

14XX

1-3

DATE

DATE

**1.0 PURPOSE:**

To describe the policies, procedures and obligations of the City of West Allis and the rights and obligations of employees under the Wisconsin Bone Marrow and Organ Donation Leave law.

**2.0 ORGANIZATIONS AND PERSONS AFFECTED:**

This policy applies to all City of West Allis departments, boards, commissions, and employees.

**3.0 POLICY:**

Eligible employees may take up to 6 weeks of protected leave in a 12-month period necessary to undergo a bone marrow or organ donation procedure and to recover from the procedure.

**4.0 REFERENCES:**

Bone Marrow and Organ Donation Leave law (Section 103.11 Wis. Stats.)

**5.0 PROCEDURES:**

It is the policy of the City of West Allis to grant up to six (6) weeks of Bone Marrow or Organ Donation Leave during any calendar year to eligible employees, in accordance with Section 103.11 of the Wisconsin Statutes. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this policy.

**6.0 ELIGIBILITY:**

Employees are entitled to bone marrow and organ donation leave benefits if they have been employed by the City for at least 52 consecutive weeks and have worked for at least 1,000 hours during the 52 weeks prior to the start of the leave.

**7.0 AMOUNT OF LEAVE:**

Eligible employees may take up to a total of 6 weeks of unpaid leave in a 12-month period only for the time necessary to undergo the bone marrow or organ transplant donation procedure and to recover from the procedure.

**8.0 PAYMENTS ON BONE MARROW OR ORGAN DONATION LEAVE:**

Employees may substitute, for portions of the bone marrow and organ donation leave, any accrued and unused paid leave provided to them by the City.

As with all leaves of absence, no employee may pursue or engage in employment when on bone marrow or organ donation leave.

#### 9.0 NOTICE AND CERTIFICATION:

If an employee intends to take leave for the purpose of serving as a bone marrow or organ donor, the employee shall do all of the following:

- 9.1 Give their supervisor advance notice of the bone marrow or organ donation and submit a **Bone Marrow and Organ Donation Leave Employee Request Form** (“request form”) to the Human Resources (HR) Director within a reasonable period of time, i.e., at least 30 days in advance of the leave if foreseeable. When the need for leave is not foreseeable, the employee must notify their supervisor and the HR Director and thereafter submit the request form as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, it is considered practicable for an employee to provide notice of unforeseeable leave within the time prescribed by the City’s usual and customary notice requirements applicable to that employee for such leave. Failure to give timely notice and/or submit the request form may result in the delay or denial of the leave and may subject the employee to discipline under City policies.
- 9.2 Make a reasonable effort to schedule the bone marrow or organ donation procedure and accompanying recovery period so it does not unduly disrupt the City’s operations, subject to the approval of the health care provider of the bone marrow or organ donee.
- 9.3 Submit a **Health Care Provider Bone Marrow and Organ Donation Leave Certification Form** (“certification form”), completed by the health care provider, to the HR Director within 15 days of commencing the leave if possible, or, when the employee cannot submit the certification form within 15 days of commencing the leave, as soon as practicable, certifying:
  - The donee has a serious health condition that necessitates a bone marrow or organ transplant;
  - The employee is under the health care provider’s care, is eligible, and has agreed to serve as a bone marrow or organ donor for the donee; and
  - The amount of time expected to be necessary for the employee to be off from work for the bone marrow or organ donation procedure and to recover from the procedure
- 9.4 If the employee receives written notification that the certification form is incomplete and/or insufficient, the employee shall have seven days to cure the identified deficiencies. If an employee does not provide the required certification by the designated deadlines, or if the City determines that an employee is not eligible for the leave, the leave may not be designated as bone marrow and organ donation leave, and the employee may be subject to discipline under City attendance policies unless he or she uses accrued paid leave (like vacation) and/or is granted an unpaid leave of absence as may be permitted by City Policy.

Forms available through the Employee’s Department, the City’s Intranet, and the HR Department.

- Bone Marrow and Organ Donation Leave Employee Request Form
- Health Care Provider Bone Marrow and Organ Donor Leave Certification Form

#### 10.0 HEALTH INSURANCE BENEFITS:

Group health insurance coverage will be maintained for employees while they are on bone marrow and organ donation leave, on the same terms as if the employee continued to work. The employee will be required to pay their regular portion of health insurance premium payments on a schedule established by the City.

The City may recover its share of health insurance premiums paid during a period of unpaid bone marrow and organ donation leave from an employee if the employee fails to return to work (for a minimum of 30 calendar days) after the expiration of the leave.

The City may discontinue health insurance benefits if the employee fails to make a premium payment within 30 days of the due date after providing written notice to the employee of the cancellation of coverage for non-payment.

11.0 OTHER BENEFITS:

Benefits that accrue based upon hours worked shall accrue during the period of bone marrow and organ donation leave in accordance with the provisions contained in the City Ordinances, Policies and Procedures, and Rules and Regulations that address the accrual of such benefits. Qualified bone marrow and organ donation leave will not be counted as an absence under the City's attendance policy. Employees taking bone marrow and organ donation leave will be treated in the same manner as employees taking non-bone marrow and organ donation leave with respect to the administration of attendance reward programs and any rewards based on attendance (e.g. if an employee who uses paid vacation leave for a non- bone marrow and organ donation purpose would receive the payment, then the employee who uses paid vacation leave for a bone marrow and organ donation-protected purpose would also receive the payment).

Other City benefits (e.g. life insurance coverage) may be continued during periods of unpaid bone marrow and organ donation leave, and arrangements should be made for the employee's portion of the payments with the Finance Department.

12.0 FITNESS FOR DUTY AND RETURN TO WORK:

An employee returning from bone marrow and organ donation leave must provide a "Fitness for Duty" statement signed by the health care provider. An employee who fails to provide a Fitness for Duty statement may be prohibited from returning to work until it is provided. Failure to provide a Fitness for Duty statement may result in discipline up to and including termination. Upon return from bone marrow and organ donation leave, an employee shall be restored to their original position or, if the position is not vacant, to an equivalent position with equivalent pay, benefits and other terms and conditions of employment. An employee may not be restored to their original or equivalent position if they are unable to perform the essential functions of their job because of a mental or physical condition.

13.0 COMPLAINT PROCEDURE AND ADMINISTRATIVE PROCEEDING:

An employee who believes their right to take bone marrow or organ donation leave has been violated should contact the HR Director immediately and attempt to resolve the matter internally. Alternatively, or in the event the matter is not resolved following contact with the HR Director, the employee may, within 30 days after the alleged violation occurs or the employee should reasonably have known that the violation occurred, whichever is later, file a complaint with the Department of Workforce Development alleging the violation.

14.0 DEFINITIONS:

14.1 "Bone Marrow" has the meaning given in Section 146.34 (1) (a) Wis. Stats.

14.2 "Health Care Provider" has the meaning given in Section 103.10 (1) (e) Wis. Stats.

14.3 "Organ" has the meaning given for "human organ" in Section 230.35 (2d) (a) 2 Wis. Stats.