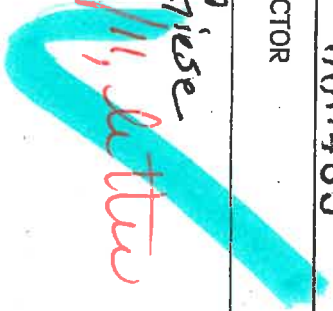


DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Hess Chambers</i>	DATE <i>4-28-11</i>
----------------------------	------------------------

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>1011485</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Mr. Fect, Giese cleared 5/9/11, letter attached.</i> 	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>5-9-11</i>  <input type="checkbox"/> FOIA DATE DUE _____  <input type="checkbox"/> Necessary Action

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

JOE WILSON  
2ND DISTRICT, SOUTH CAROLINA  
ASSISTANT REPUBLICAN WHIP

COMMITTEES:  
ARMED SERVICES  
RANKING, PERSONNEL SUBCOMMITTEE  
FOREIGN AFFAIRS  
EDUCATION AND LABOR  
HOUSE POLICY

## Congress of the United States House of Representatives

April 27, 2011

COUNTIES:  
AIKEN\*  
ALLENDALE  
BARNWELL  
BEAUFORT  
CALHOUN\*  
HAMPTON  
JASPER  
LEXINGTON  
ORANGEBURG\*  
RICHLAND\*  
(\*PARTS OF)  
W. ERIC DELL  
CHIEF OF STAFF  
AND COUNSEL

**RECEIVED**

APR 28 2011

The Honorable Anthony E. Keck, Director  
State Of South Carolina  
PO Box 8206  
Columbia, SC 29202-8206

Re: Ms. Drucilla Titus-Fredrick

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

Dear Mr. Keck,

I am writing to you on behalf of my constituent, Ms. Titus-Fredrick who has contacted me regarding her personnel issues with FMLA.. Enclosed are documents received from the constituent which further explain the concerns. Your kind attention or assistance in this matter would be greatly appreciated.

It is an honor to represent the people of the Second Congressional District, and I value your input. Thank you for your time and concern in this and all other matters.

Please respond to Mr. Bill Walker at the Midlands District Office at 1700 Sunset Blvd., Suite 1, West Columbia, South Carolina 29169. The phone number is 803-939-0041. The fax number is 803-939-0078.

Very truly yours,  
*Joe Wilson*  
JOE WILSON  
Member of Congress

JW/BW

*Log: Hoss/Chamber*  
*C: Keck*  
*6/18/11*

MIDLANDS OFFICE:  
1700 SUNSET BLVD. (US 378), SUITE 1  
WEST COLUMBIA, SC 29169  
(803) 939-0041  
FAX: (803) 939-0078

212 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-4002  
(202) 225-2452  
Fax: (202) 225-2455  
www.joewilson.house.gov

LOWCOUNTRY OFFICE:  
903 PORT REPUBLIC STREET  
P.O. BOX 1538  
BEAUFORT, SC 29901  
(843) 521-2530  
FAX: (843) 521-2535

TOLL FREE 1-888-361-1442



# CONGRESSMAN JOE WILSON

## Second District of South Carolina

### Privacy Release

#### Consent for Release of Personal Records by Executive Agencies

To Whom It May Concern:

I have sought assistance from the Office of Congressman Joe Wilson on a matter that may require the release of information maintained by your agency, and which may be prohibited from dissemination under the Privacy Act of 1974. I hereby authorize you to release all relevant portions of my records or to discuss information involved in this case with Congressman Wilson or any authorized member of his staff until the matter is resolved.

Time frame January 1, 2007 to April 26, 2011

Name of Agency: South Carolina Department of Health and Human Services

Name (please print) Drusella Titus-Fredrick

Date of Birth August 8, 2011

Address 400 Shallow Brook Columbia SC 29223

City Zip

247373131

Social Security Number

(803)419-8615

Telephone Number - Home

Signature Drusella Titus-Fredrick

E-mail Address Drusella.titus@bellouth.net

(803)414-0718

Telephone Number - Cell

Today's Date April 26, 2011

Please briefly explain your concern (use the back if necessary): Ile unfair

treatment of me, while trying to request  
work leave from home to care for my husband,  
who is ill.

Congressman Joe Wilson (SC-02)

1700 Sunset Boulevard, Suite 1 | West Columbia, SC 29169

Phone: (803) 939-0041 | Fax: (803) 939-0078

*Frederick*

400 Shallow Brook Drive  
Columbia, South Carolina 29223  
(803)414-0718 or (803)419-8615

Mr. Bill,

Thank you for taking the time to assist me as well as my family in this matter. At this time, my husband is still very ill and preparing for more chemotherapy treatments. My husband Lt. Col. Anthony Frederick, was diagnosed with a Chronic Myelomonocytic Leukemia (CMML), which is a rare form of blood cancer. He has served 28 years in United States Army.

At this point, the South Carolina Department of Health and Human Services has not accommodated me in working from home, telecommuting. I have enclosed correspondence from SCDHHS and letters that I have sent to my representatives and other elected officials.

Once, you have had a time to review the information, please call me at (803) 414-0718.

Thank you in advance for your assistance.

*Don H Frederick*

E-mail sent to First Letter Michelle Obama on April 19, 2011

I am writing to appall your mission to bring awareness to the numerous scarifies that military families make day to day from the youngest child to the spouses. Although many organizations, including South Carolina Department of Health and Human Services (SCDHHS) do not work effectively with military families, your initiative has brought attention to the needs of the military families. And for that I say that you!

My husband, Lt. Col. Anthony Frederick, served 28 years in the US Army. Our lives were devastated on December 8, 2010. My husband was diagnosed Chronic Myelomonocytic Leukemia (CMML). CMML is an uncommon blood cancer that has is combination of two types of blood cancers. As I struggled to accept my husband's illness, I reached out to my employer for help to work from home or the hospital, while caring for my husband and maintaining my income. I asked to work from home (telecommuting). Although my employer is an agency that allows telecommunting, I was told that the department's supervisor, Diane Mcleod, did not permit telecommunting in her department. My leave was exhausted due to the fact that I was diagnosed with breast cancer in 2006 and had a total of six surgeries over the past four years.

My next step was to apply for the Military Caregiver's Leave under the Family Medical Leave Act (FMLA), which would allow me to take an additional 14 weeks of FMLA. My husband's physician completed the medical documentation and I attached a letter from Fort Jackson Commander, which stated my husband was active duty and was currently active duty. I received a denial letter from SCDHHS, Tonya Chambers, and Director of Human Resources, that stated the Military Family Leave Form 101Med Cert Military that was **completed** by the physician "was not sufficient to meet the definition of serious illness or injury."

