

FMLA / FAMILY MEDICAL LEAVE ACT POLICY

Ingham County

What is it?

FMLA is a federal law requiring employers to grant up to 12 weeks of unpaid leave per year to their employees due to the following reasons.

Reasons for taking FMLA leave:

1. Serious medical condition rendering the employee unable to perform his/her job;
2. Birth or adoption of a child or the placement of a foster child;
3. An employee's need to care for a child, spouse or parent who has a serious health condition.

Eligibility:

1. Employee must have worked for the County/Courts for at least 12 months; and,
2. Employee must have worked at least 1,250 hours in the previous 12 months.

Definitions:

1. **SERIOUS HEALTH CONDITION:** Illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.
2. **PARENTS:** Employee's biological mother and father, or person who stands or stood "in loco parentis" to employee, not including parents "in law."

Notice and Medical Certification:

The employee is required to provide advance leave notice and medical certification.

1. **FORESEEABLE:** The employee must ordinarily provide 30 days advance notice when the leave is "foreseeable."
2. **UNFORESEEABLE:** The employee must give notice as soon as practical under the facts and circumstances (e.g., 1 or 2 business days of when the need for the leave becomes known).

3. Leave requests should be in writing and must set forth the reasons, anticipated duration and anticipated start of the leave, with medical certification attached. Second medical opinions may be required.
4. Medical treatment must be scheduled so as to minimize loss of work time. Appointments scheduled during work hours need written verification from the provider of the health care service that such provider does not offer appointment hours which do not conflict with the employee's days of work and work hours.
5. Intermittent leave is authorized (excluding for birth or adoption) IF "medically necessary." Records of the amount of intermittent leave used must be maintained by each Department.
6. An employee must obtain written permission from his/her Department Head to perform work for another employer while on FMLA leave from Ingham County.

Job Benefits:

1. For the duration of FMLA paid or unpaid leave, health, dental, disability, life and vision (if applicable) insurance coverages will be maintained. Health waiver payments (if applicable) will also continue during FMLA leaves.
2. Employees will be returned to their original or an equivalent position upon return to work.
3. Employee paid time off (sick, vacation, FOP personal leave and/or extra pass) will be charged during FMLA leave pursuant to the statutory option granted to the employer with the requirement that sick leave be exhausted prior to the use of other paid leave. Unpaid FMLA will not be approved until all above paid accumulations to which an employee is entitled are exhausted.
4. Appropriate leaves provided under the Leaves of Absence articles in the collective bargaining agreements and the Managerial/Confidential Employee Personnel Manual that meet the criteria for FMLA leave will be charged concurrently with FMLA leave pursuant to the statutory option granted to the employer.
5. FMLA does not require that an employee actually request FMLA leave in order that the employer be permitted to designate the paid and unpaid time off as FMLA where the purpose for the leave is a purpose contemplated by the FMLA.

Examples of NON-qualifying Medical Conditions (unless complications develop):

Common cold, flu, earache, upset stomach, minor ulcers, headaches (other than migraines), routine physicals, eye or dental exams, routine dental or orthodontia problems, ordinary periodontal disease, cosmetic treatments, stress (unless it results in mental illness and only if all other conditions are met).

Examples of Qualifying Serious Health Conditions:

1. Heart attack, cancer, stroke, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, injuries caused by serious accidents on and off the job, pregnancy, need for prenatal care, childbirth and recovery from childbirth.
2. Absence must generally be a period of incapacity of more than 3 days, however, chronic conditions such as asthma, diabetes, and pregnancy are covered even if individual episodes of incapacity do not last more than 3 days.
3. Individual must have 2 visits to a health care provider OR 1 visit to a health care provider followed by continuing treatment. (Care that can be initiated without a visit to a health care provider is not, by itself, sufficient to require counting as FMLA leave. EXAMPLE: Bed rest, over-the-counter medication, etc. If treatment includes prescription drugs or therapy requiring special equipment, it would count.)
4. Inpatient care (i.e., overnight stay in a hospital, for example), including any period of incapacity or subsequent treatment, would qualify as FMLA and an accounting of such time must be maintained by the Department.
5. Time used for multiple treatments, such as chemotherapy, radiation, dialysis, physical therapy or restorative surgery will be designated as FMLA.

