

Family Medical Leave Act

The Family and Medical Leave Act of 1993 (FMLA) gives certain job protections to employees when balancing work responsibilities with the demands of personal illness or injury or in caring for family members. FMLA applies to any company that has 50 or more employees.

This policy sets forth the essential provisions of FMLA. In the event that additional clarification is needed, the actual Act and regulations issued by the federal government implementing the Act shall prevail.

Depending on individual circumstances of the leave, staff may also use paid leave.

This policy applies to all agency locations and any other locations where business of the agency is conducted.

To be eligible for FMLA leave, an employee must have been employed by the agency for twelve months, which need not be consecutive, and must have worked at least 1,250 hours within the previous 12 months as of the date the leave starts. An employee is not eligible for leave in the first year of employment. Likewise, an employee is not eligible for leave if the employee works only half-time, or if the employee only recently has returned after an extended layoff or prior leave.

PROCEDURES

Qualifying Event

Under FMLA an eligible employee may request up to 12 weeks of unpaid leave for a qualified event. An employee cannot choose whether or not to use FMLA, if the event qualifies and employees are eligible, then FMLA applies.

A. For the birth and care of a child or placement of a child with you for adoption or foster care. Such leave must be taken within 12 months immediately after birth or within 12 months after placement. Leave may begin prior to birth or placement but cannot be taken intermittently, it must be taken consecutively; Maternity/paternity leave is considered time used against the maximum 12 weeks of FMLA. In the event that both parents work for the agency, they must share the 12-weeks of leave.

B. For care of a family member (as defined in the FMLA Definitions of Family section) with a serious health condition. The employee must be needed to care for basic needs, psychological comfort, filling in for others, or making arrangements for the relative with a doctor's certification that the employee's services are necessary to the family member;

C. Because an employee's own serious health condition makes the employee unable to do his or her job due to illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatments. The agency will count absences due to

on the job injuries that qualify toward FMLA available leave, the FMLA trigger date is the first day out for injury. Employees who qualify for workers compensation do not have to exhaust paid leave while out on FMLA. Employees can choose to use paid leave, but they are not required to under FMLA to use them.

Definition of Serious Health Condition

A. Under FMLA, a serious health condition is an illness, injury, impairment, or physical or mental condition that requires either inpatient care or continuing treatment by a health care provider. A more complete definition can be found as part of the Certification of Health Care Provider form.

B. Serious health condition would not include short-term conditions, which require brief treatment and recovery, such as common colds or flu, stomach viruses, non-migraine headaches, and routine pregnancy, or voluntary or cosmetic treatments not considered medically necessary. The above list is not exclusive. In addition, in the case of chronic health conditions (such as asthma, migraines, diabetes, etc) FMLA considers such conditions to be “serious health conditions” and no minimum calendar days of absence are required for FMLA to apply. Questions regarding specific conditions that would meet the FMLA definition can be referred to the Administrative Coordinator.

C. Continuing treatment by a health care provider means one or more of the following:

- The employee or family member in question is treated two or more times for the injury or illness by a health care provider. