

Human Resources Policies
Family and Medical Leave Policy
(Salaried Personnel)

1. Policy

- 1.1 The Bi-State Development recognizes that a leave of absence from active employment may be necessary to address a serious health condition, either for yourself or an immediate family member and for other reasons specifically covered by the Family and Medical Leave Act.
- 1.2 This policy complies with the provisions of the Family and Medical Leave Act of 1993 (FMLA) and its implementing regulations.
- 1.3 The function of this policy is to provide employees with a *general description* of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.
- 1.4 Under this policy, Bi-State Development will grant up to a maximum 12 weeks unpaid leave to *eligible* employees (or up to 26 weeks only in cases of servicemember leave as described) for qualified reasons. Leave will be without pay except to the extent specifically set forth herein.
- 1.5 If you have questions regarding the application of this policy to your particular situation, contact your supervisor or the Bi-State Development's **Absence Management Department at (314-982-1597)**.

2. Leave Eligibility

- 2.1 To qualify for FMLA leave, the employee must meet all of the following conditions:
 - a) The employee must have been employed by Bi-State Development for at least 12 months. Service prior to a seven-year break in service will not be recognized.
 - b) The employee must have actually worked at least 1,250 hours during the 12 month period immediately preceding the start of the leave.

3. Reasons For Leave

- 3.1 An eligible employee may apply for FMLA leave for the following reasons:
 - 3.1.1 The birth and care following the birth of the employee's child;
 - 3.1.2 The placement of a child with the employee for adoption or foster care;
 - 3.1.3 To care for an immediate family member (spouse, child, or parent) who has a serious health condition;

- 3.1.4 A serious health condition that renders the employee unable to perform the essential functions of his or her job;
- 3.1.5 For any “qualifying exigency” (to be defined by federal regulation) because the employee's spouse, son, daughter, or parent is a covered military member on active military duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.

4. Length of Leave

- 4.1 Except in the case of the care of a servicemember (for which 26 workweeks of FMLA leave is available in a 12 month period), employees who meet the eligibility requirements may be granted up to twelve (12) weeks of unpaid FMLA entitlement during a 12-month period. Bi-State Development uses the forward rolling method for the twelve (12) weeks of leave and the forward method for the twenty six (26) weeks of servicemember leave. The amount of FMLA leave available to an eligible employee at any given time will be calculated by using the appropriate method.
- 4.2 If FMLA leave is approved for a salaried employee's own serious health condition, the employee is required to use any compensation continuation available to them (PTO, Contingency Sick Leave, STD) before going unpaid. If the leave is requested for any other reason (e.g. bonding, adoption, or to care for a family member), the employee must use all of his or her accrued PTO as paid FMLA leave prior to unpaid FMLA leave. The employee may not use Contingency Sick Leave for reasons other than for his or her own sick leave benefit prior to unpaid FMLA leave unless otherwise allowed under the Sick Leave Policy.
- 4.3 Under FMLA guidelines, all time off taken under this policy for any reason which would qualify under FMLA (e.g. worker's compensation leave, Short term disability) will run concurrently and be counted against the employee's leave entitlement under FMLA.
- 4.4 Any holidays recognized by Bi-State Development that occur during a continuous FMLA leave will be counted against the 12-week entitlement. Holidays will not be counted against an intermittent leave unless the employee was scheduled to work on the holiday and used approved FMLA time instead.
- 4.5 If legally married partners are employed by Bi-State Development and both are eligible for FMLA leave, they are allowed to take only a combined total of 12 weeks leave during any 12-month period if the FMLA leave is due to a birth, care after birth, adoption, foster care, or care for a parent with a serious health condition. However, when legally married partners each use a portion of the 12 week entitlement due to these situations, the legally married partners would each be entitled to the difference between the leave he/she took individually up their total 12 weeks entitlement for another

FMLA leave reason such as the employee's own serious health condition.

- 4.6 An employee who is the spouse, son, daughter, parent or next of kin of a covered servicemember may be entitled to a total of 26 workweeks of leave during a 12-month period to care for a servicemember with a qualified condition.