FMLA IS NOT ADMINISTERED IN ISOLATION. IT MUST BE ANALYZED IN CONJUNCTION WITH THE ACCOMMODATIONS OF THE HANDICAPPER CIVIL RIGHTS ACT, ADA, AND ANY OTHER APPLICABLE LAW.

This policy is not meant to be all-inclusive and merely highlights the provisions of the FMLA. This policy is not meant to conflict with either the FMLA or its implementing regulations. Should there be any inconsistency between this policy, the FMLA or the implementing regulations, the statute and the regulations control.

FMLA PROCESSING

1. THE EMPLOYER MUST GIVE WRITTEN NOTICE THAT IT INTENDS TO CHARGE AN EMPLOYEE WITH FMLA WITHIN TWO (2) BUSINESS DAYS OF LEARNING OF THE NEED FOR FMLA LEAVE. WHEN THE EMPLOYER HAS INSUFFICIENT INFORMATION ABOUT WHETHER AN EMPLOYEE'S USE OF PAID LEAVE QUALIFIES FOR FMLA, THE EMPLOYER SHOULD MAKE INQUIRY INTO THE REASON FOR THE LEAVE. A VERBAL NOTIFICATION TO THE EMPLOYEE THAT THE TIME OFF WILL BE DESIGNATED AS FMLA MUST BE CONFIRMED IN WRITING BY THE EMPLOYEE'S NEXT REGULAR PAY DAY.
2. Employee Request: Employee gives written request for FMLA leave, with or without medical certification attached, to Supervisor or Department Head.
3. Employer Response: Employer completes Department of Labor form letter "EMPLOYER RESPONSE TO EMPLOYEE" and assures employee receives form prior to his/her return to work. **(If the purpose for the leave is a purpose under FMLA, the Department completes the form whether or not the employee requested FMLA leave).**
4. Physician Certification Form: This form should be attached to initial request. If not, the employer should request completion.
5. Process PAR: Input a PAR utilizing Reason Code #13. Indicate under remarks whether it is a paid or unpaid FMLA leave. The employee must use his/her vacation, sick, personal leave and extra pass accumulations. Donated sick time could also be used. If the employee commences the FMLA leave as paid, and then changes to unpaid, input another PAR indicating unpaid under the remarks section. Paid and unpaid time count against the FMLA entitlement. Also indicate under "Remarks" on the PAR form if intermittent time will be utilized. If intermittent time will be used, the Department must keep track of the employee's time (see #7 below). If this is also workers' compensation, please note #9 below.
6. Employee Returns to Work: When the employee returns to work at the conclusion of the FMLA leave, a PAR must be input utilizing Reason Code #14 (Reinstatement). A physician's "OK TO RETURN TO WORK" statement should be given to the Department by the employee.

7. Counting:

A. DATE OF INCIDENT: Eligibility will be calculated by counting backwards 12 months from the date of leave.

B. INTERMITTENT LEAVES: If leave is medically necessary on an intermittent basis, the Department must keep track of the FMLA time. Time is counted according to normal hours worked per week (e.g., FT = 40 hours; PT = 20 hrs., etc.). If an employee returns to work to less than his/her normal shift hours, the Department must keep track of that time until the time off totals 12 weeks of his/her normal shift hours. That is, a full-time employee is eligible for 12 forty-hour weeks of FMLA time. Intermittent leave is not available for birth or adoption.

8. Longevity/COLA: Employees who utilize FMLA leave will only be eligible for payment for their PAID FMLA time, and their COLA and longevity will be prorated pursuant to each respective collective bargaining agreement or compensation plan.

9. Workers' Compensation: FMLA IS CONCURRENT WITH WORKERS' COMPENSATION. Comply with notification as stated above, however, employees will be compensated by workers' compensation wage loss, NOT their accumulations. Verify effective dates with the Benefits and Insurance Administrator. When processing a PAR under Reason Code #13 (FMLA), indicate under remarks "Workers' Compensation" instead of paid or unpaid.

10. Use of Accumulations: FMLA does not change usage requirements. Eligibility for use of sick time rests with the language of collective bargaining agreements or compensation plan. For example, most contracts permit full-time employees paid sick time for specific family members up to 40 hours annually. The remaining FMLA leave for family members must be compensated by other accumulated time, if available; if not available, it will be unpaid.