be converted to sick leave (up to five days) should the employee have sick leave available to them.

The term "immediate family" as used in this section, shall mean spouse, domestic partner, parents, children, brothers, sisters, in-laws, grandparents, grandchildren, nephews, nieces, sister and brother in-laws, daughter/son in-laws of the employee/spouse.

Notice of leave

If your need for family/medical leave is foreseeable, you must give the company at least thirty (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 except in extraordinary circumstances). Failure to provide such notice may be grounds for delay of leave. Additionally, if you are planning a medical treatment, you must consult with the company first regarding the dates of such treatment. The company has Request for Family/Medical Leave forms available from the human resources department. You should use these forms when requesting leave. Notices may be provided through mail, electronic delivery, or other methods permitted by law. For an employee wishing to use FMLA for the care of a Military person or due to a "qualifying exigency" the employee is to notify the company within two (2) days of his/her receipt of notice.

Incapacity and treatment:

To qualify for FMLA medical leave you must have a period of incapacity of more than three (3) consecutive, **full** calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves: treatment two or more times, within thirty (30) days of the first day of incapacity, unless **extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider. The requirement in the above paragraphs paragraph(s) of this section for treatment by a health care provider means an in-person visit to a health care provider**. The first (or only) in-person treatment visit must take place within seven (7) days of the first day of incapacity**. The health

care provider shall determine whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty (30) day period. If an additional appointment(s) is scheduled, you will provide the Human Resource Department with the date/schedule of the subsequent appointments.

** The term ‘‘extenuating circumstances’’ of this section means circumstances **beyond the employee’s** control that prevent the follow-up visit from occurring as planned by the health care provider.

Reporting while on leave

If you take continuous leave because of your own serious health condition or to care for a covered relation, you must contact the company on the first and third Tuesday of each month regarding the status of your leave and your intention to return to work. In addition, you must give notice as soon as is practicable (within two (2) business days if feasible) if the dates of the leave change or are extended or were unknown initially.

Leave is unpaid

Family medical leave is unpaid leave; however, your family medical leave will run concurrently with other types of leave, i.e., paid vacation and, worker’s compensation. The substitution of paid leave time for unpaid leave time does not extend the twelve (12) week leave period.

Medical and other benefits

During an approved family/medical leave, the company will maintain your health benefits as if you continued to be actively employed. If paid leave is substituted for unpaid family/medical leave, the company 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 through the end of your leave. If your payment is more than fifteen (15) days late, we will send you a letter to this effect. If we do not receive your co-payment within fifteen (15) days after the date of this letter, your coverage may cease. If you elect not to return to work for at least thirty (30) calendar days at the end of the leave period, you will be required to reimburse the company for the cost of the premiums paid by the company 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.

While an employee is on FMLA leave time off will not accrue.

Intermittent and reduced-schedule leave

Leave because of a serious health condition may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced-leave schedule (reducing the scheduled number of hours you work per workweek) if medically necessary. In

addition, while you are on an intermittent or reduced schedule leave, the company may temporarily transfer you to an available alternative position that better accommodates your recurring leave, and which has equivalent pay and benefits.

For Exempt Employees: If leave is unpaid, the company will reduce your salary based on the amount of time worked.

Fitness for duty

Upon the end of an employee's FMLA leave the employee is required to submit a written and complete "fitness for duty" form indicating their ability to perform all essential tasks related to their responsibilities in a safe manner prior to performing any work or being present at the work area. If, as determined by the company's determination of significant safety concern, the employee's medical condition warrants the company can request additional fitness for duty reports from the employee's HCP during the employee's absence. These requests will be made no more frequently than every thirty (30) days. The request for a fitness for duty report (form) will be accompanied with specific job relates criterion and safety concerns.

BWDH Unpaid Leave of Absence

Employees may apply for an unpaid leave of absence should they not be eligible for leave under the FMLA or should they wish to extend a Family or Medical Leave past the 12 weeks allotted. BWDH unpaid leaves may be applied for by the employee to continue leave for child care for the birth, adoption, and foster care placement of a child; personal medical, for an employee's own personal illness; and family medical, for the serious illness of a family member and for educational purposes. Unpaid BWDH leaves may be granted for up to 3 months. -Employees who take leave without pay and wish to continue benefits during the period of the leave must plan in advance with the Payroll Office for the payment of insurance premiums during the period of the leave. BWDH will not pay the employee's monthly health insurance premiums during the period of leave not covered by FMLA. It is the employee's responsibility to make payments should they wish to continue coverage through COBRA. Should the employee fail to make payments, benefits will be canceled. Eligible employees whose health and dental insurances lapse during unpaid leaves will have those benefits reinstated upon return to work full time.