5. Intermittent or Reduced Schedule Leave

- 5.1 FMLA leave taken because of the employee's serious health condition or the employee's immediate family member's serious health condition may be taken on an intermittent (in blocks of time) basis if the leave is deemed to be medically necessary.
- 5.2 Bi-State Development may require an employee taking intermittent or reduced schedule leave to temporarily transfer to an alternative available position for which the employee is qualified for the duration of the intermittent leave period, or may modify the employee's current position to better accommodate the employee's recurring periods of leave if the time off is based on planned medical treatment.
- 5.3 Intermittent leave can include attending evaluation office visits and scheduled medical treatments. It is the employee's responsibility to confer with the attending physician in making an effort to schedule appointments at times when the appointment(s) will not interfere with Bi-State Development's operation. An employee shall discuss with their supervisor any disruption in their schedule due to a scheduled appointment prior to the day of the appointment.

6. Leave Expiration

- 6.1 An employee who fails to return to work immediately following expiration of the authorized leave period will be considered to have voluntarily resigned unless an extension was granted.
- 6.2 An employee who needs an extension due to the continuation, recurrence, onset of his or her own serious health condition or the serious health condition of a family member, must request the extension of leave by calling Bi-State Development's Absence Management Department. This request should be made as soon as the employee realizes that he/she will not be able to return to work which shall either be the same day the employee is aware he/she will not be able to return to work or next business day, *but prior* to the expiration of the leave.
- 6.3 For any employee whose inability to return to work is due to a disability (as defined in the Americans with Disabilities Act), Bi-State Development will engage in the interactive process with the employee to determine if there is any reasonable accommodation that exists that would enable the employee to perform the essential functions of his or her job. An additional short

leave period authorized through Bi-State Development is one example of a plausible accommodation. An indefinite or undetermined period of leave will not be considered “reasonable” for ADA accommodations.

7. Requesting a New Leave

- 7.1 All employees who need to submit a new FMLA leave request must first notify his or her direct supervisor as soon as practicable once the need for leave is known. Next, the employee must promptly contact Bi-State’s **Absence Management Department** at **314-982-1597** (Monday through Friday between the hours of 8:00 a.m. through 4:30 p.m.) to request the new FMLA leave. All calls received or made by the Absence Management Department are recorded for training and business purposes. Call-In requirements pertaining to reporting subsequent absences will be reviewed with the employee during the initial contact with the Absence Management Department. A copy of the call-in requirement will also be provided with the certification packet that is mailed to the employee upon the request of leave. The employee will be instructed to call the designated telephony system (**QQuest 1-866-638-7613**) for each absence incurred for the reason noted for leave until a decision is made on the request. The employee may not be obligated to continue the daily call-in for the period of time approved once they receive the written approval. The call-In requirements can also be found on the **MetroWeb** under *Departments* and then by selecting *Absence Management*. The current FMLA policy and other related documents can be found at the same location.
- 7.2 If the reason for the leave is foreseeable, such as for childbirth or a scheduled surgery, then the request must be made at least 30 calendar days in advance of the start of the leave. Failure to provide the required notice may result in denial of all or part of the leave.
- 7.3 If the reason for the leave is not foreseeable, such as an emergency hospitalization, or an illness or injury where a physician has/will deem you as incapacitated for more than three (3) consecutive full calendar days, then the request shall be made as soon as practicable once the employee learns of the need for leave. Employees will have up to five (5) calendar days maximum from the start of an absence/incapacity state, or an absence/incapacity period, to contact the Absence Management Department on a new unforeseen leave. Again, the employee will be responsible to fulfill the daily call-in requirements for absences immediately going forward once leave has been requested.
- 7.4 Bi-State Development’s Absence Management Department will provide the necessary Certification forms via mail to the employee's

home address on record. In order to ensure all materials are received, employees are required to keep their address information current with Bi-State Development's HR system. Bi-State Development is not responsible for correspondence not received, delayed or denial of requested time due to the employee's failure to keep their contact information current.

