

Metro Board Approved Policy

Military Leave

Adopted: January 1, 1995

Historical Perspective

This policy is reviewed annually. It was last amended on September 15, 2015.

The first military leave policy was written by Human Resources, in 1995, and implemented by the CEO. It included a provision that guaranteed employees their regular pay for the first 30 calendar days of active military duty. And upon completion of military service, employees were reinstated, as required by the Uniformed Services Employment and Reemployment Rights Act. It also included two options for employees whose duty was inactive. The first was for us to make a reasonable attempt to informally adjust the employees' workdays so that they could meet their military and workplace commitments. And the second was for employees to use their "time off with pay."

In contrast, the 2001 policy, which was adopted by the Board, restricts eligibility for military leave pay to employees who have at least one year of agency service. It provides specific information regarding the position to which a returning employee can be reinstated. It eliminates the first option for employees serving with inactive duty status. And it allows the CEO to include a special provision for military and national security efforts.

In its 2001 policy, the Board extended military leave from 30 to 180 days, with supplemental military pay so that employees are compensated up to their full salary. It also continued to award some benefits during the 180 days of service, subject to certain plan exceptions related to acts of war. Accrual of Time- Off-With-Pay stops after the first 30 days and will be reinstated when the employee returns to regular employment at the rate based on years of service, which includes military leave. And at the end of 180 days, the CEO may consider continuing the military leave provisions, if necessary, up to 360 days.



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**HUMAN RESOURCES
Military Leave**

(HR 14)

POLICY STATEMENT

The Los Angeles County Metropolitan Transportation Authority (LACMTA) does not discriminate against any employee or prospective employee with regard to hiring, retention, promotion or other employment benefit by virtue of an employee's military duty. It is the policy of LACMTA to provide military leave of absence (generally unpaid) to employees who are members of the uniformed services, including Active Military, Reserve, and National Guard. In addition, LACMTA will provide military leave of absence (generally unpaid) to any other category of persons designated by the United States President or the State Governor in time of war or emergency. There is no minimum LACMTA service required to be eligible for military leave. However, to be eligible for military leave pay, an employee must have a minimum of one year of LACMTA employment.

The Chief Executive Officer (CEO) is authorized by the LACMTA Board to revise the Military Leave policy to include a special provision for extended leave and compensation when there is a military mobilization and national security crisis.

PURPOSE

To provide military leave for eligible employees serving in the armed forces. LACMTA provides military leave for employees in accordance with federal and state laws.

APPLICATION

This policy applies to all employees who are eligible for military service protections under federal and state law. Generally, employees are entitled to reemployment rights and benefits as long as their total military absences while at LACMTA do not exceed five years. Employees who work for LACMTA for only a brief, nonrecurring period of less than one year are not covered.

If a conflict occurs between this policy and a collective bargaining agreement, the collective bargaining agreement will prevail.

Caranda G. Langston
APPROVED: County Counsel or N/A

Donald P. O'H
Department Head

J.A. [Signature]
ADOPTED: CEO

Effective Date: 9/15/15

Date of Last Review: 10/10/17



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1.0 PROCEDURES

Employees must notify their respective supervisor or manager of an anticipated military leave as far in advance as possible, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable. A determination of military necessity will be made as prescribed by the Department of Defense regulations. Notice may be orally or in writing, either by the employee or by an appropriate officer of the relevant service branch. (See Attachment 1: Request for Military Leave of Absence form.) Failure to provide notice could result in a denial of the protection of the applicable federal or state law.

To be covered by this policy, the cumulative length of an employee's voluntary military leave may not exceed five years, unless the leave is extended under one of the exceptions provided under federal or state law.

1.1 Active Duty

An employee who enlists, or is called for an active tour of duty will be considered to be on a military leave of absence from LACMTA.

1.1.1 Pay During Military Leave

Military leave is generally unpaid. However, California law requires that an employee who is granted military leave of absence and has a minimum of one-year service prior to the effective date active duty begins, is entitled to receive his/her regular pay for the first 30 calendar days of active duty within any given fiscal year. This means that the employee will receive his/her regular pay for the workdays he/she would be normally scheduled to work during the first 30 calendar days of active duty. Pay will not exceed 8 hours per day or 80 hours in a pay period, or exceed 22 days or 176 hours in a fiscal year.

All employee rights and benefits remain in effect during the employee's military leave, as long as the periods of duty do not exceed a cumulative total of five years.

