LEAVES OF ABSENCE
Questions and Answers

What is a Leave of absence (in general)?

Excused time away from work, taken due to medical, personal or other authorized reasons.

• Job-protected leave
  The employee will be reinstated to the former or equivalent position, unless the employee would have been subject to some change in the job had the leave not occurred (for example, a reduction in force, a change in hours due to business need, etc.) FMLA, MMLA, & SNLA are examples of job protected leaves.

• Unprotected leave
  When reinstatement cannot be guaranteed. BWH will try to reinstate the employee to the former or comparable position upon return, but this is not always possible.

• Maximum amount of leave
  Any leave or combination of leaves may not exceed six months in any rolling 12-month period, unless a collective bargaining agreement or the law requires a different time frame. Please remember that all leaves of absence are concurrent and count towards the six months maximum.

• Notice requirement for requesting a leave
  Generally, leaves must be planned and requested in advance. Therefore, an employee who desires to take a leave (or an extension of a leave) must contact BWH’s LOA Coordinator at least 30 days before the start of the leave or extension.

  When the need for a leave is not foreseeable, the employee must provide as much notice as possible, preferably within a day or two after learning of the need to take or extend a leave.

• Documentation
  All employees seeking leave to care for their own illness (including any illness or temporary disability caused by pregnancy) or to care for a family member’s illness must submit a “Certification of Health Care Provider” form to Occupational Health supporting the need for the leave. If the leave is foreseeable, the employee must submit the required medical certification at the same time as submitting the leave request.
If a leave is unforeseeable, BWH will notify the employee of the need for a medical certification and other leave paperwork. The employee must provide documentation within 15 calendar days following this notification.

BWH may require an employee seeking all other types of non-medical leaves to provide supporting documentation. Such documentation should be provided as soon as practical following the request. Failure to provide such documentation may result in the denial of the leave request, and could result in corrective action.

- Returning to work
Prior to returning to work, the employee must submit a completed “Request to Return from Medical Leave of Absence” form to Occupational Health. This form needs to be completed by the employee’s medical provider indicating that the employee is fit to return to work, as well as at the return to work date.

- Returning to work, but with restrictions
These types of situations are managed on a case by case basis. When a medical provider releases an employee to return to work with job related restrictions, Occupational Health, Human Resources, and the department will review the job description and requirements of the position to determine if the restrictions can be honored.

What type of leaves are available?

- FMLA leave
Job protected leave (which may be continuous, reduced schedule or intermittent) for: personal medical issues; family care medical issues; maternity/paternity/adoption/foster care placement in the employee’s home.

1. Eligibility
An employee must have worked for one year and worked at least 1250 hours in the 12 months before the date the leave begins.

2. Amount of leave available
An eligible employee may receive up to a combined total of 12 weeks of job protected leave in any rolling 12 month period. The employee’s position, or an equivalent one, will be held during that time when the employee intends to return from the approved leave of absence.

3. Medical conditions covered by FMLA
FMLA covers serious health conditions: an illness, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider,
which renders the employee incapable of performing one or more of the essential functions of his or her job or which requires the employee to seek medical treatment. Not included are conditions such as common illnesses like a cold or flu, or recovery from cosmetic procedures.

4. Approval process
   Upon the timely receipt of the necessary supporting documentation (medical certification or other documentation as requested), BWH’s Leave of Absence Coordinator will determine whether the leave qualifies for FMLA protection. BWH will then notify the employee regarding whether the leave meets FMLA requirements, and whether the leave is approved or denied. If approved, the entire leave will be counted towards the employee’s leave allowance from the date the leave began, even if the designation of the leave as FMLA occurs later.

5. Difference between a continuous, intermittent, and reduced schedule leaves
   For a leave to be continuous, a normal work week must be missed with full-day increments being taken without being interrupted by periods of work time. An intermittent leave is taken on a pre-determined schedule, in which leave days may be interspersed with work days. A reduced schedule leave is taken on a pre-determined schedule in which the employee will continue to work, but fewer regularly scheduled hours.

6. FMLA to care for a family member
   Continuous, reduced schedule or intermittent leaves are available to eligible employees to care for the employee’s immediate family member who is suffering from a serious health condition. A “family member” is defined by Federal law as a spouse, domestic partner, parent, biological child, step-child, adopted child and/or foster child. The term "parent" does not include a parent "in-law". The term “child” does not include individuals age 18 or over unless they are incapable of taking care of themselves because of a mental or physical disability that limits one or more of their major life activities.

7. Use of FMLA to care for a newborn child
   Continuous leave is available to eligible employees to care for the employee’s child upon birth or in connection with a child’s placement for adoption or foster care in the employee’s home.
This type of leave must be taken within the first year anniversary of the child’s birth or placement. The MMLA may provide leave coverage as well, though FMLA and MMLA must be taken concurrently.

8. How many FMLA leaves can an employee have within a 12-month period?
   It can vary. Each leave must be supported by submitting a separate leave request form and a "Medical Certification of Health Care Provider" form, and then approved by the BWH LOA Coordinator. And, regardless of how many leaves are granted, employees are only eligible for up to a total of 12 weeks of leave in a rolling 12 month period.

