



Family and Medical Leave Act (FMLA) Certification for Birth/Care of Newborn

SECTION I: For Completion by the EMPLOYEE

INSTRUCTIONS: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a birth to submit a medical certification issued by the health care provider. Ensure all information in Section I is completed before giving this form to the health care provider. By signing this form, you represent that the information you provided is true and correct. Unless advised otherwise in writing, you have 15 calendar days to return this form to Occupational Medical Services.

Employee's name: (print legibly)	☐ Mother ☐ Father ☐ Domestic Partner	☐ Spouse ☐ Parent
Contact Phone Number / Cell	Address:	
Work Number		
Employee's job title:	Employee's regular work schedule:	
Department/Division:	Supervisor name:	
Length of time requested for leave for birth and/or care of newborn:		
Signature of employee:	Date signed:	

SECTION II: For Completion by the HEALTHCARE PROVIDER

INSTRUCTIONS: Please provide the following information and be sure to sign the form.

Provider's name	Business address:
Type of practice/medical specialty:	Anticipated date of birth:
	Anticipated return to full work status:
Telephone (with area code):	Fax (with area code):
Are there any anticipated medical concerns related to the pregnancy or delivery of the baby? ☐ Yes ☐ No	
Signature of Authorized Health Care Provider:	Date signed:



EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- ☐ Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- ☐ Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. For additional information go to: www.wagehour.dol.gov.

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.

FMLA Leave to Care for Your New Child

Q. May I take FMLA leave for this purpose at any time?

A. FMLA leave to care for your newborn child or child newly placed for adoption or foster care must be taken within 12 months of the birth of the child or placement in your home for adoption or foster care. You must give 30 days advance notice when the need to use the leave is foreseeable.

Q. May I take FMLA leave before the child is born or placed with me for adoption or foster care?

A. Yes. FMLA leave may be taken to obtain prenatal care, for any period of incapacity due to pregnancy, or to arrange for the placement of a child with you for adoption or foster care.

Q. May I use FMLA leave on a reduced workweek or intermittent basis to care for a newborn or newly placed child?

A. Only with your supervisor's approval.

Q. What do I need to know about using FMLA leave to care for a newly placed foster child?

A. You may use FMLA leave to care for a newly placed foster child only if the child was placed in your care by or with the agreement of the State. You may be required to submit documentation to support a request for FMLA leave to care for a newly placed foster child.

FMLA Leave and Parental Leave

Q. What is parental leave?

A. Generally, parental leave is any combination of annual leave, sick leave, personal leave days, LWOP, or compensatory time that is used to care for a newborn or newly adopted child. Parental leave must be used within 12 months of the birth of the natural child or placement of the adopted child.

Q. What's the relationship between parental leave and FMLA leave?

A. FMLA leave and parental leave usually overlap, but not always. The use of parental leave is generally considered to be FMLA leave, and the first 12 weeks of parental leave count towards the entitlement of 12 weeks of FMLA leave in a leave year, unless you've already exhausted the FMLA leave entitlement for the leave year. However, *compensatory time used as parental leave can't be counted as FMLA leave.*

When FMLA Leave is Not Counted as Parental Leave

The following purposes are appropriate uses of FMLA leave, but are *not* counted as parental leave:

- ❑ To arrange a foster care placement or stay home with a new foster child;
- ❑ To arrange an adoption;
- ❑ To obtain prenatal care; or
- ❑ For sickness or disability associated with pregnancy, unless it is leave taken immediately prior to delivery or while awaiting delivery of the child.

FMLA leave is also not counted as parental leave under the following circumstances:

- ❑ If you've already used your parental leave entitlement (720 hours in 24 months); or
- ❑ You're eligible to use FMLA leave but aren't eligible to use parental leave because you don't have merit system status (that is, you're a probationary employee or a temporary employee).

When Parental Leave is Not Counted as FMLA Leave

The first 12 weeks of parental leave should be designated as FMLA leave unless:

- ❑ You've already used the 12 weeks of FMLA leave in the leave year;
- ❑ The parental leave used is compensatory time; or
- ❑ You're not eligible for FMLA leave (that is, you haven't worked for the County for 12 months or you weren't in a work status for at least 1040 hours during the previous 12 months).

Remember, if the FMLA leave you use to care for a new child is not parental leave, the sick leave you may use to care for the child

is subject to the family sick leave limit (120 hours in a leave year for most full-time employees).

FMLA Leave for a Serious Health Condition

Q. What is a serious health condition according to the FMLA?

A. A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves one of the following:

- ❑ **Hospital care.** Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility.
- ❑ **Absence plus treatment.** A period of incapacity of more than 3 consecutive calendar days. This includes any subsequent treatment or period of incapacity relating to the same condition.
- ❑ **Pregnancy.** Any period of incapacity due to pregnancy or prenatal care.
- ❑ **A chronic condition** that requires periodic visits for treatment, continues over an extended period of time, and which may cause episodic rather than a continuing period of incapacity.
- ❑ **A permanent or long-term condition** requiring supervision.
- ❑ **Multiple treatment** (non-chronic conditions). Any period of absence to receive multiple treatments by a health care provider.

Note: Treatment doesn't include routine physical examinations, eye examinations, or dental examinations.