Kin Care Leave (CESLA)

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1. Legislative Overview

Below is an overview of the Law and not Kaiser Permanente's application. The application of CESLA within Kaiser Permanente is contained in the following pages.

Prior to the enactment of Assembly Bill 109 (AB109), the federal Family and Medical Leave Act (FMLA) and California Family Rights Acts (CFRA) entitled employees to unpaid, job-protected leave when taking time off to care for their own family members' serious health condition, or to care for a new child. Proponents of AB109 contended, however, that neither the FMLA nor the CFRA helped make these leaves affordable, nor did they address the dilemma faced by working parents who needed to find short-term care for their child(ren), spouse or parent(s) who experience sudden, and occasional illness.

On July 23, 1999, California Governor Gray Davis signed Assembly Bill 109 (AB109) into law, thus amending the California Labor Code with the addition of the California Employment Sick Leave Act (CESLA). Consequently, all California employers who provide paid sick leave are required to permit employees to use a portion of that paid sick leave to care for their ill child(ren), spouse, or parent(s) beginning on January 1, 2000.

With the passing of CESLA, the rights of employees were expanded. Employers are required to allow employees to use a portion of their sick leave benefits to care for ill family members. Under CESLA, illness is defined to include minor illnesses such as colds, flu, etc., as well as serious health conditions. Family member is defined as child, spouse or parent. Employers also are prohibited from terminating or retaliating against employees who use or attempt to use sick leave benefits when caring for their sick family member.

These guidelines support the application of the California Employment Sick Leave Act (CESLA), and provide Northern California managers and the Human Resources community with assistance in administering Kin Care Leave in conjunction with the following paid time off benefits; i.e., Paid Time Off (PTO), Extended Sick Leave (ESL), Sick Leave, and Flexible Personal Days. Kin Care Leave applies to all employees who have paid time off benefits whether salaried, nonunion hourly, or represented by a union. Kaiser Permanente reserves the right to modify these guidelines (within the scope of the law) at its discretion, or as a result of the collective bargaining process.

If there are additional questions concerning the application of these guidelines, the manager should consult her/his Benefits Specialist for further assistance. The Benefits Specialist will gather and review all relevant information, and if needed, will consult with the Legal Department and further advise the manager.

2. Kin Care (CESLA) Overview

CESLA requires all California employers who provide paid sick leave to permit an employee to use a portion of that paid sick leave to care for her/his covered family members (Kin Care Leave). Employers may not retaliate or take disciplinary action based on an employee's use of Kin Care leave. Kin Care leave allows an employee to use a limited part of sick leave time to attend to a family member, subject to the same rules as apply to using sick leave time for her/himself. Kin Care leave does not provide the employee with additional paid leave. In addition, if the employee uses PTO, ESL, Sick Leave, and/or Flexible Personal Days to care for a covered family member with a serious health condition, then that Kin Care leave time will run concurrently with Family Leave.

An employee who does not accrue sick leave, PTO, ESL or Flexible Personal Days, (for example, an employee who is participating in the Alternate Compensation Program (ACP) or who is per diem or on-call) is not eligible for Kin Care leave.

Kin Care leave is available to attend to a family member's illness/injury, which is defined to include:

- 1. minor illnesses such as colds, flu;
 - 2. injuries such as sprains;
 - 3. professional diagnosis or treatments;
 - 4. routine or physical examinations including well-baby care and emergency dental appointments;
 - 5. pregnancy-related treatments; and
 - 6. serious health conditions.

The definition of a covered family member is limited to the following:

- 1. spouse or domestic partner who is registered with the state/local government or has a Kaiser Permanente affidavit of domestic partnership;
- 2. parent, i.e., biological, foster, adoptive, stepparent or legal guardian; and
- 3. child, regardless of age, who is a biological, foster, adopted child, stepchild, or legal ward. This includes a domestic partner's child, and a child for whom the employee is currently standing in loco parentis. To stand in loco parentis means the employee is providing day-to-day care and has financial responsibility for the child. A biological or legal relationship is not necessary.