1.1.2 Reemployment

Upon honorable separation from military service, the employee is granted reemployment rights with no loss of seniority. The length of time an employee spends on military service determines the timing of his/her application for reemployment. The employee must report for work with the appropriate documentation within the guidelines established by the Uniformed



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Services Employment and Reemployment Rights Act of 1994 (USERRA) to be eligible for reemployment.

1.1.3 Position Entitlement upon Reemployment

An individual with fewer than 91 days of military service must be reemployed promptly in **(1)** the position that he/she would have attained had he/she been continuously employed, so long as he/she is qualified for the job, or can become qualified after reasonable efforts by management. If the individual is not, or cannot reasonably become qualified for that position, he/she must be returned to **(2)** the position held prior to military leave, provided he/she is still qualified, or could become qualified with reasonable efforts from management. If the individual is not qualified for his/her former position, all efforts will be made to **(3)** place him/her in an equivalent position. Only after exhausting these three possibilities may the individual be provided with a job of *lesser* status and pay, for which he/she is qualified.

If the individual is absent due to military service for 91 or more days, the reemployment provisions are identical to those above, except that the individual may be offered a different position with *equivalent pay, status, and seniority*, even if he/she qualifies for a job listed in either **(1)** or **(2)** above.

1.1.4 Service-Related Disability

LACMTA will make reasonable efforts to **(1)** accommodate individuals with a service-related disability, so he/she can *perform the position that he/she would have had without military service interruption*. If this is not possible, LACMTA will **(2)** provide a job of *equivalent* seniority, pay and status for which the employee is qualified, or could become qualified after reasonable efforts by management. If neither **(1)**, nor **(2)** is possible due to the individual's disability, LACMTA will provide a *job as nearly equivalent as possible* to option **(2)**, consistent with the individual's circumstances.

1.1.5 Permissible Employer Actions

Reemployment of an eligible individual is excused if business circumstances have changed so that reemployment would be unreasonable or impossible. For example, no reemployment is required if the individual in question would have been laid off had he/she not been on military leave.

Retraining and disability accommodation requirements also are excused if they would pose an undue hardship on LACMTA. The test is the same as it is



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under the Americans with Disabilities Act (see the Reasonable Accommodation (HR 25) policy).

1.1.6 Rights & Benefits for the Returning Employee

Returning employees are entitled to the seniority and all rights and benefits that they would have attained had they remained continuously employed.

Employees in uniformed service will be treated as if on leave of absence during their military service, and they are entitled to participate in any of the benefits available to employees on non-military leaves of absence, paid or unpaid.

For purposes of the pension plan, a re-employed employee will be treated as not having a break in service. In addition, the time spent in military service will be considered LACMTA service for purposes of benefit vesting and accrual. The employee is also entitled to any accrued benefits resulting from employee contributions to a pension plan to the extent that he/she pays contributions. Repayment can be made during a period three times as long as the military service, but no longer than five years.

LACMTA will provide group health coverage for up to one year for employees on military leave, during which time the employee will pay only the employee share, if any, of the cost of the coverage. After one year of military leave, at the employee's option, group health care coverage similar to COBRA will be provided for up to 18 months. Employees will be required to pay no more than 102 percent of the full premium for the coverage.

Employees may choose (but may not be required) to use any accrued vacation time or TOWP to cover their service in the military, rather than be placed on an unpaid leave of absence.

1.2 California State Military Reserve Duty

An employee who is a member of the California State Military Reserve who has had a minimum of one year of service with LACMTA is entitled to receive his/her regular pay during the first 30 calendar days of military leave in any given fiscal year to attend active, but not inactive, reserve activities. All employee rights and benefits remain in effect during reserve duty, so long as the periods of reserve duty do not exceed a cumulative total of five years.



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1.3 Inactive Duty

Military leave will not be paid for inactive reserve duty. However, the employee may request accrued vacation pay or TOWP while on inactive duty.

1.4 Military Mobilization and National Security Efforts

During times of military mobilization and national security efforts, the CEO is authorized to extend the number of authorized military leave days beyond the legally mandated minimum of 30 calendar days, and to supplement military pay up to the employee's full LACMTA salary for the military leave period. The CEO will review other public agencies' responses to a national security crisis and determine the appropriate extension(s) of military leave.