Medical certification

If you are requesting leave because of your own or a covered relation's serious health condition, you, and the relevant health care provider must supply appropriate medical certification. All certification forms and notices will be sent via USPS to your address on file with the company. You are required to open and read any mail received from the company's FMLA administrator in a timely manner. You are also required to update your mailing address with your employer if you have a change in address. When you request

leave, the company will notify you of the requirement for medical certification and when it is due (no more than fifteen (15) days after you request leave). You should contact the FMLA administrator if you are unable to return the completed forms by the assigned deadline. To be considered for an extension you must call prior to the due date. If you provide at least thirty (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 leave until it is provided.

An employee will be given written notice of any deficiency noted in the medical certificate with an explanation of action needed. The employee will be provided seven (7) days to "cure" any deficiency within the certificate. Failure to provide a corrected certificate within the seven (7) days may result in delay or denial of leave.

The company, at its expense, may require an examination by a second health care provider designated by the company, if it reasonably doubts the medical certification you initially provide. If the second health care provider's opinion conflicts with the original medical certification, the company, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion. It is the responsibility of the employee to return completed forms to the FMLA administrator. Failure to do so may lead to delay or denial of FMLA leave.

The company may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days and only when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the company may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. The company may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition. Any recertification is at the employee's expense and must be returned within fifteen (15) calendar days. You should contact the FMLA administrator if the recertification cannot be returned within 15 calendar days.

It is the responsibility of the employee to return completed forms to the FMLA administrator. Failure to do so may lead to delay or denial of FMLA leave.

Eligible employees who are the spouse, child, parent, or next of kin of a covered service member are also eligible to apply for unpaid leave for a maximum of twenty-six (26) workweeks to care for the service member in a single twelve (12) month period. The single twelve (12) month period is measured from the first day an eligible employee takes military caregiver leave and ends twelve (12) months later.

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Employees qualifying for both service member family leave and other forms of FMLA leave during this single twelve (12) month period are entitled to only a combined total of twenty-six (26) workweeks of leave.

A covered service member is a member of the Armed Forces, including a member of the National Guard or Reserves who is: (a) undergoing medical treatment, recuperation, or therapy; (b) in outpatient status; or (c) on the temporary disability retired list. A serious illness or injury is an injury or illness that may render the service member medically unfit to perform his or her duties; the illness or injury must be incurred or aggravated during active duty. Military caregiver leave may be used to care for veterans discharged or released under conditions other than dishonorable within five (5) years of FMLA usage.

Employees taking military caregiver leave shall provide at least thirty (30) days advanced notice for foreseeable reasons, such as planned medical treatment of the covered service member, unless proven not to be practicable. For unforeseeable reasons, employees shall provide as much notice as is reasonable and practicable. A certification from the service member's health care provider will be required.

QUALIFYING EXIGENCY LEAVE

Eligible employees who are a spouse, child, or parent of a member of the Regular Armed Forces, National Guard, or Reserves that have been called to covered active duty may take unpaid leave under the FMLA up to a maximum of twelve (12) weeks for certain qualifying exigencies. Covered active duty means: (1) duty during deployment of a member of a regular component of the Armed Forces to a foreign country; or (2) duty during deployment of a member of a reserve component of the Armed Service to a foreign country under a call or order to active duty, including upon notification of an impending call or order, as defined by applicable law.

Qualifying exigencies may include short notice deployment of seven (7) or less calendar days attending certain military events, arranging for alternative childcare and school activities, making financial or legal arrangements, attending related counseling sessions, spending time with the service member who is on short-term, temporary rest and recuperation leave up to fifteen (15) calendar days for each such leave, attending post-deployment activities, parental leave and any additional activities that the Company and the eligible employee mutually agree as to their coverage as a qualifying exigency and the timing and duration of such leaves.

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III. POLICY

It shall be the policy of Blue Water Developmental Housing, Inc.:

1. That a planned request for unpaid leave be made three (3) months prior to the expected beginning date of the unpaid leave of absence.

2. That the request for unpaid leave specify the anticipated date of departure and return.

3. That the request for unpaid leave specify the intent to return to employment.

4. For unpaid leave based upon illness, evidence of recovery and ability to perform duties of position are required from a physician stating the employee's suitability to return to work and is required by the Administrative Office.

5. That the request for an extension shall be made in writing to Basic no less than five (5) working days prior to the expiration date of the unpaid leave.

6. Employees will use sick time during unpaid leave related to a medical issue.

7. Employees may request compensation with accrued vacation time during their unpaid leave;

8. Unpaid leaves of absence for reasonable periods, not to exceed six (6) months are considered without loss of seniority for:

    a. Maternity/Paternity; Adoption

    b. Illness leave (physical or mental);

    c. Prolonged illness of spouse or child. Such leave may be extended for like cause by consent of the Employer. Be it provided, however, that such leave or extension thereof shall be consistent with meeting the operating needs of the organization.

