

FMLA INFORMATION SHEET

Definition

The Family and Medical Leave Act of 1993 (FMLA) allows employees who have met eligibility requirements to take up to 12 weeks of unpaid leave.

Eligibility Requirements

To be eligible for FMLA benefits, the minimum service requirements must be met:

- Worked for the employer for a total of 12 months; and
- Worked at least 1,250 hours over the previous 12 months.

Leave Entitlement

The FMLA allows covered employees to take up to 12 weeks of unpaid leave during any 12-month period in the following cases:

- Birth of a child or adoption or foster-care placement of child.
- Serious health condition of a spouse, child or parent.
- Serious health condition of the employee.
- A qualifying exigency arising for a spouse, son, daughter or parent who is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.
- Up to 24 weeks of leave will be allowed to an employee who is the spouse, son or daughter, parent, or next of kin of a service member in the Regular Armed Forces, National Guard or Reserves who has incurred a serious injury or illness in the line of duty while on active duty.

Notice Requirements

Employees wanting to take FMLA leave are required to give a 30-day advance notice when the need is anticipated and such notice is practical. This 30-day minimum advance notice is required when it is foreseeable due to:

- Expected birth of a child;
- Expected placement of child for adoption or foster care;
- Planned medical treatment for child, spouse or parent with a serious health condition; and
- Planned medical treatment in case of employee's own serious health condition.

If the leave is unforeseen the employee should notify their supervisor and the benefits office as soon as practical of the FMLA absence. Employees are required to follow the normal absence notification process.

Health Benefit Continuation

While the employee is on leave, the employer is required to continue his/her health benefits; however, the employee is required to pay his/her portion.

Reinstatement Rights

Upon return from FMLA leave, the employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

Frequently Asked Questions and Answers

Q: Which employees are eligible to take FMLA leave?

Employees are eligible to take FMLA leave if they have worked for their employer for at least 12 months, and have worked for at least 1,250 hours over the previous 12 months.

Q: Do the 1,250 hours include paid leave time or other absences from work?

No. The 1,250 hours include only those hours actually worked for the employer. Paid leave and unpaid leave, including FMLA leave, are not included.

Q: How much leave am I entitled to under FMLA?

If you are an "eligible" employee, you are entitled to 12 weeks of leave for certain family and medical reasons during a 12-month period.

Q: How is the 12-month period calculated under FMLA?

A "rolling" 12-month period is measured backward from the date an employee uses FMLA leave.

Q: What is a "serious health condition"?

"Serious health" condition means an illness, injury, impairment, or physical or mental condition that involves:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
- A period of incapacity requiring absence of more than three full calendar days from work, school, or other regular daily activities that also involves in-person treatment by a health care provider and a regimen of continuing treatment or a second in-person visit to the health care provider within 30 days of the first day of incapacity; or
- Any period of incapacity due to pregnancy or for prenatal care; or
- Any period of incapacity (or treatment therefore) due to a chronic serious health condition that requires period visits for treatment by a health care provider, continues over an extended period of time and may cause episodic incapacity rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.); or
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal disease, etc.); or
- Any absences to receive multiple treatments (including any period of recovery that follows) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.)

Q: Who is considered an immediate "family member" for purposes of taking FMLA leave?

An employee's spouse, children (son or daughter), and parents are immediate family members for purposes of FMLA. The term "parent" does not include a parent "in-law". The terms son or daughter do not include individuals age 18 or over unless they are "incapable of self-care" because of mental or physical disability that limits one or more of the "major life activities" as those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the Americans with Disabilities Act (ADA).

Q: Whom do I contact to request FMLA?:

Contact the Benefits Office in Human Resources at 993-6354.

Q: Are there forms to complete for FMLA?

Yes, there are two forms:

- FMLA Request Form – completed by the employee and submitted to the Benefits Office

- FMLA Medical Certification Form – completed by the doctor and submitted to the Benefits Office

You can get both forms from the district's website document repository indexed under Human Resources.

Q: Do I have to give the district a medical certification for leave due to a serious health condition?

Yes. For any leave taken, which is due to your serious health condition or a serious health condition of your immediate family as defined by FMLA, you must provide a medical certification confirming that a serious health condition exists. You will have 15 calendar days from your request for FMLA to provide the medical certification.

Q: What happens if I do not want to take FMLA?

It is the employer's responsibility to designate leave taken for an FMLA reason as FMLA leave. If the leave qualifies as FMLA, it is not a choice for the employee.

Q: Do I have to use my temporary leave time?

Yes. Temporary leave time must be used if the serious health condition is for the employee's illness. However, under district policy you are not required to exhaust all sick leave prior to taking leave without pay due to childbirth. The use of temporary leave for a family member is limited and based on the personnel policy or employee contract.

Q: Can workers' compensation leave count against an employee's FMLA leave entitlement?

Yes. FMLA leave and workers' compensation leave can run together, provided the reason for the absence is due to a qualifying serious illness or injury.

Q: Can the employer count leave taken due to pregnancy complications against the 12 weeks of FMLA leave for the birth and care of my child?

Yes. An eligible employee is entitled to a total of 12 weeks of FMLA leave in a 12-month period. If the employee has to use some of that leave for another reason, including a difficult pregnancy, it may be counted as part of the 12-week FMLA leave entitlement.

Q: Can the employer count time on maternity leave or pregnancy disability as FMLA leave?

Yes. Pregnancy disability leave or maternity leave for the birth of a child would be considered qualifying FMLA leave for a serious health condition and may be counted in the 12 weeks of leave so long as the employer properly notifies the employee in writing of the designation.

Q: May I take FMLA leave for visits to a physical therapist, if my doctor prescribes the therapy?

Yes. FMLA permits you to take leave to receive "continuing treatment by a health care provider," which can include recurring absences for therapy treatments such as those ordered by a doctor for physical therapy after a hospital stay or for treatment of severe arthritis.

For more information about FMLA contact the Benefits Office at 993-6354