



MEMORANDUM
ADDENDUM TO OP 20-21 CHILD CARE LEAVE

DATE: May 3, 2021

TO: All NYC Health + Hospitals Staff

FROM: Yvette Villanueva, Senior Vice President, Human Resources *YV*

SUBJECT: Using Accrued Paid Sick Leave for Childbirth and Delivery

This addendum clarifies Operating Procedure 20-21, Child Care Leave pertaining to whether employees may use accrued paid sick leave for child care or child bonding.

OP 20-21 states that child care leave is without pay, however, OP 20-21 allows employees to substitute unpaid child care leave with accrued paid annual or compensatory leave balances (vested or non-vested) (see, OP 20-21). This means that generally, sick leave may not be used for child care or child bonding.

The FMLA permits New York State law to determine the duration of the period of incapacity due to childbirth and delivery, which has been established as six (6) weeks for a natural childbirth and eight (8) weeks for a Caesarian birth under NYS Disability law.

Therefore, during the applicable period of incapacity due to childbirth and delivery as indicated in the medical certification for employee's own disability, accrued paid sick leave may be substituted for unpaid child care leave.



MEMORANDUM
ADDENDUM TO OP 20-21 CHILD CARE LEAVE

DATE: February 25, 2021

TO: All NYC Health + Hospitals Staff

FROM: Yvette Villanueva, Vice President, Human Resources *lv*

SUBJECT: Child Care Leave Eligibility

This addendum clarifies Operating Procedure 20-21, Child Care Leave, pertaining to child care leave eligibility.

Child care leave only applies to births and adoptions that occur during one's employment at NYC H+H. Child care leave cannot be applied to instances of birth or adoption that occur prior to employment with NYC H+H.

Child care leave also cannot be applied retroactively.

OPERATING PROCEDURE NO. 20-21
CHILD CARE LEAVE POLICY

Effective Date*: January 1, 2022 approved by Yvette Villanueva, Senior Vice President, Human Resources

Responsible Department: Human Resources

I. PURPOSE:

To establish the policy and procedure on leave of absence for child care at NYC Health + Hospitals (hereafter, "System").

II. SCOPE:

This procedure applies to:

- A. All Group 11 employees.
- B. All Group 12 employees hired on a temporary basis (e.g. Civil Service codes A2, B2, H2, N2).
- C. Group 12 employees covered by the Citywide Contract. It shall not apply to prevailing rate employees and House Staff, who receive child care leave as provided in applicable collective bargaining agreements and the Family and Medical Leave Act.
- D. Child care leave only applies to births and adoptions that occur during one's employment with the System; it cannot be applied to instances of birth or adoption that occur prior to employment with NYC H+H.

III. POLICY:

- A. Regardless of duration, child care leave must be used in one continuous absence.
- B. Any Group 11 employee or Group 12 employee hired directly on a temporary basis who becomes the parent of a child by birth, or by adoption of a child up to four (4) years of age, is entitled to a leave of absence without pay, for a period of up to twelve (12) calendar months. After the employee returns to work and is ineligible for child care leave pursuant to FMLA, subsequent births or adoptions, have a maximum allowance of 6 months of child care leave.
- C. Any Group 12 employee covered by the Citywide Contract who becomes the parent of a child by birth, or by adoption of a child up to four (4) years of age, is entitled to a leave of absence without pay, for a period of up to forty-eight (48) calendar months. The use of the maximum allowance of 48 months is limited to one instance only. If during the 48 months of leave another child is adopted or born, the leave will not be extended beyond the 48 months. All leaves for additional children run concurrent once employee is on child care leave. After the employee returns to work for a minimum of 31 calendar days, subsequent

* Supersedes Operating Procedure No. 20-21, dated October 2, 2000, December 26, 1990 on Child Care Leave and Section 3.OA of Operating Procedure 20-26 dated January 27, 1988, Time and Leave Regulations Governing Group 11 Employees and any other addendums issued.

births or adoptions, have a maximum allowance of 36 months for each new instance of leave.