3. Amount of Time Available for Kin Care leave

An employee who is eligible for Kin Care leave to attend to a covered family member may use a portion of accrued, unused sick leave, ESL, PTO or Flexible Personal Days. Traditional vacation time is not available for Kin Care leave. The basic rule is that an employee is entitled to use one-half (1/2) of the annual accrual of the paid leave for Kin Care in any payroll year, provided the employee has enough accrued, unused leave available. Employees who are eligible to use more than one type of paid leave for Kin Care may use any available paid leave. For example, a salaried employee may use a portion of accrued PTO and a portion of accrued ESL, for Kin Care leave.

The amount of Kin Care time an employee may use varies depending on the paid time off program as follows:

A. For an employee with a Paid Time Off (PTO) Account – Only one-half of the annual PTO accrual (refer to <u>Table 1: PTO KIN CARE CHART</u>), provided the hours are available, may be used for Kin Care leave to attend to an ill covered family member. For a part-time employee, the number of PTO days protected by Kin Care leave is prorated.

Table 1: PTO KIN CARE CHART:

An employee will have protected Kin Care time as follows:

Employee Groups

- Salaried and NUNE including Midwives and Acupuncturists
- Physician Assistants
- Physical Therapists, Occupational Therapists, Speech Therapists
- Nurse Anesthetists
- Guild for Professional Pharmacists
- NUHW Integrated Behavioral Health Services
- UHW-West Registered Dietitians
- UHW-West Health Educators
- L20 Genetic Counselors

- LEG Contain Countries							
Years of Service	0-1	2-4	5-9	10+			
Annual PTO Accrual	19 days	24 days	29 days	34 days			
Annual Kin Care Time	9.5 days	12 days	14.5 days	17 days			
A part-time employee accrues prorated hours.							

B. For an employee with an Extended Sick Leave (ESL) Bank – The employee's annual Kin Care time equals up to one-half of her/his annual ESL accruals (refer to <u>Table 2: ESL KIN CARE CHARTS</u>), provided the hours are available and all ESL access requirements, e.g., first day of hospitalization or the seven consecutive days of illness/injury requirement are met, as applicable. For a part-time employee, the number of annual ESL Kin Care days is prorated.

Table 2: ESL KIN CARE CHART:

An employee may have Kin Care time as follows:

Employee Groups

- Salaried and NUNE including Midwives and Acupuncturists
- Physician Assistants
- Physical Therapists, Occupational Therapists, Speech Therapists
- Nurse Anesthetists
- Guild for Professional Pharmacists
- NUHW Integrated Behavioral Health Services
- UHW-West Dietitians
- UHW-West Health Educators
- L20 Genetic Counselors

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Years of Service	Any				
Annual ESL Accrual	6 days				
Annual Kin Care Time	3 days/year				
Access Requirements	1 st day of family member's hospitalization/ after 7 th day of family member's illness/injury				
A part time employee accrues prorated hours.					

C. For an employee with an Annual/Banked Sick Leave Account – The employee's annual Kin Care time equals up to one-half of her/his Annual Sick Leave allotment (refer to <u>Table 3: ANNUAL SICK LEAVE KIN CARE CHARTS</u>), provided the hours are available from her/his Annual and/or Banked Sick Leave Accounts. The employee must use her/his Pre-Banked Sick Leave hours first before using her/his Post-Banked hours. For a part-time employee, the number of Kin Care days available is prorated.