The physician included the diagnosis of Chronic Myelomonocytic Leukemia (CMML). The second reason for the denial of the FMLA was the "illness or injury did not incurred by the servicemember in the line of duty". Tonya Chambers continued and said that the form indicated "No". Although she had a letter from the Army attesting that my husband, Lt. Colonel Anthony W. Frederick, was active duty, the Military Caregiver's Leave was denied. I contacted the U.S. Department of Labor regarding the situation and their office contacted SCDHHS for copies of all the documentation that I submitted for approval. I contacted the military and requested another letter be sent to Tonya Chambers reiterating that Anthony Frederick was active duty, when his illness occurred. Fort Jackson's legal department sent a clarification letter of the Military FMLA policy. On February 25, 2011, Tonya Chambers sent me an approval letter for an additional 14 weeks under the Military Caregiver's Leave. From December 9, 2010 to February 18, I spent time and energy trying to get approval of FMLA from SCDHHS.

My husband was hospitalized for 17 days. I stayed with him each night at the hospital and left in the morning in order to care for our children's need prior to taking Harmonie (5) and Anthony (13) to school. Afterwards, I would return to the hospital and stay with my husband during the day. Currently, my husband is still ill and receiving treatments. He takes chemotherapy 5 days a week as well as receiving shots, administered by me. There are times when I scheduled his shots and medication to accommodate my time in the office, instead of when he should take the medication. Anthony has had two blood transfusions and we are now traveling to Duke Medical Center for treatment.

There are times when my husband is in extreme pain and he is mobile. He needs assistance with his movement. I am up at night and in the morning caring for him. His prognosis is not very good.

With the economy our household is a two family income, I am still working, caring for my husband, caring for our children, (attending schools programs, concert performance, soccer etc.) and the normal family duties.

SCDHHS still does not demonstrate sympathy, compassion or empathy equitably at work. It is very difficult for me to leave my husband on some days and focus on my job. I explained to my supervisor, Diane McLeod, and Tonya Chambers that I may not be able to work five days a week or that I may be out for weeks from work depending on my husband conditions. However, my supervisor, Diane McLeod, knowing my circumstances added additional job responsibilities to me, which increased my work load as well as stress.

If you are able to provide any assistance this will not only help me, but my husband and our two children tremendously. The time we spend together is very important to all of us these days and unfortunately, I unable to cherish these times, because I am concerned about my employer. If you are able to help me in negotiating an arrangement to work from home, I would be grateful to you!

Thank you for taking the time to read my letter. My God continue to bless you and your family. If you would like to contact me, please call (803)414-0718.

Blessings

Dru Titus Frederick

### **Military Caregiver's Leave Correspondence**

- a) E-mail regarding a request from the Department of Labor
- b) Medical Documentation form from physician's office
- c) Letter from the Department of Defense stated husband is active duty
- d) SCDHHS letters of denial for Military Caregiver's Leave



Frederick  
400 Shallow Brook Dr  
Columbia, SC 29223  
(803)414-0718

February 9, 2011

South Carolina Department of Health and Human Services  
Tonya Chambers, Office of Human Resources  
P.O. Box 8206  
Columbia, South Carolina 292-8206

Dear Ms. Chambers,

I received your denial letter dated February 8, 2011 regarding my request for the additional fourteen weeks to care for my husband, Lt. Col. Anthony W. Fredrick, was diagnosed with leukemia. In your letter you stated my request was denied, because the health care provider answered "No", when asked, "*Was the condition for which the Covered Servicemember is being treated incurred in the line of duty on active duty in the armed forces?*"

*Ms. Chambers, you also stated that the Armed forces memorandum provided indicated that Lt. Col. Anthony Frederick is an activity duty servicemember. The health care provider can not make the determination as to whether a service member is active duty or not. (Please see the previously attached memorandum from the Department of the Army, United States Army Training Center and Fort Jackson.)*

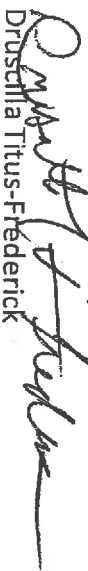
South Carolina Department of Health and Human Services denied my request for the military caregiver leave not based on the fact, which is that my husband is active duty, but because of my current law suit with the agency. This is a retaliator action from the agency and management staff towards me.

Ms. Chambers, although you consulted with U.S. Department of Labor's, Wage and Hour Division-FMLA National Office, the National Society for Human Resources Management, the Law Offices of Fisher & Phillips and the Office of Human Resources-Budget and Control Board to clarify the standards for eligibility as defined by FMLA, their response was correct the spouse must be an active duty servicemember who has an injury or illness, which you know my husband is currently and was active duty at the time of his illness.

Ms. Chambers, you made the decision not to call me and ask for clarification, but to denied my request because of an in accurate response from the health care provider. Ms. Chamber, you knew the response from the health care provider was an error and you did not act in a profession manner in helping to resolve the error. Instead your actions showed that the agency has no empathy for me or my family.

I am enclosing a revised copy of the Certification for Serious Injury or Illness of covered Servicemember for Military Family Leave (Family and Medical Leave Act) Form 101M- Medical Certification Military, which the health care provider has changed.

Also, I am emotional exhausted from the SCDHHS harassment as well as trying to care for my husband and small children. SCDHHS has not shown any compassion or empathy for me or my family in regards to my husband illness.

  
Drusilla Titus-Frederick

Enclosures

**From:** Tonya Chambers  
**To:** Dru Titus Frederick  
**Date:** 2/17/2011 6:11 PM  
**Subject:** Authorization to Respond  
**Attachments:** HIPPA Release - Spouse Dru Frederick.doc; HIPPA Release - Dru Frederick.doc

**CC:** Byron Roberts

We received a request for information from the U.S. Department of Labor regarding your FMLA records. We would like to comply with Mr. Herman Washington's (Wage Hour Investigator) request and resolve this matter. To do so, we need you and your husband to sign the attached Authorization for the Use and Disclosure of Protected Health Information forms. Please return the signed forms to the Office of Human Resources as soon as possible so that we may comply with this request. Thank you.