- D. Leave of absence without pay shall also be granted, on the same basis, to any employee whose registered domestic partner becomes a parent by birth, or by adoption of a child up to four (4) years of age.
- E. Child care leave shall not be granted retroactively. Leave shall commence upon request and reasonable advance notification (at least 4 weeks) by the employee of the intent to take such leave.
- F. Child care leave must be requested within 12 weeks of the birth or adoption of the child. An employee requesting child care leave may not already be on an approved child care leave and must state in writing that employee is either a natural or adoptive parent of that child and, in the case of adoption, the date on which employee will become legally responsible for the child. Satisfactory documentation must be provided by the employee.
- G. Child care leave runs concurrent to any other applicable leaves related to child care and/or bonding.
- H. Child care leave is intended to be without pay, however, employees may substitute unpaid child care leave with accrued paid annual or compensatory leave balances (vested or non-vested). Sick leave cannot be used for child care or child bonding, after the 12-week entitlement under FMLA has expired.
 - 1. Employees may use accrued paid sick leave to recover from childbirth and delivery, or because of a pregnancy-connected disability. During the applicable period of incapacity due to childbirth and delivery as indicated in the medical certification for employee's own disability, accrued paid sick leave may be substituted for unpaid child care leave.
- I. Upon return from child care leave, the employee shall be credited with the annual and sick leave earned while on the paid leave portion of that leave of absence.
- J. Conditions of Leave
 - 1. Group 11 employees, Group 12 non-permanent employees, and any Group 12 employee hired on a temporary basis, while eligible for leave under this policy, may have their employment terminated by the System during the period of the leave of absence because of business necessity upon two (2) weeks advance notification to the employee where feasible.
 - 2. Group 11 employees, Group 12 non-permanent employees, and any Group 12 employee hired on a temporary basis, requesting leave from a non-permanent appointment, and who are also on leave of absence from a permanent civil service position in a lower title at NYC H+H, shall be granted concurrent leaves of absence from both NYC H+H positions. If the leave from the nonpermanent title is terminated, the approved leave shall be applied to the permanent underlying position and corresponding salary.

K. Extension of Leave

1. Group 11 employees and Group 12 employees hired on a temporary basis will not be granted child care leave extensions.
2. Group 12 employees may elect to take from as little as one month up to a maximum of 48 months of child care leave (in one instance) or 36 months (in all other instances of child care leave such as subsequent births or adoptions). If any employee has additional children during their 48 month maximum allowance instance, they are not able to extend the leave beyond the 48 months. Group 12 employees who initially elect to take less than the applicable maximum period of leave may elect to extend that leave up to two additional periods of at least six months each. In no case, however, may the initial leave period plus any extension total more than the allowable maximum (48 or 36 months, as applicable).

L. Return to Duty

1. Any employee returning from child care leave may be subject to a reassignment based on business necessity. A reassignment may include another business unit location, department or tour.
2. Employees are required to comply with any applicable conditions of employment (e.g. OHS clearance, licensure and other requirements for position).

M. Family and Medical Leave Act Entitlement

Entitlement of FMLA child care leave expires 12 months after the birth or placement of a child with the adoptive or foster parent. Child care leave may not be taken on an intermittent or reduced leave schedule. Paid annual leave and non-FLSA compensatory time must be used concurrently with FMLA child care leave. If an employee commences child care leave and has no annual leave or compensatory time, FMLA child care leave is to be counted in its entirety

N. Health Insurance Coverage

1. Under the Health Insurance Program, Maternity or Confinement and Infant Care Leave (pregnant females only) is not an eligible category for Special Leave of Absence Coverage (SLOAC). However, a pregnant employee may be eligible for a temporary disability/illness SLOAC if the pregnant employee's leave of absence is due to a serious health condition or disability connected to a pregnancy. A doctor's note must be on file to that effect.
2. Medical coverage during child care is provided under the Family and Medical Leave Act (FMLA). The Guidelines on the Family and Medical Leave Act, dated November 24, 1998, state that eligible employees are entitled to 12 weeks of medical leave for child care.

IV. DUTIES AND RESPONSIBILITIES:

A. Employee

1. An employee must give reasonable advance written notification (at least 4 weeks) of their intent to take child care leave, specifying the commencement date of such leave.
2. For eligible Group 12 employees, a request for an extension of leave must be in writing at least 4 weeks prior to the expiration date of the previously granted leave period.
3. An employee who wishes to return to work before the scheduled expiration of their approved child care leave, must give 2 weeks prior written notification to HRSS Leaves Administration.
4. Employees returning from child care leave as scheduled must contact HRSS Leaves Administration prior to returning to duty.

B. Human Resources Shared Services Leaves Administration:

Only HRSS Leaves Administration is authorized to process and approve a child care leave.

V. INTERPRETATION:

The Senior Vice President of Human Resources is responsible for interpreting this Operating Procedure through additional memorandums as necessary.