Table 3: ANNUAL SICK LEAVE KIN CARE CHARTS:

	Chart 1: Employee Groups		Chart 2: Employee Groups		Chart 3: Employee Groups		Chart 4: Employee Groups	
	ESC, Local 20, IFPTE, Clinical Laboratory Scientist		OPEIU, Local 29, AFL-CIO		SEIU UHW-West (excluding Dietitians) California Nurses Association		NUHW, Optical Workers	
Years of Service	0-4	5+	0-3	4+	0-4	5+	0-4	5+
Annual Sick Leave Allotment	10 days	13 days	9 days	12 days	12 days	15 days	9 days	12 days
Annual Kin Care Time	5 days	6.5 days	4.5 days	6 days	6 days	7.5 days	4.5 days	6 days
A part-time employee accrues prorated hours.								

D. For an employee with a Sick Leave Account – The employee's annual Kin Care time equals up to one-half of her/his annual sick leave accruals (refer to <u>Table 4: SICK LEAVE KIN CARE CHARTS</u>), provided the hours are available from her/his sick leave account. For a part-time employee, the number of annual Kin Care days is prorated.

Table 4: ANNUAL SICK LEAVE KIN CARE CHARTS:

Chart 1: Employee Groups						
IUOE, The Stationary Engineers L39						
Years of Service	0-1	2+				
Annual Sick Leave Accrual	12 days	14 days				
Annual Kin Care Time 6 days 7 days						
A part-time employee accrues prorated hours.						

Chart 2: Employee Groups								
• ESC, Local 20, IFPTE, Optometrists								
		O Maratha A		T	1			
Length of Service	2-6 Months	6 Months – 1 Year	1-5 Years	5-10 Years	10+ Years			
Annual Sick Leave Allotment	15 days	30 days	40 days	60 days	6 months			
Annual Kin Care Time 7.5 days 15 days 20 days 30 days 3 months								
	A part-time employee accrues prorated hours.							

UHW-West Medical Social Workers Unit							
Length of Service	2-6 Months	6-12 Months	1-2 Years	2-4 Years	4-7 Years	7-10 Years	10+ Years
Annual Sick Leave Allotment	40 hours	85 hours	175 hours	350 hours	520 hours	695 hours	1040 hours
Annual Kin Care Time	20 hours	42.5 hours	87.5 hours	175 hours	260 hours	347.5 hours	520 hours

E. For an employee with Flexible Personal Days –The employee's annual Kin Care time equals up to **one- half** of her/his Flexible Personal Days annual allotment (refer to Table 5: FLEXIBLE PERSONAL DAYS KIN CARE CHARTS), provided the Flexible Personal Days are available. For a part-time employee, the number of Kin Care Days is prorated.

Table 5: FLEXIBLE PERSONAL DAYS KIN CARE CHARTS:

	Chart 1: Employee Groups	Chart 2: Employee Groups				
	• ESC, Local 20, IFPTE, Clinical Laboratory Scientist	OPEIU, Local 29, AFL-CIO NUHW Optical Workers				
Years of Service	Any	Any				
Annual Flexible Personal Days	2 days	3 days				
Annual Kin Care Days	1 day	1.5 days				
A part-time employee accrues prorated hours.						

F. For an employee with traditional vacation – Vacation Hours accrued are not available for Kin Care leave.

4. Applying Kin Care (CESLA)

Department guidelines/policies/Collective Bargaining Agreements for reporting an absence apply for absences covered under Kin Care leave (CESLA). Managers may require the employee to follow the same procedures for calling in as when an employee is ill, providing medical certification, etc., when the employee requests Kin Care paid time off to attend to a covered family member.

- **A.** Employee Responsibilities An employee is responsible for:
- notifying her/his manager that s/he is requesting/using paid time off to attend to a covered family member or her/his time off may not be protected.
- providing any necessary documentation, e.g., physician certification, as applicable. An employee is not required to reveal diagnosis of illnesses.