Tonya Chambers  
Director of Human Resources  
Department of Health and Human Services  
Post Office Box 8206  
Columbia, South Carolina 29202-8206  
Phone (803) 898-2670  
Fax (803) 898-4500

**From:** Dru Titus Frederick  
**To:** Dru Titus Frederick; Tonya Chambers  
**CC:** Anthony Keck; druscillat@bellsouth.net; Jan Polatty  
**Date:** 2/11/2011 12:24 PM  
**Subject:** Re: Military Caregiver Leave-CML  
**Attachments:** Forwarded Fax file DHHSBUREAUOFTT\_1102111631599401.TTF

Tonya, I am attaching the documentation you requested from Colonel Jeffrey Sanderson, Chief of Staff, at Fort Jackson regarding Anthony W. Frederick, my husband. If this documentation is not sufficient to meet the determination of "in the line of duty". Please let me know what other documentation you need to approve the Military Caregiver Leave(CML).

Also, in your letter dated February 8th, you stated, (after reviewing the medical certification, it appears the documentation is not sufficient to meet the definition of "serious injury or illness" as defined under FMLA's Military Caregiver provisions.)

The health care provider indicated in Part B- Medical Status-A serious injury or illness that may render the services member medically unfit to perform the duties of the member's office, grade, rank or rating."

**Tonya, there is a diagnosis of CMML listed on the form. Chronic Myelomonocytic Leukemia (CMML) is an uncommon blood cancer that has features of two other types of blood cancers, with a survival rate of one to two years.**

**My husband, has spent 28 years in the military overseas fighting for you and others like you. At this point, he is very ill and I am having discussions with you for an approval of MCL. SCDHHS denied me the right to work from home, while others in the agency telecommute for various reasons. If the information provided by Colonel Jeffrey Sanderson is not sufficient, I will contact the General of Fort Jackson or the Commander in Chief, President Obama, regarding the your denial of CML.**

Please advise if you are approving the request or not for the CML.

Thanks

>>> Dru Titus Frederick 2/10/2011 2:22 PM >>>

Tonya, I spoke with Colonel Jeff Sanderson on today, February 10th at 2:08 p.m. He has signed the requested letter and will mail you the letter as well as fax me a copy.

I am respectfully requesting that SCDHHS do not send anymore **certified** mail to my home address. Please mail the letter or call me to pick-up the letter from HR. My husband is normally home alone when I am here at work and he is resting from five days of chemotherapy. He is very weak and it is difficult for him to answer the door. Secondly, I don't want my husband to be concern about the problems I am encountering here at my office. Tony does not need this additional stress. Please don't send certified mail to my home address. Thank you.

>>> Tonya Chambers 2/10/2011 1:47 PM >>>

Yesterday at 4:30 p.m., I was able to speak with Colonel Jeffrey Sanderson, your husband's commanding officer, regarding your Military Caregiver leave request. According to Colonel Sanderson, he is working on providing the Office of Human Resources with the sufficient documentation as mentioned in correspondence to you on February 8, 2011. Upon receipt of Colonel Sanderson's certification, we will be re-evaluating your request as promised. At that time, you will be provided any additional notice of rights and responsibilities in accordance with the Family and Medical Leave Act (FMLA). Thank you.

**From:** Dru Titus Frederick  
**To:** Tonya Chambers  
**CC:** Alicia Jacobs; Anthony Keck; Dru Titus Frederick; drusciliat@bellsout...  
**Date:** 2/10/2011 2:23 PM  
**Subject:** Re: Military Caregiver Leave

Tonya, I spoke with Colonel Jeff Sanderson on today, February 10th at 2:08 p.m. He has signed the requested letter and will mail you the letter as well as fax me a copy.

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Tonya Chambers  
Director of Human Resources  
Department of Health and Human Services  
Post Office Box 8206  
Columbia, South Carolina 29202-8206  
Phone (803) 898-2670  
Fax (803) 898-4500>>>  
**From:** Dru Titus Frederick  
**To:** Tonya Chambers  
**CC:** Anthony Keck  
**Date:** 2/10/2011 1:19 PM  
**Subject:** Military Caregiver Leave

Tonya, I provided you with the revised Military Family Leave (Form 101M) on Wednesday, February 4, 2011 at 3:55 p.m. The health care provider has changed the form to reflect my husband was an active duty servicemember in the armed forces at the time of his illness.

If you still need more documentation regarding my husband, Anthony W. Frederick, as a servicemember, please let me know. I have spoken with the members of the United States Army regarding your denial letter. They are willing to provide any documentation in order to expedite this process. Also, I have faxed your letter to US Department of Labor, Army Military Staff, Senators, as well as my attorney. As a result, Mr. Keck will probably will receive correspondence regarding SCDHHS denial of the Military Caregiver Leave.

Tonya, please contact me immediately and let me know if you need additional information or when you have approve the Military Caregiver Leave.

Tonya Chambers  
Director of Human Resources  
Department of Health and Human Services  
Post Office Box 8206  
Columbia, South Carolina 29202-8206  
Phone (803) 898-2670  
Fax (803) 898-4500>>>  
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**CC:** Anthony Keck  
**Date:** 2/10/2011 1:19 PM  
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Tonya, please contact me immediately and let me know if you need additional information or when you have approve the Military Caregiver Leave.

**From:** Dru Titus Frederick  
**To:** Tonya Chambers  
**CC:** Alicia Jacobs; Anthony Keck; Jan Polatty  
**Date:** 2/10/2011 2:03 PM  
**Subject:** Re: Military Caregiver Leave

Thanks for the update, Ms. Chambers. I will speak with Colonel Jeff Sanderson on today regarding the additional documentation.

mbers 2/10/2011 1:47 PM >>>

Yesterday at 4:30 p.m., I was able to speak with Colonel Jeffrey Sanderson, your husband's commanding officer, regarding your Military Caregiver leave request. According to Colonel Sanderson, he is working on providing the Office of Human Resources with the sufficient documentation as mentioned in correspondence to you on February 8, 2011. Upon receipt of Colonel Sanderson's certification, we will be re-evaluating your request as promised. At that time, you will be provided any additional notice of rights and responsibilities in accordance with the Family and Medical Leave Act (FMLA). Thank you.

Tonya Chambers  
Director of Human Resources  
Department of Health and Human Services  
Post Office Box 8206  
Columbia, South Carolina 29202-8206  
Phone (803) 898-2670  
Fax (803) 898-4500>>>  
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**CC:** Anthony Keck  
**Date:** 2/10/2011 1:19 PM  
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Tonya, please contact me immediately and let me know if you need additional information or when you have approve the Military Caregiver Leave.

Anthony W. Frederick 711-22118  
DOB-10-3

South Carolina Department of  
Health & Human Services



Emma Portner • Director  
Mark Sanford • Governor

Revised Submitted

**CERTIFICATION FOR SERIOUS INJURY OR  
ILLNESS OF COVERED SERVICEMEMBER  
FOR MILITARY FAMILY LEAVE  
(Family and Medical Leave Act)  
FORM 101M - Med Cert Military**

Date Issued To Employee: 1/6/2011  
1/6/2011 R.J.

