

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
Wells	1-7-11

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER 1011299	<input checked="" type="checkbox"/> Prepare reply for the Director's signature DATE DUE 1-18-11
2. DATE SIGNED BY DIRECTOR ec. Myers, Singleton Cleveland, Va/la, letter attached.	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____ <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.			

LINDSEY O. GRAHAM
SOUTH CAROLINA



290 Russell Senate Office Building
WASHINGTON, DC 20510
(202) 224-5972

UNITED STATES SENATE

Fax Transmittal Sheet

TO: SC DHHS 898 3223 4515

RECEIVED

FROM: Scott J. Miller

JAN 07 2011

DATE: 1/6

Department of Health & Human Services
OFFICE OF THE DIRECTOR

COMMENTS: Re: Ark Nebrol

2 PAGE(S) TO FOLLOW

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(864) 888-3330

LINDSEY O. GRAHAM
SOUTH CAROLINA



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WASHINGTON, DC 20510
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UNITED STATES SENATE

January 6, 2011

RECEIVED

JAN 07 2011

Ms. Emma Forkner
Director
SC Department of Health and Human Services
PO Box 8206
Columbia, SC 29202-8206

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Dear Ms. Forkner:

The attached letter concerns an issue outside my official jurisdiction. Therefore, as a courtesy to my constituent, I am sending this correspondence to your attention.

Thank you for your attention to this matter, and I ask that you please respond directly to the individual.

Sincerely,

Lindsey O. Graham
United States Senator

LOG/sj

Enclosure

508 HAMPTON STREET
SUITE 202
COLUMBIA, SC 29201
(803) 933-0112

401 WEST EVANS STREET
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(843) 669-1505

130 SOUTH MAIN STREET
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GREENVILLE, SC 29601
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124 EXCHANGE STREET
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PANDLETON, SC 29670
(864) 846-4080

01/07/2011 12:06PM

RECEIVED JAN 03 2011

Frederick

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

December 30, 2010

RECEIVED

JAN 07 2011

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Senator Lindsey Graham
508 Hampton Street
Suite 202
Columbia, South Carolina 29201

Dear Senator Graham:

You had the opportunity to meet my husband, Colonel Anthony Frederick, at South Carolina State University, when he the Professor of Military Science in the ROTC Department.

I am writing you this letter to respectfully request assistance with my job at the South Carolina Department of Health and Human Services. On December 8, 2010 at 2:05 p.m. my whole world collapsed !! My husband and I were in the physician's office and we heard these words, "Colonel Frederick, I am sorry to inform you, but you have leukemia and I am admitting you to the hospital immediately." As I watched my strong husband weaken by this disease ard rolled into the hospital via wheel chair, because he did not have the strength to walk, I could not think about anything, but my husband's condition and our two children, Anthony (12) and Harmonie (5). As the nurse started his morphine drip, I stood silently and helpless to easy his pain and concerns for his family.

I called my employer and spoke with Cynthia Linguard Gore (Human Resources) regarding policy for FMLA on December 8th at this time I informed her that my husband was in the hospital. On December 9, 2010, I called and spoke with my Director, Sheila Platts, at 7:59 a.m. and stated I would not be in and -- would like to be place on leave for an extended period of time.

I have spent each night at the hospital with my husband and leaving at 6:30 a.m. to get our children ready for school in the morning and returning back to the hospital to care for my husband. With everything that occurred with me, I did not maintain consistent communication nor did my Supervisor, Diane McLeod, or Division Director, Sheila Platts. Management did not call me; however, I did receive the attached letter and pamphlet from SCDHHS.

My husband has served 27 years, in the Army and served in numerous deployments fighting for his country, and now he is in the battle for his life. Unfortunately, I am spending my time requesting assistance for leave or accommodation, when I am not able to work due to my husband's illness.

Cynthia Linguard Gore sent me a detailed letter regarding protocol and leave as well as a pamphlet regarding, " *Job Retention Services.*" When I read the information, it read "Anxiety, depression and substance abuse or physical impairment all can be considered disabilities: if they hinder your abilities to do your job. This program is designed to help people maintain their jobs, while they get help for a disability that might be jeopardizing their employment."

I felt my employer was informing me that my job was in jeopardy, while adding additional stress on me! Senator Graham, I requested to telecommute or Reasonable Accommodation, while I out with my husband. However, Cynthia Linguard Gore informed me that my request was denied, because my supervisor, Diane McLeod, does not allow Telecommuting in her department. However, there are employees in our bureau that telecommutes and SCDHHS allows telecommuting.