- **B.** Manager Responsibilities A manager is responsible for:
- determining whether the employee is eligible for Kin Care leave
- tracking the availability of Kin Care time (refer to sample form Attachment A: Kin Care Tracking
 Form in Section 6) and reporting to the Human Resources Service Center (HRSC) that the Kin Care
 time also may qualify as Family Leave. Use Earnings Code 652 (CES) to track Kin Care usage.
- Providing FMLA information to the employee if the employee indicates that the time off is for the family member's serious health condition.
- **C.** Confidentiality Kaiser Permanente must comply with all laws and policies regarding confidentiality of medical/ psychiatric records or information obtained as a result of Kin Care leave. A manager should treat and maintain received paperwork reflecting time off from work and any medical conditions as a confidential medical record to be kept in a separate file and/or sent to the HRSC for inclusion in the employee's benefits files, as appropriate.
- **D. Kin Care Eligibility** In order to be eligible for Kin Care leave, an employee must be a participant in paid time off benefits. This generally includes a regular full-time or part-time employee. On-call and per diem employees are not eligible for Kin Care leave. An employee who participates in the ACP is also not eligible for Kin Care leave, since s/he has waived her/his paid time off benefits. However, an employee ineligible for Kin Care leave may still be eligible for other protected unpaid leaves such as Family Leave, Pregnancy Disability Leave, etc.

E. Kin Care Time Availability Calculations:

Step 1: Identify employee's type of paid time off benefits.

Identify the paid time off program(s) that an employee is participating in, e.g., PTO, ESL, Sick Leave, and Flexible Personal Days. The manager can determine this based on employee group.

Step 2: Determine the amount of Kin Care time available.

If an employee participates in PTO or Sick Leave, determine the employee's years of service to establish the number of hours s/he accrues. Years of service are generally calculated based on the employee's Leave Accrual Date which is typically the hire date. However, if the employee had a break in service and/or took a leave of absence, the Eligibility Date may have been adjusted. An employee who transferred pursuant to the National Inter-Regional Transfer Policy will not have a break in service. The HRSC can provide the Leave Accrual Date. Once years of

service have been established, refer to the time off tables in Section 3 to find accrual levels. Annual Kin Care leave is one-half of the annual accrual.

The amount of annual ESL accruals and Flexible Personal Days allotments are at the same levels regardless of years of service; therefore, annual Kin Care leave is one-half of the annual ESL or Flexible Personal Day accruals/allotment amount.

Below are examples of how to determine the amount of Kin Care time available under the various types of paid time off benefits. In addition, a calculator is provided to assist in determining the prorated Kin Care time for a part-time employee.

Example 1: Full-Time Salaried Employee:

A full-time Salaried employee with 5 years of service accrues 29 days of PTO per year. She may use up to 14.5 days (one-half of 29) of her PTO for Kin Care in any year.

Note: Although this employee is allowed to use more PTO days if she has them in her account, or if she actually uses more than the 14.5 PTO days to attend to a covered family member, Kin Care protected time remains limited to the 14.5 days for that year.

In addition to PTO, this Salaried employee also accrues 6 ESL days per year. As such, she has 3 of those ESL days (one-half of six) available for Kin Care in any year.

This employee has a total of 17.5 Kin Care days for the year; 14.5 from PTO and 3 from ESL. If she requests to use Kin Care time <u>all at once</u>, generally the first 5 days will be deducted from her accrued PTO, 3 days from accrued ESL, and the remaining 9.5 days from her PTO.

Note: **FLSA Exemption -**Generally, an exempt employee is not "docked" pay for absences of less than one full day unless the employee is on Family Leave. And although a wage and hour law also allows for partial day reductions without affecting the employee's exemption status, a Kaiser Permanente exempt employee who requests/takes Kin Care time off for less than one full day, currently receives "regular" pay for the entire day, i.e., the hours not worked are not charged to PTO or ESL. Kin Care is tied to the use of paid time off hours such as PTO and ESL. Therefore, the exempt employee who may have a fraction of a Kin Care day available for the year, e.g., the last 0.5 PTO day as in this example, actually will be able to use it for a whole day under Kin Care. If the employee requests Kin Care time off all at once then the half days can be used, e.g., the first 5 days from PTO, 3 days ESL, and the remaining 9.5 days from her PTO.