1.5 Spousal or Domestic Partner Unpaid Leave

Under California law, the spouse or domestic partner of a qualified member of the Armed Forces, National Guard or Reserves may take up to 10 days of unpaid leave from work while the qualified member is on a leave of absence from military deployment if the following conditions are met:

- employee spouse or domestic partner works an average of 20 hours/week or more;
- employee spouse or domestic partner provides LACMTA notice within two business days of receiving official notice that servicemember will be on leave from deployment, of his or her intention to take the leave; and
- employee spouse or domestic partner submits written documentation to LACMTA certifying that servicemember will be on leave from deployment.

This 10-day unpaid leave period is in addition to military leave allowed under the FMLA.

1.6 Military Family Leave

1.6.1 Family Leave for a Qualifying Exigency

Under the FMLA, eligible employees may take up to 12 workweeks of Family Leave for any qualifying exigency if the employee's son or daughter, parent, or spouse, is a covered military member on active duty, has been notified of an impending call or order to active duty in support of a contingency operation, or in the Regular Armed Forces and deployed to a foreign country.



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The employee must complete the Certification of Qualifying Exigency Form (Attachment 2).

1.6.2 Family Leave to Care for a Covered Servicemember with a Serious Injury or Illness

Under the FMLA and CFRA, an eligible employee who is the son or daughter, parent, spouse, domestic partner, child of a domestic partner or next-of-kin of a covered servicemember may take up to 26 weeks of Family Leave in a single 12-month period to care for a covered servicemember with a serious injury or illness incurred in the line of duty while on active duty, or an Armed Forces veteran who undergoes medical treatment, recuperation or therapy for the serious injury or illness within five years of active duty.

The employee must complete the Certification of Serious Injury or Illness of Covered Servicemember for Military Family Leave Form (Attachment 3).

For additional information regarding Family Medical Leave requirements, see the Family Medical Leave (HR 33) policy.

2.0 RESPONSIBILITIES

Talent Acquisition is responsible for administering this policy.

Employees must notify their respective supervisors of the anticipated military leave as far in advance as possible.

Department Heads review documentation for military leave.

3.0 DEFINITION OF TERMS

Active Reserve Activity – For purposes of military leave pay, this means the 15-day annual summer camp or more extensive training activities.

California State Military Reserve – A voluntary organization under the authority and control of the Governor. It is available to assume the duties and functions of the National Guard within the state whenever the National Guard is called into federal service and to respond immediately whenever called in any natural disaster or civil emergency.

Covered Active Duty – For a member of the Regular Armed Forces, covered active duty or call to covered active duty status means duty during the deployment of the member with the Armed Forces to a foreign country.



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For a member of the Reserve components of the Armed Forces (members of the National Guard and Reserves), covered active duty or call to covered active duty status means duty during the deployment of the member with the Armed Forces to a foreign country under a Federal Call or order to active duty in support of a contingency operation.

Covered Military Member – A current member of the Armed Forces, including the National Guard or Reserves and servicemembers who are on the temporary disability retired list. This definition also includes covered veterans who are undergoing service-related medical treatment, recuperation or therapy within five (5) years of their active duty.

Inactive Reserve Activity – The usual monthly weekend drills or unit training assemblies.

Next-of-Kin – Nearest blood relative other than the covered servicemember's son or daughter, parent, spouse or domestic partner in the following order of priority: blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles and first cousins.

Parent – Covered servicemember's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember.

Period of Military Conflict – A period of war declared by the United States or a period of deployment which a member of a reserve component is ordered to active duty.

Qualifying Exigency:

- Short notice deployment (maximum of seven days)
- Military events and related activities (such as official ceremonies, briefings)
- Child care or school activities (to arrange child care, to provide child care on an urgent, non-routine basis, to enroll children in school or day care, and to attend meetings with school staff)
- Parental care (to care for a military member's parent who is incapable of self-care when care is necessitated by member's covered active duty)
- Financial and legal arrangements
- Counseling for the covered military member or their child
- Rest and recuperation of covered military member (maximum of 15 days)
- Post-deployment activities
- Additional activities which arise out of active duty, provided that the employer and the employee agree on timing and duration of such leave



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Serious Injury or Illness – An injury or illness incurred by a covered servicemember in the line of active duty that may render the servicemember medically unfit to perform the duties of his or her military office, grade, rank or rating or an injury or illness that existed before the servicemember's or veteran's active duty and was aggravated by service in the line of active duty in the Armed forces.

