

FAMILY & MEDICAL LEAVE - ACTIVE

April 1994

Dear KCS Employee:

Effective August 5, 1993 (February 5, 1994, for those covered by a collective bargaining agreement), the FMLA requires employers with 50 or more employees to provide eligible employees up to 12 weeks of unpaid, job-protected leave in any 12-month period (at KCS the designated 12 month measurement period is the Calendar Year) for the following reasons: (1) to care for a child upon birth or upon placement for adoption or foster care; (2) to care for a parent, spouse, or child with a serious health condition; or (3) when an employee is unable to work because of a serious health condition. The FMLA defines eligible employees as employees who: (1) have worked for the Company for at least 12 months; (2) have worked for the Company for at least 1250 hours in the previous 12 months; and (3) work at or report to a worksite which has 50 or more employees or is within 75 miles of worksites that taken together have a total of 50 or more employees.

Employees who want to take FMLA leave ordinarily must provide the Company at least 30 days notice of the need for leave, if the need for leave is foreseeable. If the employee's need is not foreseeable, the employee should give as much notice as is practicable. In addition, employees who need leave for their own or a family member's serious health condition must provide medical certification of the serious health condition. The Company also may require a second or third opinion (at the employer's expense), periodic recertifications of the serious health condition, and, when the leave is a result of the employee's own serious health condition, a fitness for duty report to return to work. The Company may deny leave to employees who do not provide proper advance leave notice or medical certification.

Employees taking leave under the FMLA are entitled to receive health benefits during the leave at the same level and terms of coverage as if they had been working throughout the leave. In addition, the Company must reinstate an employee returning from FMLA leave to the same or equivalent position with equivalent pay, benefits, and other employment terms. Certain highly compensated key employees may be denied reinstatement when necessary to prevent "substantial and grievous economic injury" to the Company's operations.

The employee's use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave. However, the employee must first use any accrued paid vacation, personal, and sick days during a FMLA leave for the employee's own serious health condition or for a seriously ill family member. In addition, the employee must use any accrued paid vacation or personal days (but not sick days) during FMLA leave to care for a newborn or newly placed child.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

It is illegal for the Company to interfere with, restrain, or deny the exercise of any right provided by the FMLA, or to discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for being involved in any proceeding under or relating to the FMLA.

The U.S. Department of Labor is authorized to investigate and resolve employee complaints of violations of the FMLA. An eligible employee may also bring a civil action against the employer for violations.

Enclosed is a copy of the U. S. Department of Labor Program Highlights (fact sheet) concerning FMLA. Also enclosed is a copy of the form which is to be used when requesting leave under the FMLA.



H. I. Salmons
Vice President - Human Resources