- 7.5 The Medical Certification form, fully completed by the patient's attending physician, must be received by the Absence Management Department within 15 calendar days of the date after Bi-State Development forwards the certification form to the employee (due date will be noted on the '*Notice of Eligibility*' form and the *Signature Sheet*' enclosed in the packet). It is the employee's responsibility to ensure that this deadline is met. Medical Certification forms received by the Absence Management Department after the due date will result in the days between the due date and the date received being denied. *Bi-State Development will only accept completed medical certification forms that are either faxed directly from the attending physician's office or original documents received through the US Postal Service, FedEx, UPS, equivalent delivery service or delivered in person. Faxed copies from personal residence or other places of business will not be recognized as authentic documents and will not be accepted as a legitimate submission.*
- 7.6 FMLA requires an employee to attempt to schedule planned medical treatment so it will not disrupt unduly the employer's operation. If planned medical treatment cannot be scheduled on an employee's own time, then the employee must consult with his or her supervisor regarding the scheduling of any planned medical treatment in order to minimize disruption to the operations of Bi-State Development. Any such scheduling is subject to the approval of the involved health care provider but Bi-State Development can still initiate further discussions in an effort to resolve any differences.

8. Requesting Time on a Pending Request or Active Intermittent Leave

- 8.1 An employee who needs to take FMLA time on a pending request, of any type, or open intermittent leave must call **QQuest (1-866-638-7613)** as soon as practicable.
- 8.2 Call-In information for reporting pending requests or approved leave will be reviewed with the employee during the initial contact with the Absence Management Department. A copy of the information will also be provided to the employee with the certification packet that is mailed to the employee when requesting leave. The employee will be required to call in to the designated telephony system (**QQuest 1-866-638-7613**) on each day of absence incurred for the reason noted for the specific leave while

on pending or after an approval, if provided. The call-in requirements can be found on the **MetroWeb** under *Departments* and then by selecting *Absence Management* as noted above under 'Requesting a New Leave'.

9. Health Care Provider Certification/Process

- 9.1 If the FMLA leave application is based on the serious health condition of the employee, the employee's spouse, child or parent, then a Certification of Health Care Provider form must be completed by the health care provider and submitted to the Absence Management Department within 15 days of the date the form is provided to the employee. Failure to provide such certification within this time frame will result in a delay or denial of the leave. If the certification is received by the Absence Management Department after the due date, all days between the due date and the date the certification was received will be denied. *Bi-State Development will only accept completed medical certification forms that are either faxed directly from the attending physician's office or original documents received through the US Postal Service, FedEx, UPS, equivalent delivery service or delivered in person. Faxed copies from personal residence or other places of business will not be recognized as authentic documents and will not be accepted as a legitimate submission.*
- 9.2 Family and Medical Leave affords the employer the opportunity to contact the patient's attending physician on an initial certification to understand the intent of a medical certification if questions arise from the form supplied. Bi-State Development will normally use an independent medical provider to conduct any inquiry related to the insufficient or incompleteness of a medical certification. The patient will be required to sign an authorization form providing the independent medical provider to contact the attending physician to discuss related medical information. Refusal of the patient to sign an authorization for the independent medical provider to discuss the medical certification supplied will stop the FMLA process and prompt an immediate denial of the leave request.
- 9.3 Bi-State Development may require, at its expense, a second opinion from a health care provider that Bi-State Development chooses. The health care provider designated to give a second opinion will not be one who is employed on a regular basis by Bi-State Development. Regardless of whether the patient is the employee or if the patient is an employee's family member, the employee, will only attend scheduled second opinion appointments on their own time since FMLA is a request for leave and the employer is under no obligation to provide time away from work for a second opinion. The patient will also be required to authorize the release of any pertinent medical information from the attending

physician to assist in helping the second opinion physician make a decision. Failure of a patient to attend a scheduled second opinion or refusal to release related medical information will be deemed as not acting in good faith and the leave request, and any lost time associated with the request, will be addressed in accordance with FMLA regulations. The employee will also be held financially responsible for any costs incurred due to no-show or appointment cancellation of less than a 72 hour [3 business days (Monday through Friday)] notification.