Service – Includes active duty; active duty for training; initial active duty for training; inactive duty training; and absence from work for an examination to determine an individual's fitness for any of these types of service.

Single 12-month period – Begins on the first day the eligible employee takes Family Medical Leave to care for a covered servicemember and ends 12 months after that date.

Son or Daughter – The biological, adopted, or foster child, legal ward, or a child for whom the person stood in loco parentis, and who is of any age.

4.0 FLOW CHART

Not Applicable

5.0 REFERENCES

1. Family Medical Leave (HR 33)
2. Reasonable Accommodation (HR 25)
3. Reduction in Force (HR 26)
4. Time Off With Pay (HR 16)
5. CA Military and Veteran's Code
6. USERRA of 1994
7. Family and Medical Leave Act of 1993 (FMLA)
8. California Family Rights Act (CFRA)

6.0 ATTACHMENTS

1. Request for Military Leave for Absence Form
2. Certification of Qualifying Exigency for Military Family Leave Form
3. Certification of Serious Injury or Illness of Covered Servicemember for Military Family Leave Form

7.0 PROCEDURE HISTORY

01/01/95 New policy & procedures



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- 11/05/01 Revised policy
- 08/08/05 Revised to provide employees on military leave group health coverage for one year, thus providing them the same benefits available to those employees on non-military leaves of absence.
- 04/18/08 Revised to reflect that during a period of military conflict, the spouse of a qualified member of the Armed Forces, National Guard or Reserves may take up to 10 days of unpaid leave while qualified member is on a leave of absence from military deployment if specific conditions are met; outlines additional leaves of absence available to employees who are family members of active servicemembers; military leave pay will be granted for inactive reserve duty if the duty falls on the employee's regular scheduled workday.
- 01/14/10 Revised to incorporate Final Rule of Family Medical Leave Act of 1993 with expanded guidelines for military leave cases.
- 05/03/12 Biennial review: no changes
- 03/20/13 Updated for administrative and legislative clarification, including new and modified definitions, and addition of parental care in cases of qualifying military exigency.
- 04/14/15 Biennial review: all employees eligible for military service protections are covered; employees are not paid for inactive duty.
- 09/20/17 Biennial review: changed Human Resources to Talent Acquisition.



Date _____

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Los Angeles County Metropolitan Transportation Authority

REQUEST FOR MILITARY LEAVE OF ABSENCE

I, _____, am requesting a Military Leave Absence beginning _____, 20____ to _____, 20____ inclusive.

REGULATIONS FOR OBTAINING LEAVE

Metro will provide military leave of absence to employees who are members of the uniformed services including Active Military, Reserve and National Guard. In addition, Metro will provide military leave of absence to any other category of persons designated by the United States President or the State Governor in time of war or emergency.

You must notify your supervisor as far in advance as possible of an anticipated Military Leave and, when possible, you must schedule the Military Leave in accordance with the workload of your department. You must provide documentation of enlistment or active duty assignments at the time of leave of absence.

There is no minimum Metro service required to be eligible for military leave. However, to be eligible for military pay, you must have a minimum of 1 year of Metro service. Employees who qualify are entitled to receive their regular pay for the first 30 calendar days of active duty within any given calendar year. You will not be granted Military Leave with pay for Inactive Duty, (weekend drills appointments for physical exams, etc.).

Please have your department head approve your leave and submit this form along with an officially signed copy of your orders or other documentation of enlistment or active duty assignment to the Human Resources Department at Mail Stop 99-14-1.

If you have any questions about Metro's Military Leave Policy, please call (213) 922-7127.

Employee's Signature

Employee's Address

City

State

Zip Code

Badge/Employee No.

Dept./Div No.

Job Title

Hire Date

Phone No.

Name and address of person who will know my whereabouts during my leave of absence.

Name

Address

City

State

Zip Code

Phone No.

Approved: _____ Department Head

Approved: _____ DEO, Human Resources



**Certification of Qualifying Exigency for
Military Family Leave
Family and Medical Leave Act (FMLA)**

INSTRUCTIONS to the EMPLOYEE:

Please complete this form fully and completely. You must submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to a qualifying exigency. Several questions in this form seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as "unknown" or "indeterminate" may not be sufficient to determine FMLA coverage. Incomplete or insufficient information may result in a denial of your request for FMLA leave. You have 15 calendar days to complete and submit this form.