Example 2: Full-Time Partnership Union Employee:

A full-time employee represented by OPEIU, L29 has 5 years of service and is eligible to receive an Annual Sick Leave allotment of 12 days. Therefore, he has 6 days (one-half of 12) available for Kin Care leave. These 6 days must come from his Banked Sick Leave Accounts (pre-banked hours) prior to the use of any post-banked hours. If he does not have enough hours in his Banked Sick

Leave Accounts, he may use his Annual Sick Leave or a combination of both Banked Sick Leave and Annual Sick Leave.

This employee also receives Flexible Personal Days allotment of 3 days for the year. Although he may use the entire 3 days to care for a covered family member, only 1.5 of those days is available for Kin Care leave.

This employee then has a total of 7.5 days available for Kin Care leave for the year; 6 days of sick leave and 1.5 days of Flexible Personal Days.

Example 3: Part-Time Employee:

Kin Care Part-Time Proration Calculation – A part-time employee who is regularly scheduled to work 20+ hours per week is eligible for a prorated amount of Kin Care time. A part-time employee's prorated days are adjusted up from her/his scheduled hours if s/he works/is paid for more hours than s/he is regularly scheduled. If an employee works/is actually paid for less hours than s/he is regularly scheduled, then that employee's Kin Care proration calculation would be based on her/his scheduled hours annual allotment. There are no adjustments of hours downward (i.e., no reduction of hours).

To perform the "greater of" calculation for a part-time employee, calculate the factor based on the employee's regularly scheduled hours and paid hours from pay period 1 to the time of employee's request. Use the larger factor to determine the prorated Kin Care time.

A part-time employee who is regularly scheduled to work 32 hours per week requests Kin Care leave during pay period 4 will be eligible for Kin Care time as determined by:

- **Step 1:** Dividing the number of hours regularly scheduled per week by 40 hours; i.e. 32/40 = .80 (scheduled hours factor)
- **Step 2:** Adding the number of straight time hours paid during each full pay period from the beginning of the year to the date of the request; i.e., 70 hours in pay period 1, plus 60 hours in pay period 2, plus 50 hours in pay period 3 = 180 hours (3 pay periods during pay period 1 to the date the employee is requesting Kin Care time)
- **Step 3:** Multiplying 80 (full-time hours) x 3 pay periods for the total number of full-time hours worked, i.e., 80 (full-time hours) x 3 (number of pay periods from pay period 1 to the time of request) = 240 hours
- **Step 4:** Dividing the number of hours paid (*Step 2*) by the number of full-time hours (*Step 3*) which equals the employee's paid time factor, i.e., 180/240 = 0.75 (paid time factor)
- Step 5: Totaling eligible protected time off hours based on a full-time employee's maximum days per

year of Kin Care (e.g. 14.5 days of PTO and 3 days of ESL = total of 17.5 days)

Step 6: Multiplying the full-time employee's maximum days per year of Kin Care x the greater of the two factors in Step 1 (.80) and Step 4 (.75); i.e. $17.5 \times .80 = 14$ protected days

Kin Care Calculator for Part-time Employees					
			PTO, ESL, Sick	Flexible	
		Factor	Leave	Personal Days	
Step 1: Divide number of scheduled hours by 40 (scheduled hours factor)		.80			
Step 2: Total Straight Time Hours Paid during each full pay period from pay period 1 to date					
of request		180			
Step 3: Multiply full time hours (80) by number of pay periods from PP 1	3	240			
Step 4: Divide number of hours paid (step 2) by number of full time hours (step 3) (paid hours factor)		0.75			
Step 5: Add total eligible time off hours based on full-time schedule: PTO, ESL, Sick Leave and /or Flexible Personal Days		17.50			
Step 6: Multiply the full-time employee's max days/year of eligible protected time at the part-time employee's factor		30			
(the greater of step 1 and 4)		.80	14		

Note: The number of protected hours is recalculated with each request. Therefore, the number of protected hours can increase or decrease during the year. Any previously used Kin Care hours need to be subtracted from the "new" calculation.