- 9.4 If the second opinion of the medical condition is found to be contradictory to the original medical certification, Bi-State Development may require, at its expense, the opinion of a third health care provider designated or approved jointly by the employer and the employee. The opinion of the third health care provider will be considered final and binding for the leave request. As with the second opinion, the employee, if the patient, will be required to attend the third opinion appointment on their own time. The patient will also be required to authorize the release of any medical information associated with the process. Failure of the patient to attend the scheduled third opinion, or refusal to release related medical information, will again be deemed as not acting in good faith and the request will be bound by the decision from the second opinion examination and related absences will be addressed in accordance with FMLA regulations. The employee will also be held financially responsible for any costs incurred due to no-show or appointment cancellation of less than a 72 hour [3 business days (Monday through Friday)] notification.
- 9.5 A leave taken due to a “qualifying exigency” related to military service must be supported by a certification of its necessity. No second or third opinions will be conducted on qualified exigency leaves but Bi-State Development reserves the right to verify the events surrounding the reason for exigency leave.
A leave taken due to the need to care for a servicemember must be supported by a certification from the servicemember’s health care provider or designated health care provider working with an authorized Department of Defense representative.
- 9.6 Bi-State Development reserves the right to require the employee to provide recertification on a periodic basis of the medical condition for which FMLA leave has been approved in accordance with applicable FMLA regulations. Bi-State Development will follow the federal guidelines on conducting any recertification of FMLA leave.

10. Return to Work

- 10.1 During an employee’s FMLA leave, Bi-State Development may periodically inquire as to the employee’s intent to return to work.

Also, if an employee wishes to return to work prior to the expiration of a FMLA approved leave, notification must be given to the Absence Management Department and the employee's supervisor as soon as practicable, but no less than three (3) working days prior to the employee's planned return date.

11. Insurance Premiums

- 11.1 During a period of approved FMLA leave, an employee will be retained on the Bi-State Development's group health plan under the same conditions that applied before the leave commenced. To continue health coverage, the employee must continue to make any contributions that he or she made before taking the leave. Failure of the employee to pay his or her share of the health insurance premium/s may result in loss of coverage, at which time COBRA will be offered.
- 11.2 If the employee fails to return to work after the expiration of the FMLA leave, the employee will be required to reimburse Bi-State Development for payment of health insurance premiums during the leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job or to circumstances beyond the employee's control. Bi-State Development will use the FMLA guidelines as guidance on these types of situations.

12. Job Restoration

- 12.1 Under most circumstances, upon return from FMLA approved leave, the employee will be returned to the same or an equivalent position without loss of seniority or benefits that would have accrued if the FMLA leave were not taken. An employee who takes an approved FMLA leave will not lose any seniority or employment benefits that accrued before the date the leave began. An equivalent position is one that has similar duties, conditions, responsibilities and privileges as the employee's original position; an equivalent position must also be at a geographically approximate worksite and with a similar work schedule as the original job.
- 12.2 The determination as to whether a position is an equivalent position will be made by Bi-State Development. If the employee refuses to accept the same or equivalent position, this action is deemed to be a voluntary resignation by the employee with the termination effective date as the day after the end of the approved leave.
- 12.3 An employee who has been on FMLA leave has no greater right to reinstatement or to other benefits and conditions of employment than if he/she had been continuously employed during an FMLA leave. For example, if an employee would have been laid off from

his/her position if not on leave, then the employee has no greater rights to return than any other employee in a layoff situation.

- 12.4 Reinstatement after FMLA leave may be denied to certain salaried “key” employees under the following conditions:
 - 12.4.1 An employee requesting reinstatement was among the highest-paid 10 percent of salaried employees employed.
 - 12.4.2 The refusal to reinstate is necessary because reinstatement would cause substantial and grievous economic injury to Bi-State Development’s operations.
 - 12.4.3 The employee is notified of Bi-State Development’s intent to refuse reinstatement at the time Bi-State Development determines the refusal is necessary; and if leave has already begun, Bi-State Development gives the employee a reasonable opportunity to return to work following the notice described previously.

13. No Discrimination

- 13.1 Bi-State Development will not discriminate against an employee for exercising his or her rights under the FMLA. Bi-State Development will not interfere with, restrain, or deny the exercise of any rights under the FMLA. Bi-State will not retaliate against any person for opposing a practice that is illegal under the FMLA, for filing a charge, or for testifying in any inquiry or proceeding relating to any rights under the FMLA.
- 13.2 If an employee anticipates the need to take FMLA leave, or if an employee has questions about the application of this policy to his or her particular situation, the employee should contact the Absence Management Department at Bi-State Development.

14. Fraudulent Use

- 14.1 Dishonesty, deception or fraudulent use of Family and Medical Leave is not protected under the federal guidelines. Bi-State Development will not condone deceitful use of FMLA and any employee determined to have engaged in this type of behavior with the FMLA process, will be subject to disciplinary action up to and including immediate discharge in accordance with the rules and policies applicable to the particular employee.