**INSTRUCTIONS to the EMPLOYER:** The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a serious injury or illness of a covered service member to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. § 825.310. Employers must generally maintain records and documents relating to medical certification, recertifications, or medical histories of employees or employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

**TO:** South Carolina Department of Health & Human Services

**FROM:** Althea Wright / Ken Branham: Office of Human Resources (803) 898-2670

**Section I: For completion by the EMPLOYEE and/or the COVERED SERVICEMEMBER for whom the Employee is Requesting Leave.**

**INSTRUCTIONS to the EMPLOYEE or COVERED SERVICEMEMBER:** Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a covered servicemember. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 C.F.R. §§ 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 C.F.R. § 825.310(d). The employer must give an employee at least 15 calendar days to return this form to the employer.

**Section II: For completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD"), HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veteran's Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; or (3) a DOD non-network TRICARE authorized private health care provider.**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a member of the Regular Armed Forces, the National Guard, or the Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. For purposes of

1 of 5  
HRFMLA - Form 101M - Med Cert Military

Contact: DPH 414-0718



FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a covered servicemember's serious injury or illness includes written documentation confirming that the covered servicemember's injury or illness was incurred in the line of duty on active duty and that the covered servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to frequency or duration of a condition, treatment, etc. Your answer should your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave.

**Section I - For completion by the Employee and/or the Covered Servicemember for whom the Employee is Requesting Leave.**

(This section must be completed first before any of the below sections can be completed by a health care provider.)

**Part A - Employee Information**

Name and Address of Employer (this is the employer of the employee requesting leave to care for covered servicemember):

Name of Employee Requesting Leave to Care for Covered Servicemember:

First Dru Middle T Last Fredorick

Name of Covered Servicemember (for whom employee is requesting leave to care):

First Anthony Middle Wayne Last Fredorick

Relationship of Employee to Covered Servicemember Requesting Leave to Care:

☐ Spouse ☐ Parent ☐ Son ☐ Daughter ☐ Next of Kin

**Part B - Covered Servicemember Information**

1. Is the Covered ~~Servicemember~~ a current member of the Regular Armed Forces, the National Guard or Reserves? ☒ Yes ☐ No

If yes, please provide the covered servicemember's military branch, rank and unit currently assigned to:

See attached

Is the covered servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)? ☒ Yes ☐ No

If yes, please provide the name of the medical treatment facility or unit: Marrior Transition Unit

2. Is the Covered Servicemember on the Temporary Disability Retired List (TDRL)? ☐ Yes ☒ No

**Part C - Care to be Provided to the Covered Servicemember**

Describe the care to be provided to the Covered Servicemember and an Estimate of the leave needed to provide the care: ↓ \*

Basic medical, hygienic, nutritional, safety, as well as psychological care for at least one year.

**Section II: For completion by a United States Department of Defense ("DOD") Health Care Provider or a Health Care Provider who is either : (1) a United States Department of Veterans Affairs ("VA") Health Care Provider; (2) a DOD TRICARE Network Authorized Private Health Care Provider; or (3) a DOD Non-Network TRICARE Authorized Private Health Care Provider.**

If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator). Ensure that Section I above has been completed before completing this section. Please be sure to sign the form on the last page.

**Part A - Health Care Provider Information**

**SC Oncology Associates, PA**  
**166 Stonardge Dr.**  
**Columbia, SC 29210**  
**803-461-3000**

Health Care Provider's Name and Business Address:

Dr. Mohamed El Gendy

Type of Practice/Medical Specialty: Oncology

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; or (4) a DOD non-network TRICARE authorized private health care provider: \_\_\_\_\_

Telephone: 803 461-3000 Fax: 803 461-3438 E-mail: \_\_\_\_\_

**Part B - Medical Status**

1. Covered Servicemember's medical condition is classified as (check one of the appropriate boxes):

- ☐ (VSD) Very Seriously Ill/Injured - Illness/injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD health care providers.)
- ☐ (SI) Seriously Ill/Injured - Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD health care providers.)

☒ Other Ill/Injured - A serious injury or illness that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating.

☐ NONE OF THE ABOVE - (Note to Employer: If this box is checked, you may still be eligible to take leave to care for a covered family member with a "serious health condition" under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380 or an employer-provided form seeking the same information.)

2. Was the condition for which the Covered Servicemember is being treated incurred in the line of duty or active duty in the armed forces? ☒ Yes ☐ No

3. Approximate date condition commenced: 12-2010 date of diagnosis

4. Probable duration of condition and/or need for care: Unknown - pt will start treatment

5. Is the covered servicemember undergoing medical treatment, recuperation, or therapy? ☒ Yes ☐ No

If yes, please describe medical treatment, recuperation, or therapy:

The patient is diagnosed with Cmm and will start chemo the end of January.

**Part C - Covered Servicemember's Need for Care by Family Member**

1. Will the covered servicemember need care for a single continuous period of time, including any time for treatment and recovery? ☒ Yes ☐ No

If yes, estimate the beginning and ending dates for this period of time, including any time.

2. Will the covered servicemember require periodic follow-up treatment appointments? ☒ Yes ☐ No

If yes, estimate the treatment schedule: chemo 3x/week

3. Is there a medical necessity for the covered servicemember to have periodic care for these follow-up treatment appointments? ☒ Yes ☐ No

4. Is there a medical necessity for the covered servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)? ☒ Yes ☐ No

If yes, please estimate the frequency and duration of the periodical care:

Once every 2 months for 2-3 days due to side effects of chemo or change in condition.

Signature of Health Care Provider

MA Deburnau, MD

1-21-11  
Date

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS DOCUMENT IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

## Fact Sheet #28A: The Family and Medical Leave Act Military Family Leave Entitlements

**Notice:** On October 28, 2009, the President signed the National Defense Authorization Act for Fiscal Year 2010 (2010 NDAA), Public Law 111-84. Section 565 of the 2010 NDAA amends the military family leave entitlements of the Family and Medical Leave Act (FMLA). These amendments expand coverage for “qualifying exigency” leave to eligible employees with covered family members in the Regular Armed Forces and coverage for “military caregiver leave” to eligible employees who are the spouse, son, daughter, parent, or next of kin of certain veterans with a “serious injury or illness”. On December 21, 2009, the President signed the Airline Flight Crew Technical Corrections Act, Public Law 111-119, which modifies the FMLA eligibility requirements for flight crew members. This Fact Sheet does not incorporate these amendments to the FMLA.