You may contact the HRSC at1-877-457-4772, WAM team for assistance in calculating the part-time proration.

Additional Considerations:

1) The amount of Kin Care time available starts over each payroll year. Unutilized Kin Care hours are not carried over for purposes of the next year's Kin Care leave entitlement (although the PTO or sick leave may be carried over).

For example: Assuming there are no employment changes, if an employee has 10.5 days of Kin Care time available in 2009, and does not use any of it in 2009 for Kin Care leave, then in 2010 s/he will again have 10.5 (not 21) days of Kin Care leave.

2) An employee who has reached the maximum level of PTO or Flexible Personal Days accumulation and, as a result, has ceased accruing any hours, will continue to be provided with one-half of what s/he otherwise would be

accruing based on her/his years of service for Kin Care leave.

For example: If a 12-year Salaried employee represented by is no longer accruing PTO hours because s/he has reached the 500-hour cap allowable, s/he should continue to be treated "as if" s/he is accruing. Therefore, s/he will continue to have 17 Kin Care days available for the year.

3) If an employee reaches a higher level of accrual on her/his anniversary date, or moves from part-time to full-time, her/his Kin Care entitlement is based on when s/he *takes* the time-off.

For example: If an employee has 10.5 days of Kin Care (PTO) available in March, and in April, s/he has an anniversary that puts her/him at the 13 days of Kin Care (because her annual PTO accrual went to 26 days), then s/he is entitled to the 13 Kin Care days if her/his request is for April through December, and 10.5 Kin Care days, if the request is from January through March, provided the time is already available in her/his account. Also, any days previously used within that year should be deducted from the "new" number of available days. For those who change from one part-time schedule to another, e.g., from 32 hours to 20 hours, or whose actual work hours fluctuate from pay period to pay period, the "new" number of available days may also be less and/or end up already exhausted.

4) If an employee transfers between employee groups, available Kin Care hours should be calculated based on the current program considering hours accrued/allotted and used from her/his previous program.

For example: If a full-time employee, represented by CNA, has 7.5 Sick Leave days available for Kin Care leave, and during the year, s/he transfers to a full-time Salaried position, then s/he becomes entitled to 17.5 days of Kin Care leave (from ESL and PTO). If, as a CNA employee, s/he had used 1 Kin Care day, and s/he requests additional Kin Care leave after becoming salaried, and during the same year, then s/he is entitled to 16.5 days of Kin Care leave (if she has the accrued PTO and ESL available).

5) If an employee does not have PTO/ESL or sick leave/Flexible Personal Days hours in her/his account, then Kin Care leave is not available. In addition, if the employee participating in the paid time off program wants to use her/his ESL hours but has zero PTO hours in her/his account to satisfy the 7 day access requirement, as applicable, s/he will be required to take unpaid days off before being able to access ESL for Kin Care leave.

For example: If a Salaried employee has no PTO hours in her/his account, but has 100 hours of ESL and wants to use them for Kin Care leave, then the first 7 days will have to be unpaid (to satisfy the 7-day access requirement) before s/he can use any ESL for Kin Care. Assuming s/he has not previously used any ESL hours for Kin Care, then s/he will be entitled to have up to 3 ESL days for Kin Care leave.

F. Kin Care Time Tracking

The manager is responsible for determining the amount of Kin Care leave time an employee is eligible for as well as keeping track of the Kin Care time taken in the year, and calculating the employee's remaining balance. Note: Accruals and hours paid can be obtained by contacting the HRSC at 1-877-457-4772. Be sure to code Kin Care (CESLA) protected hours in the TIME system appropriately (earnings code 652 = CES). For an employee who has previously used Kin Care leave, subtract that number of days already used from the totals obtained from the calculations done in <u>Section 4 Paragraph E</u> above. In addition, keep in mind the "Additional Consideration" when tracking Kin Care time.