Cynthia Linguard Gore (Human Resources), Diane McLeod, and Shella Platts all are aware that my husband is a servicemember on active duty stationed at Fort Jackson. When I informed Cynthia Linguard Gore of my husband condition, she did not inform me of the Military Caregiver Leave: *A 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 job-protected leave during a "single 12- month period" to care for the servicemember with a serious injury or illness.*

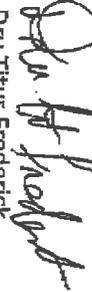
On October 28, 2009, the President signed the National Defense Authorization Act for Fiscal Year 2010 (2010 NDAA), Public Law 111-84, Section 565 of the 2010 NDA amends the military family leave entitlements of the Family and Medical Leave Act (FMLA). These amendments expand coverage for "qualifying 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".

Senator Graham, I am hoping that you would help me in facilitating a smooth and expeditious process in my request for leave from work to care for my husband. I am currently under the management of Diane McLeod (Supervisor), Shella Platts (Division Director), and Beverly Hamilton (Bureau Director) and there are no consistencies with the formal implementations of policies for the agency in our bureau. For example, some employees telecommute when school is out to care for a child or to care for a sick father-in-law etc.

I was diagnosed with breast cancer in 2006. As a result of my illness, I have exhausted all of my leave. However, several employees in the agency are willing to donate leave to me, while I am out taking care of my husband. My request to the agency is to have leave donated to me from my co-workers and/or the options to telecommute.

Thank you so much for taking the time to read my letter. Any assistance that you are able to provide to me as well as my family would be greatly appreciated. If you need to speak with me regarding this information, please feel free to call me at (803)414-0718.

Warm Regards,



Dru Titus Frederick



State of South Carolina
Department of Health and Human Services

Mark Sanford
 Governor

December 20, 2010

Erinna Fortner
 Director

VIA CERTIFIED & US MAIL
 Druscilla Thius-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 Hubbard Gore
 Employee Relations Manager

cc: Beverly Hamilton
 Sheila Platts
 Diane McLeod
 Medical File

Attachments

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 PERMITS OR ASSURANCES WE EITHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THE FALMAGRAH CREATE ANY CONTRA ACT OF EMPLOYMENT.

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

For more information, contact a JRS
counselor at the nearest SCVRD area office.

Albany
855 York St. N.E.
803) 641-7030 (Voice/TDD)

Anderson

3001 Mall Road
(864) 224-6391 (Voice/TDD)

Blacksburg

747 Rabbit Shallow Parkway
(843) 532-1000 (Voice/TDD)

Blacksburg-Dorchester

2954 S. Live Oak Drive

Monetta Center
(843) 761-6096 (Voice/TDD)

(843) 577-9087 (Voice/TDD)

Charleston

4360 Derham Road

North Charleston

(843) 748-1000 (Voice/TDD)

Charleston

10991 Poplar Avenue

(843) 722-0225 (Voice/TDD)

Evansville

1969 Viola Davidson Street
(843) 682-4817 (Voice/TDD)

Greenville

105 Peckham Road
(864) 529-1500 (Voice/TDD)

Greenville-Evansville

23881 Highway 76 East

Clinton

(864) 530-4121 (Voice/TDD)

Lexington

1320 Barton Ave.

West Columbia

(803) 894-6337 (Voice/TDD)

Marion

1029 Highway 9 W.

Blacksburg

(843) 472-6318 (Voice/TDD)

Oconee-Blacksburg

1941 Walls Highway

Spartanburg

(843) 822-6649 (Voice/TDD)

Oxford-Blacksburg

1640 Joe E. Jeffords Hwy S.E.

(803) 534-4333 (Voice/TDD)

Rock Hill

516 Rock Hill Road

CONWAY

(803) 722-4222 (Voice/TDD)

Rock Hill

1001 Hills Drive

(803) 327-7100 (Voice/TDD)

Spartanburg

352 E. Church St.

(864) 536-0303 (Voice/TDD)

Shawnee

1700 E. Main St.

(843) 467-2200 (Voice/TDD)

Walton

915 Old Highway 21
(843) 535-5115 (Voice/TDD)

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S.C. Vocational Rehabilitation Department
Lafery C. Bryant, Commissioner
1410 Barton Ave, P.O. Box 15
West Columbia, SC 29171-0015

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Vocational Rehabilitation Department does not discriminate against
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NEWS TOP

Lemonade Stand Raises \$1,200 for Cancer Research

(Columbia) - A nine-year-old Columbia boy is donating more than \$1,200 to breast cancer research.

Anthony Frederick set up a lemonade stand Saturday and quinched not only residents thirst but also his family's desire to find a cure for cancer.

Frederick said he came up with the idea after his mom was diagnosed with breast cancer exactly one year ago today.

"I wanna find a cure for this disease so my mom won't get sick again and my baby sister will be well and nobody else will have this disease," Anthony said.

While mother, Dru Frederick, is feeling much better now, the day was still emotional for her.

"I feel great for the support we received from the community," Dru said.

"A lot of the people we didn't even know in the community, and they were out here bright and early to purchase lemonade."

The Frederick family said donations are still coming in and they've even been asked to set up a second lemonade stand at Fort Jackson in the coming weeks.

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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.

Log # 299



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 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 eap@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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