The National Defense Authorization Act for Fiscal Year 2008 (2008 NDAA), Public Law 110-181, amended the FMLA to allow eligible employees to take up to 12 workweeks of job-protected leave in the applicable 12-month period for any “qualifying exigency” arising out of the active duty or call to active duty status of a spouse, son, daughter, or parent. The 2008 NDAA also amended the FMLA to allow eligible employees to take up to 26 workweeks of job-protected leave in a “single 12-month period” to care for a covered servicemember with a serious injury or illness. These two types of FMLA leave are known as the military family leave entitlements.

### EMPLOYER COVERAGE

The FMLA applies to all public agencies, including state, local and federal employers, local education agencies (schools), and private-sector employers who employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including joint employers and successors of covered employers.

### EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits, an employee **must**:

- work for a covered employer;
- have worked for the employer for a total of 12 months;
- have worked at least 1,250 hours over the previous 12 months; and
- work at a location where at least 50 employees are employed by the employer within 75 miles.

### MILITARY FAMILY LEAVE ENTITLEMENTS

**Military Caregiver Leave:** A covered employer must grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a covered servicemember with a serious injury or illness up to a total of 26 workweeks of unpaid leave during a “single 12-month period” to care for the servicemember. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. A serious injury or illness is one that was incurred by a servicemember in the line of duty on active duty that may render the servicemember

medically unfit to perform the duties of his or her office, grade, rank, or rating. The "single 12-month period" for leave to care for a covered servicemember with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12 month period established by the employer for other types of FMLA leave. An eligible employee is limited to a **combined** total of 26 workweeks of leave for any FMLA-qualifying reason during the "single 12-month period." (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered servicemember.)

**Qualifying Exigency Leave:** A covered employer must grant an eligible employee up to a total of 12 **workweeks of unpaid** leave during the normal 12-month period established by the employer for FMLA leave for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves; it does not extend to family members of military members in the Regular Armed Forces.

Qualifying exigencies include:

- Issue arising from a covered military member's short notice deployment (i.e., deployment on seven or less days of notice) for a period of **seven days** from the date of notification;
- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military member's absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
- Taking up to five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member;
- Any other event that the employee and employer agree is a qualifying exigency.

Spouses employed by the same employer are limited to a **combined** total of 26 workweeks in a "single 12-month period" if the leave is to care for a covered servicemember with a serious injury or illness, and for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition.

FMLA leave may be taken intermittently whenever **medically necessary** to care for a covered servicemember with a serious injury or illness. FMLA leave also may be taken intermittently for a qualifying exigency arising out of the active duty status or call to active duty of a covered military member. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.

Under certain conditions, employees or employers may choose to “substitute” (run concurrently) accrued paid leave (such as sick or vacation leave) to cover some or all of the FMLA leave. An employee’s ability to substitute accrued paid leave is determined by the terms and conditions of the employer’s normal leave policy.

## **NOTICE REQUIREMENTS**

### Employee Notice

Employees seeking to use military caregiver leave must provide 30 days advance notice of the need to take FMLA leave for planned medical treatment for a serious injury or illness of a covered servicemember. If leave is foreseeable but 30 days advance notice is not practicable, the employee must provide notice as soon as practicable – generally, either the same or next business day. An employee must provide notice of the need for foreseeable leave due to a qualifying exigency as soon as practicable. When the need for military family leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Generally, it should be practicable to provide notice for unforeseeable leave within the time prescribed by the employer’s usual and customary notice requirements.

An employee does not need to specifically assert his or her rights under the FMLA, or even mention the FMLA, when providing notice. The employee must provide “sufficient information” to make the employer aware of the need for FMLA leave and the anticipated timing and duration of the leave. Depending on the situation, such information may include, as applicable:

- that the requested leave is for a particular qualifying exigency related to the active duty or call to active duty status of a covered military member and the anticipated duration of the leave;
- that the leave is for a qualifying family member who is a covered servicemember with a serious injury or illness and the anticipated duration of the leave.

When an employee seeks leave due to a FMLA-qualifying reason for which the employer has previously provided the employee FMLA-protected leave, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave.

### Employer Notice

Covered employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under the FMLA. Additionally, employers must either include this general notice in employee handbooks or other written guidance to employees concerning benefits, or must distribute a copy of the notice to each new employee upon hiring. Employers may use the notice prepared by U.S. Department of Labor to meet this requirement.

When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA purpose, the employer must notify the employee of his or her eligibility to take leave, including a reason for non-eligibility if the employee is determined not to be eligible. Such eligibility notice may be oral or written and should, generally, be given within five business days of the request for FMLA leave. Subsequent eligibility notice in the same 12-month leave period may be required when an employee’s eligibility status changes. Employers also must inform employees of their rights and responsibilities under the FMLA, including giving specific written information on what is required of the employee.

When the employer has enough information to determine that leave is being taken for an FMLA-qualifying reason, the employer must notify the employee that the leave is designated and will be counted as FMLA leave. The employer must designate leave that qualifies as both leave to care for a covered servicemember with a serious injury or illness and leave to care for a qualifying family member with a serious health condition as leave to care for a covered servicemember in the first instance. The designation notice must be in writing and,

generally, must be given within five business days of the determination. An employer also must notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA entitlement. Employers may use the optional forms WH-381 and WH-382 prepared by the U.S. Department of Labor to meet these notification requirements.

## **CERTIFICATION REQUIREMENTS**

Employers may require that an employee's request for military family leave be supported by an appropriate certification. An employer may require that:

- leave for a qualifying exigency be supported by a copy of the covered military member's active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party;
- leave to care for a covered servicemember with a serious injury or illness be supported by a certification completed by an authorized health care provider or by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered servicemember's family.

Second and third opinions and recertification are not permitted for certification of a covered servicemember's serious injury or illness or of a qualifying exigency. An employer may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee's direct supervisor – to authenticate or clarify a medical certification of a serious injury or illness, or an ITO or ITA. Additionally, an employer may contact the individual or entity named in a certification of leave for a qualifying exigency for purposes of verifying the existence and nature of the meeting. Employers may use the optional forms WH-384 and WH-385 prepared by the U.S. Department of Labor for obtaining certifications for qualifying exigencies and military caregiver leave, respectively.

## **UNLAWFUL ACTS**

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to the FMLA.

## **ENFORCEMENT**

The Wage and Hour Division investigates complaints. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. Individuals may also be able to bring a private civil action against an employer for violations.

