



Virginia Department of
HUMAN RESOURCE
MANAGEMENT

**Office of
Health Benefits**

State Health Benefits Program

Military Leave Fact Sheet

When state employees are called to active military service, the Uniformed Services Employment and Reemployment Rights Act (USERRA) provides for continuation of employer sponsored health benefits coverage for a period of up to 24 months of military leave. Military leave continuation coverage is available only for employees and their covered family members who already have employer health plan coverage before the employee's absence from employment due to military service. The impact on continuation health benefits coverage for military leave varies according to the type of leave taken:

- **Paid leave**, there are no required changes to health plan coverage and Flexible Spending Accounts (FSAs).
- **Leave without pay (LWOP)**, the employee (and covered family members) may continue state health plan coverage and the Healthcare Flexible Spending Account (HFSA). See below for additional information.

Also remember that health plan coverage through the United States government is available for military personnel on active duty and their eligible family members.

Health Benefits and FSA Options While on Military LWOP

State employees on military LWOP may continue health plan coverage for themselves (and covered family members) **with the State's contribution to the premium**. The employee contribution for health plan coverage will be based on the membership level that is selected. Like most types of LWOP, this coverage runs concurrently with Extended Coverage (COBRA). As such, all qualified beneficiaries who experience this qualifying event will be provided with an Extended Coverage Election Notice and may elect to exercise their individual Extended Coverage rights, regardless of choices related to USERRA. The HFSA may be continued through the end of the 24-month period of military leave continuation coverage. The Dependent Care FSA may be continued only through the end of the current plan year.

Who May Enroll in Military Leave Continuation Coverage?

Only the employee who performs uniformed service has the right to elect military leave continuation coverage. While another person, such as a family member, may elect continuation coverage on behalf of an employee, family members (including the spouse) of the employee do not have independent election rights. Covered dependents do have independent election rights under extended coverage (COBRA).^{*} This means that a family member cannot elect military leave continuation coverage without the employee.

What Actions Do Are Required?

The agency will provide two notices regarding health benefits while on Military Leave

- Notice of Military Leave Continuation Coverage – the 24-month period begins on the first day of military leave without pay, if elected, for employee and covered family members
- Extended Coverage Election Notice – Coverage begins the first of the month following the beginning of military lwop, if elected, for employee and/or covered family members.

If Military Leave Continuation Coverage is chosen for the health plan coverage and/or the HFSA during military leave, premiums and FSA contributions must be paid to the agency on the first of each month. Premiums and HFSA contributions may be payroll deducted during periods of paid leave (including military supplemental pay). Another option is a pre-tax lump-sum deduction taken from the final payroll before leave begins.

Employees going on military leave may also waive continuation coverage, reduce membership in health plan coverage, and cancel the FSAs by notifying the agency's Human Resources Office within 60 days of the beginning of military leave. Changes are prospective, the first of the month following receipt of the request.

If no action is taken, the Human Resources office will terminate continuation coverage elections (health insurance and HFSA) for non-payment.

***Extended Coverage (COBRA)**

This is a term used to describe coverage that government employers are required to offer under the provisions of the Public Health Service Act. These provisions also apply to private employers under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). In certain instances, such as going on active duty military LWOP, employees and enrolled family members may continue coverage for a specified period of time. This coverage runs concurrently with Military Leave Continuation Coverage.

Returning from Active Military Duty

If continuation coverage was not selected and the employee applies for health plan coverage within 31 days of reinstatement, active state employee health plan coverage will begin either the first day of the month in which you were reinstated or the first of the following month, depending on individual circumstances. Employees returning from military leave of longer than 30 days have the full menu of health benefits choices for health insurance and the FSAs.

For some returning employees, military health plan coverage may continue for up to 6 months. If the employee chooses to defer enrollment in the state health benefits program upon returning to work, the employee can enroll at a later date. Enrollment would be considered a qualifying mid-year event (QME) due to the loss of eligibility for the military health plan coverage. When enrolling with the QME, the employee must submit an election request within 60 days of the loss of coverage. Coverage will be effective prospectively based on the date of the event or the date the request was received, whichever is later.

Employees going on military leave should carefully consider these options to avoid a break in coverage. State health plan coverage always begins on the first day of the month and ends on the last day of the month. Military health coverage may end any day of the month.

Employees may contact their agency's Benefits Administrator for additional information and assistance.