

30 November 2020

To: Defense Advisory Committee on Women in the Services
4800 Mark Center Drive
Suite 04J25-01
Alexandria, VA 22350

**Request revision to paragraph 4-28. C. (2) & (3) of
Army Regulation 135-91 (Service Obligations, Methods of Fulfillment,
Participation Requirements, and Enforcement Provisions, March 2016)**

ISSUE

AD 2016-09 gave Reserve and National Guard Soldiers an 84 calendar day period immediately following a birth event which commanders could not disapprove. The 12-week period of (unpaid) maternity started immediately following a birth event or the mother's release from hospitalization following a birth event, whichever is later. AD 2019-05 superseded AD 2016-09 and does not pertain to Soldiers not on active duty for more than 12 months. This reverted the unpaid maternity leave back to only six (6) weeks in accordance with AR 135-91. The six weeks only covers the minimum recovery period and does not offer any caregiver time similar to active duty. Many Soldiers travel to their assigned unit and do not return overnight due to being assigned to units outside of the local commuting distance. This means that a mother of a newborn is potentially traveling at 6 weeks postpartum and leaving her newborn in the care of someone else. Travel alone poses a safety issue as mothers of newborns this age usually have interrupted sleep due to night-time feedings and diaper changes. This makes driving longer distances unsafe. There are also safety issues for the newborn related to SIDS as described below under the American Academy of Pediatrics research. Additionally, there is no secondary caregiver leave (formerly paternity leave).

HOW READS

4-28, c.

(2) Maternity leave during the postnatal period normally will not exceed 6 weeks from date of release from the hospital. If the attending physician determines it necessary to extend this period, he or she will provide a statement to that effect. The Soldier will send her written request, with the physician's statement, to her unit commander for approval. Maternity leave ends on the date the unit commander determines the Soldier is medically fit to return to duty. The unit commander will make this decision with the attending physician's advice.

REVISION REQUEST

4-28, c.

(2) Troop Program Unit (TPU) Soldiers are excused from any battle assembly (weekend drill) and annual training occurring within the 84 calendar day period immediately following a birth event. Commanders may not disapprove this excused time. The 12-week period will start immediately following a birth event or the mother's release from hospitalization following a birth event, whichever is later. If the attending physician determines it necessary to extend this period, he or she will provide a statement to that effect. The Soldier will send her written request, with the physician's statement, to her unit commander for review. If a Soldier is the spouse of someone who gives birth, they are excused for 21 days following the birth event. ~~The soldier Maternity leave ends on the date the unit commander determines the Soldier is medically fit to return to duty. The unit commander will make this decision with the attending physician's advice.~~

(3) When a Soldier's pregnancy is terminated by other than delivery, ~~the unit commander will decide the period of excuse.~~ The unit commander will follow the physician's recommendation as the minimum excusal time when determining how long the Soldier will be excused for.

CURRENT POLICIES

Army Directive 2016-09 (Maternity Leave Policy (1 March 2016))

Paragraph 4: Troop Program Unit (TPU) Soldiers are not eligible for maternity leave, but are excused from any battle assembly (weekend drill) and annual training occurring within the 84 calendar day period immediately following a birth event. Commanders may not disapprove maternity leave. The 12-week period of maternity leave will start immediately following a birth event or the mother's release from hospitalization following a birth event, whichever is later.

Army Directive 2019-05 (Army Military Parental Leave Program) (22 January 2019)

superseded Army Directive 2016-09

Army Regulation 135-91 (Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Provisions, March 2016)

4-28. Maternity leave

a. An ARNG or USAR unit Soldier who becomes pregnant after completing initial AD or ADT will be requested to furnish her unit commander a physician's statement per paragraph 4-25b.

b. A pregnant Soldier is entitled to the issue of the maternity uniform on counseling. This entitlement is according to this regulation and AR 700-84. When to start wearing the maternity uniform is a personal decision. However, commanders may direct wear of the maternity uniform if the woman's condition becomes obvious in a normally fitted uniform. Also, wear may be directed if, in the commander's judgment, the normal duty uniform, when worn, does not meet Army appearance standards. After the 24th week of pregnancy, only the maternity uniform will be worn as the duty uniform, until delivery. Additional guidance is provided by AR 670-1.

c. Excuse from IDT periods and AD will be granted as follows:

(1) As used in this provision, the term “maternity leave” refers to a period of excusal from IDT period(s) or AD. Re-scheduling of excused absences will be in accordance with AR 140–1 or NGR 350–1, as appropriate. A pregnant Soldier will continue to perform duties during the prenatal period. Performance of duty will continue until it is no longer considered feasible by her unit commander. In making this decision, the unit commander will consider the written statement of the Soldier’s attending physician. When the decision is made, the Soldier will be excused from IDT periods. Normally, the prenatal leave period will not exceed 4 weeks. If the Soldier wishes to be excused earlier, she will submit a written request to her unit commander for approval. Her request must include her physician’s written statement. The unit commander may extend the prenatal period beyond 4 weeks. This extension is based on the commander’s decision that the Soldier is not physically able to continue in duty status.

(2) Maternity leave during the postnatal period normally will not exceed 6 weeks from date of release from the hospital. If the attending physician determines it necessary to extend this period, he or she will provide a statement to that effect. The Soldier will send her written request, with the physician’s statement, to her unit commander for approval. Maternity leave ends on the date the unit commander determines the Soldier is medically fit to return to duty. The unit commander will make this decision with the attending physician’s advice.

(3) When a Soldier’s pregnancy is terminated by other than delivery, the unit commander will decide the period of excuse. The unit commander will consider the physician’s recommendation when making this decision.