Example: If the full-time Salaried employee in <u>Example 1</u> already used 3 PTO days for Kin Care leave purposes prior to the most recent request, and it has been determined that the employee has 14.5 PTO

days of Kin Care time for the year, then the remaining available protected time would be 11.5 PTO days (plus 3 ESL).

G. Kin Care and Family Leave

If an employee who utilizes Kin Care leave also satisfies the requirements under Family Leave (serious health condition, etc.), the two leaves will run concurrently. Kin Care leave does not extend time off available under Family Leave. If an employee's Kin Care request appears to satisfy the requirements under Family Leave, report it to the HRSC who will determine the employee's eligibility for Family Leave and assist with ensuring all applicable leaves run concurrently.

The requirements for Kin Care and Family Leave differ as follows:

	KIN CARE LEAVE	FAMILY LEAVE (FMLA/CFRA)*
Service Requirement	None (enough to accrue paid sick leave, PTO, etc.)	12 months of service and 1,250 compensable hours immediately preceding the start of leave
Who's Eligible	Only participants with paid time off benefits	All employees
Who's Covered	Child of any age Spouse/Domestic Partner Parent, i.e., biological, foster, adoptive, stepparent or legal guardian	 Child under age 18, or age 18+ if incapable of self-care under ADA (which excludes pregnancy) Spouse/Domestic Partner Parent, i.e., biological, foster, adoptive, stepparent or legal guardian and parent who stood in loco parentis Employee
Circumstances for Time Off	A minor illness or injury A serious health condition Routine or diagnostic medical appointments	Serious health condition Bonding with employee's newborn within the first year of birth and/or for placement of the employee's adoptive or foster child within the first year
Amount of Time Available	Up to one-half of accrued/allotted paid time off hours per calendar year which does not carryover	Up to 12 weeks per year based on a rolling year Note: Calculating the amount of time available for a part-time employee differs under Family Leave
Notice Requirements	Employee must directly request time off to attend to a family member	Employee can directly or indirectly request Family Leave Employer may designate Family Leave

^{*}*Note*: Refer to Family Leave Guidelines for additional information.

5. Frequently Asked Questions and Answers

- **Q1.** Does an employee have the right to take Kin Care leave if the employee has no available PTO, ESL or Sick Leave, Flexible Personal Days in her/his account at the time of the absence?
- **A1.** No. The employee cannot have Kin Care leave if her/his account balance is zero at the time of the absence. The employee must have PTO, ESL or Sick Leave, Flexible Personal Days benefits, as applicable, hours available in her/his accounts.
- **Q2.** If an UHW-West employee is entitled to 7.5 days of Kin Care leave and has 5 days of Annual Sick Leave and no Banked Sick Leave, can the employee use 2.5 days of vacation time?
- **A2.** No. The employee can only use up to 5 days of Kin Care leave until s/he accrues additional sick leave days.
- **Q3.** If a L29 employee has available time in her/his Annual Sick Leave and Banked Sick Leave accounts, should Kin Care be taken out of the Annual Sick Leave account?
- **A3.** No. Kin Care leave must be used from the Banked Sick Leave account prior to using the Annual Sick Leave account.
- **Q4.** May an hourly employee take Kin Care leave of less than a day for a qualifying reason? **A4.** Yes. An hourly employee may use PTO, ESL or Sick Leave, Flexible Personal Days benefits, as applicable, in increments of less than one day.
- **Q5.** If an employee represented by the Guild for Professional Pharmacists is on PTO for the first 4 days for her/his own illness, and then her/his child falls ill the next day immediately following, can s/he access her/his ESL bank on the 8th day for Kin Care leave, since the 7-day access requirement has been satisfied even though the reasons for the absences differ?
- **A5.** Yes. As long as the 7-day access requirement is met. For example, it will be treated much like an employee who is absent 2 days for one illness, then contracts a second illness before returning to work which causes her/him to be absent for an additional day immediately following. S/he is considered to have been ill continuously, even if the absences are caused by different illnesses.
- **Q6.** If a salaried employee was on PTO for the first 5 days for her/his child's illness and later in the year needs time off for her/his own illness, can s/he access her/his ESL bank on the first day? **A6.** No. Each occurrence an employee takes time off, s/he must satisfy the 7-day access requirement.
- **Q7.** Does a salaried employee need to use PTO days during the first 7 days of a family member's illness or injury each time an employee requests Kin Care leave?
- A7. Yes. The access requirement is the same as if the employee was taking time off for him/herself.