_____ Employee Name	_____ Badge	_____ Dept/Div
_____ Military Member's Name	_____ Relationship	
_____ Period of Active Duty	_____ Date	

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation. Please check one of the following:

- A copy of the covered military member's active duty orders is attached.
- Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty) in support of a contingency operation is attached.
- I have previously provided my employer with sufficient written documentation confirming the covered military member's active duty or call to active duty status in support of a contingency operation.

PART A: QUALIFYING REASON FOR LEAVE

1. Describe the specific reason you are requesting FMLA leave due to a qualifying exigency: _____

2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave. Documentation may include a copy of a meeting announcement for informational briefings sponsored by the military; a copy of the military member's Rest & Recuperation leave order; a document confirming an appointment with a third party, such as a counselor or school official, or staff at a care facility; or a copy of a bill for services for the handling of legal or financial affairs.

Available supporting, written documentation attached: Yes No None Available

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PART B: AMOUNT OF LEAVE NEEDED

1. Approximate date exigency commenced, or will commence: _____
Probable duration of exigency: _____

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency? No Yes

If so, estimate the beginning and ending dates for the period of absence:

Start Date: _____ End Date: _____

3. Will you need to be absent from work periodically to address this qualifying exigency? No Yes

Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (e.g., 1 deployment-related meeting every month lasting 4 hours):

_____ hours _____ times per _____ week _____ month for _____ week(s) _____ month(s)

_____ hours _____ times per _____ week _____ month for _____ week(s) _____ month(s)

_____ hours _____ times per _____ week _____ month for _____ week(s) _____ month(s)

PART C: If leave is requested to meet with a third party, you must include the name, address, and appropriate contact information of the individual or entity with whom you are meeting. Examples of third party meetings are to arrange for childcare; to attend counseling; to attend meetings with school or childcare providers; to make financial or legal arrangements; to act as the covered military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits; or to attend any event sponsored by the military or military service organization.

Name of Individual Title

Organization Address

Phone Fax

Email

Describe nature of meeting: _____

Part D: I certify that the information I provided above is true and correct.

Signature of Employee Date



Certification of Serious Injury or Illness of Covered Servicemember for Military Family Leave Family and Medical Leave Act (FMLA)

INSTRUCTIONS to the EMPLOYEE:

Please complete Section I before having Section II completed. You must submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to a serious injury or illness of a covered servicemember. Incomplete or insufficient information may result in a denial of your FMLA leave. You have 15 calendar days to complete and submit this form.

SECTION I: For completion by the Employee and/or the COVERED SERVICEMEMBER for whom the Employee is requesting leave: (This section must be completed before Section II can be completed by a Health Care Provider.)

PART A: EMPLOYEE INFORMATION

Employee Name, Badge, Dept/Div, Covered Service Member's Name, Relationship, Date

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:

Branch, Rank, Unit

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:

2. Is the Covered Service member on the Temporary Disability Retired List (TDRL)? Yes No

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PART B: MEDICAL STATUS

1. Covered service member's medical condition is classified as (select one):

_____ (VSI) 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 healthcare 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 healthcare providers.)

_____ OTHER Ill/Injured – a serious injury or illness that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating.

_____ NONE OF THE ABOVE (Note to Employee: If this box is checked, you may still be eligible to take FMLA leave to care for a covered family member with a "serious health condition." If such leave is requested, you may be required to complete Metro's Employee Request for Family Medical Leave form.)

2. Was the condition for which the covered servicemember is being treated, incurred or aggravated by service in the line of duty, on active duty in the armed forces? _____Yes _____ No

3. Approximate date condition commenced: _____

4. Probable duration of condition and/or need for care: _____

5. Is the covered servicemember undergoing medical treatment, recuperation or therapy for this condition?
_____Yes _____No

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

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PART C: COVERED SERVICE MEMBER'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 start and end dates for this period of time:

Start Date: _____ End Date: _____

2. Will the covered servicemember require periodic follow-up treatment appointments?

_____ Yes _____ No

If yes, estimate the treatment schedule: _____

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 periodic care:

_____ hours _____ times per _____ week _____ month for _____ week(s) _____ month(s)

_____ hours _____ times per _____ week _____ month for _____ week(s) _____ month(s)

_____ hours _____ times per _____ week _____ month for _____ week(s) _____ month(s)

Signature of Health Care Provider

Date