**For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4-USWAGE (1-866-487-9243).**

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
Contact Us





## State of South Carolina

### Department of Health and Human Services

Nikki R. Haley  
Governor

February 8, 2011

Anthony Keck  
Director

#### U.S. & CERTIFIED MAIL

Ms. Druscilla Titus-Frederick  
400 Shallow Brook Drive  
Columbia, South Carolina 29223

Dear Ms. Titus-Frederick:

On January 7, 2011, the Agency Director received your correspondence to Senators Lindsey Graham and Jim DeMint in which you requested Family and Medical Leave Act (FMLA) Military Caregiver leave. The FMLA National Defense Authorization Act FY 2010 amendments state that Military Caregiver leave entitles an eligible employee who is the spouse, son, daughter, parent, or next of kin of a "covered servicemember" to take up to 26 workweeks of FMLA leave in a single 12-month period to care for a "covered servicemember" with a "serious injury or illness". As defined under FMLA Military Caregiver Leave provision 29 CFR §825.127 a.1. "A serious injury or illness means an injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating."

On January 26, 2011, you submitted the Family Medical Leave Act (FMLA) Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave (Form 101M – Med Cert Military). After reviewing the medical certification form, it appears the documentation is not sufficient to meet the definition of "serious injury or illness" as defined under FMLA's Military Caregiver provisions. The Medical Certification and Department of the Army's memorandum you provided confirm that your husband is a covered servicemember on active duty. However, the health care provider answered "No" when asked, "*Was the condition for which the Covered Servicemember is being treated incurred in the line of duty on active duty in the armed forces?*"

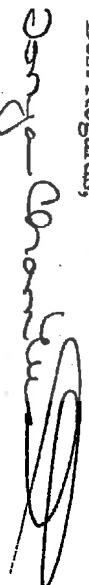
In the absence of published administrative guidance and interpretations from the United States Department of Labor on the Military Caregiver provisions, I consulted with the U.S. Department of Labor's, Wage and Hour Division - FMLA National Office, the National Society for Human Resource Management, the Law Offices of Fisher & Phillips and the Office of Human Resources - Budget and Control Board to clarify the standards for eligibility as defined by FMLA. All sources provided essentially the same interpretation. In accordance with § 825.310.4.b. an employer should obtain certification from a health care practitioner that the employee's family member's illness or injury was incurred "*in the line of duty on active duty*" in order to approve the employee for military caregiver leave. If the employee cannot obtain this documentation, the request may be denied. If you are able to obtain and provide more sufficient documentation at a later date, your request for Military Caregiver leave may be re-evaluated at that time.

On January 24, 2011, you were notified that you have been approved for FMLA leave to care for your husband. Although the documentation you submitted on January 26, 2011 does not entitle you to Military Caregiver leave at this time, you still qualify for FMLA coverage for up to 450 hours (twelve weeks) during the 2011 calendar year. As of February 4, 2011, you have used 28.65 hours of the 450 hours available to you during this calendar year.

According to your February 4, 2011 email to Ms. Diane McLeod, you will be taking continuous and/or intermittent leave over the next four months starting February 7, 2011. As such, please submit anticipated leave prior to the leave being taken. Should you be unable to enter a leave of absence, the supervisor is authorized to enter the time based on your regularly scheduled work week. Leave is now directly tied to payroll; therefore, timely leave entries prevent under payments or over payments to employees. One benefit of the new MySCEmployee leave system is that employees can view their leave balances and request leave any time twenty four hours a day anywhere they have Internet access. Please continue to communicate with your supervisor any anticipated absences over the next few months as under FMLA notice rules, employees seeking caregiver leave must work with employers to schedule leave without unduly disrupting operations.

Please know we are all sad to hear of your husband's illness and wish him all the best. If you have any questions regarding your leave or benefits, you may contact Kim Backman in my office at (803) 898-2670.

Best Regards,



Tonya Chambers, Human Resources Director  
Department of Health and Human Services

Enclosures

cc:

Medical File

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# State of South Carolina

## Department of Health and Human Services

Mark Sanford  
Governor

December 20, 2010

Emma Forester  
Director

VIA CERTIFIED & US MAIL  
Drusilla Thru-Frederick  
400 Shallow Brook Drive  
Columbia, South Carolina 29223

Dear Ms. Frederick:

On December 13, 2010, the Department of Health and Human Services' (DHHS) Office of Human Resources received a memo from you (dated December 10, 2010) requesting to telecommute due to medical reasons regarding a family member. Please understand that any request for modifications to the job requirements, to the work environment, or to the manner or circumstances under which a position is customarily performed, that enable a qualified individual with a disability to perform essential functions is considered a medical accommodation request. Although DHHS does have a medical accommodation process, that process is only considered for employees with medical issues, not family members. In addition, the Agency's Telecommuting Policy provides supervisors the discretion to allow telecommuting as an option. Your supervisor, Diane McLeod, does not allow telecommuting as an option for employees in her Department. Therefore, please be advised that your telecommuting request has been denied. Furthermore, any absences you are incurring are being covered by your available sick leave, annual leave and leave without pay.

In your December 10, 2010 memo and in telephone calls you made to me on December 9, 2010 and December 16, 2010, you advised that medical documentation would be forthcoming to support your absences. As of the date of this letter, the Office of Human Resources has not received any documentation from a physician to support your absences or to qualify your absences as Family Medical Leave Act covered. Per the FMLA policy, an employee is given 15 (15) calendar days to submit medical documentation for FMLA leave request. Attached is the FMLA policy, along with the Medical Certification form for a family member. Please have your physician complete and submit to the Office of Human Resources by January 1, 2011. As the FMLA policy states, "The employee is required to respond to such a request within fifteen (15) calendar days of the request or provide a reasonable explanation for the delay. Failure to provide certification in a timely manner may result in the delay or denial of FMLA leave time or proper FMLA employment coverage. The Medical Certification Form may be used to provide the required certification."

Just a reminder that it is imperative that you maintain consistent communication with your immediate supervisor, Diane McLeod, regarding your absences and expected return to work date. If Ms. McLeod is not available, please advise Sheila Platts, Division Director or Ms. Beverly Hamilton, Bureau Chief.

Also, please remember that the South Carolina Vocational Rehabilitation Department's Employee Assistance Program is an available resource for you to use during this difficult time. I have included a brochure for your convenience.

Sincerely,

*Cynthia Ruggard Gore*  
Cynthia Ruggard Gore  
Employee Relations Manager

cc: Beverly Hamilton  
Sheila Platts  
Diane McLeod  
Medical File

Attachments

THIS LETTER IS NOT A CONTRACT. IT IS A NOTICE OF THE EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS DOCUMENT, IN WHOLE OR IN PART, WITHOUT NOTICE. ANY CONTRACT OR AGREEMENT, WHETHER WRITTEN OR ORAL, WHICH IS CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH SHALL BE VOID AND OF NO EFFECT.