- **Q8.** Does an employee, who has available PTO, ESL or Sick Leave, Flexible Personal Days in her/his accounts, have the right to choose to not use the available paid time off benefits and take Kin Care leave without pay?
- **A8.** No. In order for an employee to have protected Kin Care leave, s/he must use available paid leave hours. However, if an employee is on Family Leave, s/he may take unpaid but protected FMLA time off, as applicable.
- **Q9.** If an employee exhausts all of her/his annual Kin Care leave, when will hours once again become available for Kin Care?
- **A9.** The first pay period of each year. Unused Kin Care hours do not roll over from year to year.
- **Q10.** Do employees receive their annual Kin Care allotment at the beginning of each year or do they accrue Kin Care leave?
- **A10.** Employees are entitled to their annual allotment during the first pay period of each year as long as there is a balance in their PTO and/or Sick Leave account.
- **Q11.** Does Kin Care leave extend the amount of leave available to an employee under Family Leave (FMLA/CFRA)?
- **A11.** No. Kin Care leave does not extend the maximum period of leave under Family Leave. However, when an employee uses her/his PTO, ESL, sick leave and/or Flexible Personal Days benefits, as applicable, during her/his Family Leave, then Kin Care and Family Leave may run concurrently. Also an employee may use Kin Care leave to attend to a family member who does not have a serious health condition, and that time does not count against the employee's time available for Family Leave for a family member's serious health condition.
- Q12. Can an employee be disciplined for using Kin Care leave?
- **A12.** No. CESLA provides an employee with protection. The manager cannot count Kin Care leave towards any type of attendance discipline. However, if the employee violates absence notification rules, for example, is "no call/no show" and later claims it was to attend to a family member, the manager may impose discipline for the failure to provide appropriate notice.
- Q13. If the absence is not for Kin Care leave, could it be protected under other laws?
- **A13.** Yes. FMLA and CFRA also make it unlawful for employers to refuse to grant time off to an employee who satisfies requirements for Family Leave (family member's serious health condition), as applicable.
- **Q14.** Does a manager have the right to require that an employee provide a physician certification verifying that the child, parent, or spouse is ill or was seen?
- **A14.** Sometimes. All conditions and restrictions placed by Kaiser Permanente upon the use of unscheduled PTO, ESL or Sick Leave, Flexible Personal Days benefits, as applicable, can be applied when the employee requests Kin Care leave.

Northern California Kin Care Guidelines

Effective: Jan 1, 2000 / Updated June 2011v2

Q15. When must an employee give the manager the reason for absence as being to attend to a family member's illness or medical appointment?

A15. In order for the absence to be protected Kin Care leave, the employee must inform her/his manager that the absence is to attend to a covered family member in advance or at the time of absence.

Q16. Does Kin Care leave count towards Pension Service/Credited Service for pension plan purposes? **A16.** Yes. Pension Service/Credited Service is calculated based on the hours for which an employee is paid. Since Kin Care leave requires use of paid time off hours, those hours will also count when calculating pension plan benefits.