



Inspector General Insights

Background: The Collier County Clerk's Office of Inspector General (OIG) discovered in an internet review, that Deputy County Manager Sean T. Callahan (Callahan) appeared to have outside employment while on leave for the Family and Medical Leave Act (FMLA) for baby bonding. Thereafter, the OIG initiated an audit of FMLA claims in the calendar year 2021.

Objective: The OIG initiated a preliminary review to determine if the employees followed the FMLA laws and regulations, Florida Statutes, and County Manager's Agency (CMAs) within the Collier County Human Resources Administrative Practices and Procedures manual.

Scope: After an initial review, we narrowed our audit to just those FMLA claims filed in the fourth quarter of 2021, and concentrated on the baby bonding time off.

Observations: The County Human Resource (HR) staff provided a copy of the leave report from that time period from Matrix, a contractor that handles FMLA leave requests. FMLA protects the jobs of employees for up to 12 weeks within the 12-month period. According to the Matrix leave guidelines, the delivery of a child qualifies for 6-8 weeks of short-term disability or however long certified by the medical provider. Thereafter, the FMLA allows employees to take the balance of their 12 weeks of time as "baby bonding" time, any time within the first year of the birth of the child. This baby bonding time is opened as a separate claim from the short-term disability claim.

In total, 117 County employees submitted FMLA leave requests totaling 160 claims in the fourth quarter of 2021. Of those 117 employees, eleven filed FMLA to care for a newborn (baby bonding). Two of those eleven were included in our initial judgmentally selected sample of 24 Board of County Commissioners (BCC) employees who had taken significant leave in the fourth quarter of the calendar year 2021.

We noted that one of the sample employees utilized sick leave for baby bonding even beyond the six to eight weeks after delivery, during which time short-term disability claims are typically allowed. According to the CMA 5360, Leave of Absence, sick leave may be granted for "Family Medical Leave (FMLA) to care for the **serious illness** and/or **disability** of a qualified family member." The CMA 5361, Family and Medical Leave Benefits further defines serious illness as "An illness, injury or impairment, physical or mental condition, that involves inpatient care or continuing medical treatment by a health care provider, as defined by applicable law." The current CMA does not appear to allow the use of sick leave for baby bonding.

According to the 29 CFR Part 825, The Family and Medical Leave Act of 1993, Section 825.207 Substitution of Paid Leave, "An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy...the employer must inform the employee that the employee must satisfy any procedural requirements of the paid leave policy only in connection with the receipt of such payment."

Recommendations & Actions: The OIG met with the BCC Human Resource (HR) Director, and we recommended reviewing the use of sick leave for baby bonding, and clarifying the CMA as needed.

Total # Transactions	Amounts Reviewed	Questioned Costs	Taxpayer Savings	# Observations / Recommendations
117	\$ 128,279.47	\$ 11,180.77	N/A	1