Office of Human Resources

P. O. Box 8206 Columbia South Carolina 29202-8206  
(803) 898-2670 Fax (803) 898-4500

01/07/2011 12:06PM



## State of South Carolina

### Department of Health and Human Services

Nikki R. Haley  
Governor

January 24, 2011

**U.S. & CERTIFIED MAIL**  
Ms. Druscilla Titus-Frederick  
400 Shallow Brook Drive  
Columbia, South Carolina 29223

Dear Ms. Titus-Frederick:

On December 22, 2010 the Office of Human Resources received your medical support documentation for your request under the Family Medical Leave Act (FMLA) Health Care Provider provisions. Based on the documentation received (Form 101E), your FMLA leave request qualifies under FMLA provision 29 CFR §825.100 to provide care for a family member's serious health condition. Beginning January 4, 2011, you qualify for FMLA job-protected coverage and continuation of health care benefits during the 2011 calendar year, to care for your spouse for up to twelve (12) workweeks of intermittent or continuous time.

You may substitute your paid leave or you may use unpaid leave during your FMLA absence. Ten (10) days of your personal sick leave may be substituted as Family Sick Leave during this calendar year, and then you must use available annual leave or leave without pay as necessary. Any leave taken for this reason will count towards your twelve (12) months of FMLA leave entitlement for calendar year 2011. You may submit leave requests as follows:

- Family Sick Leave – FMLA;
- Annual Leave – FMLA;
- Leave Without Pay (LWOP) – FMLA; or
- Voluntary Furlough Leave Without Pay (VF - LWOP) – FMLA.

The Supplemental Leave Request Form (HR Form 145) should be completed by you to reflect requested Family Sick Leave, Annual Leave, Leave Without Pay, or Leave Without Pay/Voluntary Furlough time you are planning to take. The completed Supplemental Leave Request Form should be submitted to your supervisor/chain of command and Human Resources. Leave requests covered by a Supplemental Leave Request Form must also be entered separately via MySCEmployee. Please refer to the Department's HR Policy 10.00 FMLA on the agency's intranet for additional information.

Should you wish to continue your insurance benefits not covered by the agency while on qualified FMLA leave, please contact Ms. Eugenia Howard, Benefits Coordinator at (803) 898-2670 to make arrangements to make premium payments. The Department of Health and Human Services (the Department/DHHS) will pay your share of the health and dental premiums during qualified FMLA leave, and recover any payments from you upon your return.

In the course of drafting the aforementioned FMLA notification to you, on January 7, 2011, the Agency Director received your correspondence to Senators Lindsey Graham and Jim DeMint. In your letters, I understand you are requesting 1) Family Medical Leave Act (FMLA) coverage as it pertains to the Military Caregiver provisions *C.F.R. § 825.124-825.127*; 2) to telecommute and/or; 3) to receive leave "donated to you from your co-workers." I will attempt to address each request in that order below:

1. Under §825.127 a.1. of the FMLA, "A serious injury or illness means an injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating." Based on this definition, it is unclear whether or not your husband's illness would qualify under FMLA's Military Caregiver provisions. However, an authorized health care provider or a Department of Defense (DOD) recovery care provider would be better able to determine whether your husband's illness was "incurred in the line of duty on active duty."

Please submit the *Certification of Serious Injury or Illness of a Covered Servicemember for Military Family Leave Form (Form 101M)* as completed by an authorized health care provider or DOD recovery care provider. Confidential medical information may be submitted directly to the Office of Human Resources.

Once the completed *Certification of Serious Injury or Illness of Covered Servicemember for Military Family Leave (Form 101M)* is submitted to Human Resources, your eligibility for Military Caregiver leave of up to twenty six (26) workweeks in a single 12-month period will be determined. Within the single 12-month period, an eligible employee may take a combined total of twenty-six (26) weeks of FMLA leave including up to twelve (12) weeks of leave for other FMLA qualifying reasons such as the serious health condition of an employee's family member.

Please note, "If the employee fails to provide the employer with a complete and sufficient certification...or fails to provide any certification, the employer may deny the taking of FMLA leave."

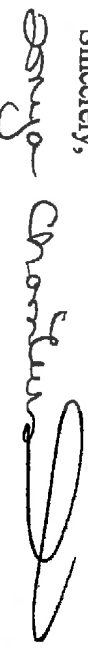
2. In correspondence on December 20, 2010, Ms. Cynthia Linguard Gore, Employee Relations Manager, addressed your request to telecommute on two levels. "Although DHHS does have a medical accommodations process, that process is only considered for employees with medical issues, not family members. In addition, the Agency's Telecommuting Policy provides supervisors the discretion to allow telecommuting as an option. Your supervisor, Diane McLeod, does not allow telecommuting as an option for employees in her Department."

3. You also requested to "have leave donated to me from my co-workers". There are no provisions under the South Carolina Human Resources Regulations or agency policy to allow employees to transfer leave from one employee's leave account to another employee's leave account. If you are referring to the Department's Leave Transfer Pool, on October 15, 2008 an agency wide Memorandum of Policy was issued to all employees of the Department of Health and Human Services announcing the suspension of the Leave Transfer Program due to the budgetary shortfalls we were just beginning to experience as an agency. I have attached a copy of this memorandum as a reminder.

I would like to share some news that you may find helpful during this difficult time. The Office of Human Resources recently contracted with a state-of-the art Employee Assistance Program called Deer Oaks. Deer Oaks offers services such as short-term counseling, child and elder care resources, work/life balance coaching, etc. at no charge to Department employees. We will be announcing this employee benefit agency-wide soon; however, if you feel they may be of some assistance to you during this time, please feel free to contact them at 1-866-327-2400 or [cap@deeroaks.com](mailto:cap@deeroaks.com).

Attached please find a copy of the agency's FMLA policy and the forms you will need completed. I hope that I was able to address your requests as shared through Senator Lindsey Graham and Senator Jim Demint. Please know I wish your husband a very speedy recovery. If you have any questions, please contact Kim Backman in my office at (803)898-2670.