9. Not able to return to work after exhausting FMLA entitlement
   Employees may request to continue their leave in a non-FMLA medical leave status. This leave would need to be approved by the employee’s manager, and cannot extend beyond six months from the beginning of the leave (except if otherwise required by a collective bargaining agreement or by law.) However, the employee’s position may not be guaranteed for the additional time beyond the twelve weeks required under the FMLA.

- **Massachusetts Maternity Leave Act (MMLA)**
  All full-time employees who have completed three consecutive months of full-time employment and part-time employees who have worked 1250 hours in the preceding 12 months are eligible for MMLA leave. The MMLA provides that eligible employees may receive up to eight weeks of job-protected leave for the birth of a child, to adopt a child under the age of 18, or to adopt a disabled child under the age of 23. Eight weeks of leave will be given for each child born or adopted. This leave must be taken within the first year anniversary of the child’s birth or placement. FMLA may provide leave coverage as well, though FMLA and MMLA must be taken concurrently.

- **Non-FMLA Medical Leave**
  Employees who have completed the initial three month orientation period may be eligible to take non-FMLA medical leave. BWH allows a maximum of six weeks of unprotected personal or family care medical leave, with the employee’s manager’s approval.

- **Small Necessities Leave**
  All employees who have completed 12 months of service and who have worked at least 1250 hours in the previous 12 months are eligible for leave under the Small Necessities Leave Act (SNLA). The SNLA provides up to 24 hours of intermittent or continuous, job protected leave per rolling 12 month period to attend to certain family-related purposes, such as: participating in school activities
of a son or daughter; accompanying a son or daughter to routine health care appointments; accompanying an elderly relative to routine health care appointments.

- **Personal Leave of Absence**
  In extraordinary circumstances, eligible employees who have completed their three-month initial orientation period may receive unprotected leave to attend to personal matters such as educational opportunities, family matters, or travel. Such leaves are approved at the discretion of the employee’s manager and generally may not exceed two weeks. In addition, under no circumstances may any combination of leave exceed six months in any rolling 12-month period, unless otherwise required by a collective bargaining agreement or by law.

- **Military Leave of Absence**
  Please refer to HR-404.

- **Bereavement**
  Please refer to HR-404.

- **Jury Duty**
  Please refer to HR-404.

- **Organ Donation**
  Please refer to HR-407.

**Can I be paid while on a Leave of Absence?**

- **Short Term and Long Term Disability**
  BWH provides Short Term Disability (STD) and Long Term Disability (LTD) coverage to benefits eligible employees who miss at least two weeks of work due to a personal disability (different practices may be in place for those covered by a collective bargaining agreement.) For a qualifying personal disability, the employee would use BT for the first two weeks, after which STD would be paid. Should the need to be off work exceed 90 days (into a 13th week), LTD would then be paid.

- **Maternity and Paternity Leave**
  BWH also provides Maternity and Paternity leave benefits (different practices may be in place for those covered by a collective bargaining agreement.) For the first two weeks of the leave, the employee’s BT will be used, after which 6 weeks of leave pay will be provided, with BT and ESL (if available) available to supplement.
  
  - Maternity Leave
Employees who qualify for Maternity Leave have the ability to take up to 12 weeks of leave, which would be paid as follows:

Weeks 1 and 2: Must use benefit time (BT) if available or go unpaid

Weeks 3–8: 60 percent short-term disability paid by the hospital (employees can buy up to 75 percent coverage during open enrollment). Employees can supplement with BT and/or ESL (if available) to receive 100 percent of their regular pay.

Weeks 9–12 – Employees can use BT or ESL, if available.

- Paternity Leave, adoption or foster care placement
  Employees who qualify for Paternity Leave, adoption or foster care placement leaves have the ability to take up to 12 weeks of leave, which would be paid as follows:

  Weeks 1 and 2: Must use BT if available or go unpaid.

  Weeks 3–8: 60 percent hospital-funded leave. Employees can supplement with BT and/or ESL to receive 100 percent of their regular pay.

  Weeks 9–12: Employees can use BT or ESL, if available.

When MMLA is taken concurrently with an FMLA for maternity/paternity/adoption/foster care the portion of the leave eligible for FMLA protection will be paid according to the FMLA medical leave method.

- Family care leaves, personal leaves, and SNLA leaves
  For family care leaves, personal leaves, and SNLA leaves, employees will be paid with accrued benefit time (BT) hours in one week increments. If BT accruals go below the employee’s regularly scheduled hours, the employee will go unpaid.

Can I maintain benefits while on a leave of absence?

- Accruals while on a leave
  Benefit Time (BT) and other accruals will continue each week while the employee is being paid. However, accruals stop when the employee is on unpaid status, regardless of the employee’s job protected status.

- Health insurance
  Medical/dental/vision insurance coverage will continue through payroll deductions while an employee is on a paid status. If the employee exhausts available paid time off while on leave, the employee will go into unpaid status and medical/dental/vision insurance will be paid depending on the type of leave
the employee is on. For FMLA and SNLA leaves, BWH will continue to pay the employer’s portion of any premium payments and the employee will be billed monthly for the employee’s portion of the premium. For unpaid MMLA, non-FMLA medical or personal leaves, BWH stops making premium payments, which means the employee will be billed monthly for all premium payments.