CONTEXT AND JUSTIFICATION

- **Healthy People 2030** (2020) released their updated objectives which include MICH-2030-15 and MICH-2030-16: Increase the proportion of infants who are breastfed exclusively through 6 months (MICH-2030-15) and one year (MICH-2030-16). Breastfeeding is linked to a reduced risk for many illnesses in children and mothers. National guidelines recommend exclusive breastfeeding for the first 6 months of life and continued breastfeeding for at least the first year. Although breastfeeding initiation rates are high in the United States, most women don’t breastfeed for the entire first year. Strategies like peer support, education, longer maternity leaves, and breastfeeding support in the hospital, workplace, and community may help more women breastfeed longer.

- **CDC Breastfeeding Report Card 2020:** Breastfeeding initiation rates have risen from 73% in 2004 to 84.7% in 2018 in the US, indicating the majority of parents have a desire to breastfeed. Lack of lactation support due for basic breastfeeding issues after hospital discharge leads to alarmingly low breastfeeding duration rates. In 2017, 25.6% of infants were exclusively (no supplementation with formula or introduction of other foods) breastfed at six months and only 35.5% of infants were still being breastfed at one year of age. This data suggest that mothers are not receiving adequate lactation care within their health care systems to meet the American Association of Pediatrics and World Health Organization recommendations of exclusive breastfeeding for 6 months and continued breastfeeding through at least one year.

- **World Health Organization Breastfeeding** (2020) states breastfeeding is one of the most effective ways to ensure child health and survival. However, nearly 2 out of 3 infants are not exclusively breastfed for the recommended 6 months—a rate that has not improved in 2 decades.

Breastmilk is the ideal food for infants. It is safe, clean and contains antibodies which help protect against many common childhood illnesses. Breastmilk provides all the energy and nutrients that the infant needs for the first months of life, and it continues to provide up to half or more of a child’s nutritional needs during the second half of the first year, and up to one third during the second year of life. Breastfed children perform better on intelligence tests, are less likely to be overweight or obese and less prone to diabetes later in life. Women who breastfeed also have a reduced risk of breast and ovarian cancers.

- **The National Institutes of Health** (2019) recommend room sharing as an evidenced-based way to decrease the risk of SIDS. Room sharing reduces the risk of Sudden Infant Death Syndrome (SIDS). Baby should not sleep in an adult bed, on a couch, or on a chair alone, with you, or with anyone else, including siblings or pets. Having a separate safe sleep surface for the baby reduces the risk of SIDS and the chance of suffocation, strangulation, and entrapment.

- The **Lancet Global Breastfeeding Series** (2016) found that improving breastfeeding rates globally would prevent over 800,000 deaths under age 5 and over 20,000 deaths from breast cancer each year. The Lancet series also demonstrated that increased breastfeeding rates lead to lower incidences of maternal and pediatric health problems from ear infections to cancer. Additionally, it estimated that the U.S. could gain \$302 billion per year in increased productivity. Improving breastfeeding duration rates for Tricare beneficiaries will save money by reducing healthcare costs over the lifetime of the beneficiaries.

- **American Academy of Pediatrics** (2012, 2016) recognizes breastfeeding as “a public health issue, not only a lifestyle choice” based on widely documented short and long term medical and neurodevelopmental outcomes of breastfeeding. Breastfeeding has shown to protect the infant against infectious disease and significantly decrease the risk of SIDS. The American Academy of Pediatrics, National Institutes of Health, and the World Health Organization all concur that newborns should be exclusively breastfed for the first 6 months and should continue to be breastfed until at least one year of age. They also recommend that breastfeeding continue beyond one year if possible. The AAP also recommends that parents, particularly the mother, sleep in close proximity to the infant for the first year which also significantly reduces the risk of SIDS.

Respectfully submitted,
Kelly M. Bell, RN, MSN, CEN
USAR, LTC, AN

References

- Breastfeeding*. World Health Organization. <https://www.who.int/health-topics/breastfeeding>, accessed 21 August 2020.
- Breastfeeding Report Card, 2020*. Centers for Disease Control and Prevention, 14 August 2020, www.cdc.gov/breastfeeding/data/reportcard.htm.
- American Academy of Pediatrics Section on Breastfeeding. "Breastfeeding and the Use of Human Milk." *Pediatrics*, Mar. 2012, pediatrics.aappublications.org/content/129/3/e827.full#content-block.
- Hajeebhoy, Neemat. "The Lancet Breastfeeding Series." Baby Friendly Hospital Initiative Congress, 24 Oct. 2016, Presentation.
- Health People 2030 Objectives*, from <https://health.gov/healthypeople/objectives-and-data/browse-objectives/infants/increase-proportion-infants-who-are-breastfed-exclusively-through-age-6-months-mich-15> accessed on 20 August 2020.
- Moon, Rachel Y. and TASK FORCE ON SUDDEN INFANT DEATH SYNDROME. "SIDS and Other Sleep-Related Infant Deaths: Evidence Base for 2016 Updated Recommendations for a Safe Infant Sleeping Environment." *Pediatrics* 2016; 138; DOI: 10.1542/peds.2016-2940 originally published online October 24, 2016
- Safe Sleep for Your Baby: Reduce the Risk of Sudden Infant Death Syndrome (SIDS) and Other Sleep-Related Causes of Infant Death*. The National Institutes of Health. NIH Pub No 17-HD-7040, January 2019.
- Victora, Cesar G., et al. "Breastfeeding in the 21st century: epidemiology, mechanisms, and lifelong effect." *The Lancet*, vol. 387, no. 10017, Jan. 2016, pp. 475-490, [doi.org/10.1016/S0140-6736\(15\)01024-7](https://doi.org/10.1016/S0140-6736(15)01024-7).