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Unpaid leaves for the above reasons are first considered under the Family or Medical Leave Act. The total time allotted for all combined unpaid leaves is 6 months. If employee is eligible for FMLA, the FMLA, leave will run consecutively with BWDH unpaid leave and commence at the same time.

9. Unpaid leaves of absence for reasonable periods, not to exceed six (6) months, may be granted without loss of seniority for:

    a. Educational purposes when job related. Such leave may be extended for like cause by consent of the Employer. Be it provided, however, that any such leave or extension thereof shall be consistent with meeting the operating needs of the organization.

10. Basic may periodically require the employee on leave due to illness to submit evidence of need to continue leave via an examination by a physician chosen by the Employer.

11. While on an unpaid leave of absence, either BWDH or FMLA, the employee accrues no seniority, vacation time, sick time, or gain from any other fringe benefit unless employee is working a minimum 70 hours in a pay period. If this is the case, employment benefits will not be affected when the employee maintains full time status. BWDH may, however, convert salaried employees to hourly status for purposes of intermittent leave.

12. Unpaid leave time that is approved and is paid with employee accrued vacation and/or sick time will continue to accrue employee benefits appropriate to the position.

13. If an employee is otherwise exempt from minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA) as a salaried executive, administrative or professional employee, providing unpaid, FMLA-qualifying leave will not cause the employee to lose FLSA exemption. The employer may, in this case, deduct from the employee's salary for any hours taken as reduced or intermittent FMLA leave within a work week without affecting exempt status. This exemption applies only to salaried employees who are eligible for FMLA leave which qualifies as one of the four types of FMLA leave.

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14. Insurance benefits automatically cease on BWDH unpaid leaves, but the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986 requires that employers must make group health benefit coverage available to their employees who no longer meet the group's eligibility requirements. The employee may continue medical insurance while on leave by requesting such in writing when submitting the leave request and making arrangements to pay the cost of this fringe. Life insurance benefits may also be continued if requested in writing by the employee. Should the employee fail to make payments under COBRA, they risk cancellation of their health care benefits.

15. The employee shall notify the employer, in writing, if they wish to stop receiving the insurances while still on unpaid leave. The employee is responsible for all costs incurred by the employer for these insurances, once requested; and un-reimbursed insurance expenses shall be deducted from the employee's pay when they return to employment or deducted from any payoff to the employee if they terminate while on leave.

16. Special problems and request for exceptions should be directed through organizational channels and according to the Exceptions to and Personnel Policies.

17. Under the Americans with Disabilities Act, the employer will review requests for reasonable accommodations to this policy.

III. NOTIFICATION/PROCEDURE

WHO	**DOES WHAT**
Employee	1. Submits written request for unpaid leave to immediate supervisor, using Leave of Absence – Unpaid Form If the employee is using sick or vacation time for absence, also complete Leave of Absence – Paid Form.
Program Supervisor	2. Reviews request, and determines if request falls under the BWDH or FMLA unpaid leave requirements, if applicable completes the FMLA

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Event Notification form within 48 hours online at https://fmla.basiconline.com/

3. Once submitted will receive an email confirmation from Basic of the leave request submitted.

4. Forwards FMLA Event Form confirmation via email to human resource manager.

Human Resource Manager

5. Receives weekly report from Basic. Updates leave status in payroll system. Notifies appropriate division director and supervisor of leave status (e.g. approved or denied).

Employee

6. Responsible for ensuring physician completes the Certification of Health Care Provider and submits to Basic within 20 days of receiving the Notice of Rights and Responsibilities Form.

7. Responsible to submit the Return-to-Work Assessment 2 days prior to the scheduled return date as a condition of employment for the following leaves to human resources and quality assurance specialist:

(a)When the reason for leave pertains directly to the employee's personal health a return to work assessment is required.
(b) When the reason for leave pertains to caring for an employee's family member a return to work assessment is not required.

Human Resource Manager/Designee

8. If no restrictions are noted, contacts the appropriate program supervisor to inform him/her the employee is eligible to return.

If restrictions are noted, reviews with the appropriate program supervisor and copies appropriate division director on correspondence to ensure BWDH can accommodate the

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	restrictions. Creates work restriction agreement in ADP and assigns it to the employee, supervisor, Division Director, and Human Resource designee.
Employee/ Program Supervisor/Division Director/Human Resource Designee	9. Reviews, signs, and dates the restriction agreement in ADP.

EXHIBITS:

- Leave of Absence – Unpaid Form
- Leave of Absence – Paid Form
- Return to Work Assessment Form
- Employee work restriction letter/sign off