Sincerely,



Tonya Chambers, Human Resources Director  
Department of Health and Human Services

Enclosures

cc: William Wells, Acting Director  
The Honorable Lindsey O. Graham  
The Honorable Jim DeMint  
Medical File

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**DEPARTMENT OF THE ARMY**  
HEADQUARTERS, UNITED STATES ARMY TRAINING CENTER AND FORT JACKSON  
4325 JACKSON BOULEVARD  
FORT JACKSON SC 29207-5018

**FEB 10 2011**

Office of the Chief of Staff

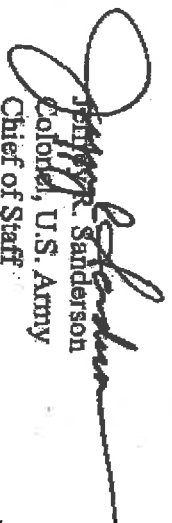
Tonya Chambers  
Human Resource Director, Department Health/Human Services  
1801 Main Street  
Columbia, SC 29201

Dear Ms. Chambers:

Per our telephone conversation, I confirm that Lieutenant Colonel Anthony Frederick incurred this illness while in the line of duty and in an Active Duty Status.

If you need any additional information, please feel free to call me at (803) 751-7414.

Sincerely,

  
Jeffrey R. Sanderson  
Colonel, U.S. Army  
Chief of Staff



DEPARTMENT OF THE ARMY  
HEADQUARTERS, UNITED STATES ARMY BASIC COMBAT TRAINING CENTER OF EXCELLENCE  
FORT JACKSON, SOUTH CAROLINA 29207

REPLY TO  
ATTENTION OF:

17 March 2011

Legal Assistance

Mrs. Frederick  
400 Shallow Brook Drive  
Columbia, South Carolina 29223

Re: Injury or Illness in the Line of Duty

Dear Mrs. Frederick:

This letter is in response to your inquiry as to your husband's Leukemia illness as it pertains to a Line of Duty illness or injury for purposes of the Family Medical Leave Act ('FMLA'), 29 U.S.C. §2601. My understanding is you are requesting clarification whether your husband's diagnosis of Leukemia occurred in the Line of Duty for purposes of the Family Medical Leave Act and whether the U.S. Army considers his illness as occurring in the line of duty. Based on all the facts and circumstances known to me at this time and based on the language of the FMLA and Army Regulation ('AR') 600-8-4 Line of Duty Policy, Procedures, and Investigations – your husband's Leukemia diagnosis was incurred in the line of duty while he was on Active Duty for the Armed Forces and rendering him medically unfit to perform his duties.

The FMLA (under 29 USC §2612 (a) (3)) allows an employee who is the "spouse, son, daughter, parent or next of kin of a covered servicemember shall entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember." The FMLA defines a covered servicemember under 29 USC §2611 (15) stating a covered servicemember means "a member of the Armed Forces ... undergoing medical treatment ... for a serious injury or illness." The FMLA (under 29 USC §2611 (18)) further goes on to define serious injury or illness as "in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces [emphasis added] (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating."

The Army under AR 600-8-4 in paragraph 2-3 states that in the case of a disease, illness or injury is presumed to be a Line of Duty injury or illness in an active duty U.S. Army member. Line of Duty will be presumed without any investigation unless there are strange or doubtful circumstances. There is no investigation required and the illness is a line of duty illness when U.S. Army Soldier contracting cancer or another serious illness while on active duty.



In your situation, Mrs. Frederick, your husband was diagnosed with Leukemia while serving in the U.S. Army on active duty. Since your husband was diagnosed with Leukemia without strange or doubtful circumstances, there was no line of duty investigation. Your husband's diagnosis is considered in the line of duty in accordance with Army Regulations and no investigation was needed to determine if the Leukemia occurred in the line of duty.

Your husband diagnosis of Leukemia meets the requirements for a serious injury or illness under the FMLA and he is a covered servicemember as defined by the FMLA. Your husband is on active duty military. He was serving on active duty military status when he was diagnosed with his serious illness – Leukemia. By having Leukemia your husband is unfit to currently perform his military duties and he still requires ongoing medical treatment. Based on this information there is no doubt your husband is a covered servicemember under the FMLA whose employed spouse, child, parent or next of kin would be entitled to 26 work weeks of leave during a single 12 month period.

I hope that this letter clarifies your questions concerning what a Line of Duty injury or illness is. If you have any additional questions please do not hesitate to contact me concerning this issue at [herbert.bunton@us.army.mil](mailto:herbert.bunton@us.army.mil) or via telephone at (803) 751-4287.

Respectfully,



Herbert L. Bunton III  
Captain, US Army  
Legal Assistance Attorney

Encl



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State of South Carolina  
Department of Health and Human Services

Nikki R. Haley  
Governor

May 9, 2011

Anthony Keck  
Director

The Office of the Honorable Joe Wilson  
Attention: Mr. Bill Walker  
Midlands District Office  
1700 Sunset Boulevard, Suite One  
West Columbia, South Carolina 29169

Dear Congressman Wilson:

Thank you for your letter dated April 27, 2011 on behalf of Ms. Druscilla Titus-Frederick, an employee of the South Carolina Department of Health and Human Services (the Department). In the letter, you requested assistance with Ms. Titus-Frederick's concerns. The included Privacy Release provides an explanation of Ms. Titus-Frederick's concerns as unfair treatment while requesting Family and Medical Leave Act (FMLA) Military Caregiver leave and for reasonable accommodation to work from home to care for her ill husband.

Ms. Titus-Frederick has been employed with the Department since July 17, 1997. During this time Ms. Titus-Frederick has requested and was covered by the provisions of FMLA for the calendar years of 2005, 2006, 2007, 2009, 2010 and 2011. On January 12, 2011, Ms. Titus-Frederick was originally approved for FMLA with a beginning date of December 8, 2010. On February 21, 2011, after Ms. Titus-Frederick provided further supporting documentation, she was approved for FMLA Military Caregiver leave dated back to December 8, 2010 in agreement with Ms. Titus-Frederick. Ms. Titus-Frederick is currently taking intermittent FMLA Military Caregiver leave to care for her husband.

In reference to Ms. Titus-Frederick's request for telecommuting as an accommodation to care for her ill husband, provisions of the Americans with Disabilities Act (ADA) only cover the employee and not family members of the employee for purposes of accommodations. Additionally, the positions in Ms. Titus-Frederick's work unit do not lend themselves to telecommuting; therefore, her request to telecommute was denied on December 20, 2010.

As you provided Ms. Titus-Frederick's signed Privacy Release, we can provide additional detailed information regarding the matter if you feel it is necessary. We appreciate your interest and appreciate the opportunity to respond. Should you have questions, please feel free to contact me at (803) 898-4551.

Best Regards,

*Tonya Chambers*  
Tonya Chambers, Human Resources Director  
Department of Health and Human Services

cc: Personnel File

Deidra Singleton, Deputy Director of General Counsel  
Roy Hess, Interim Deputy Director of Finance & Administration

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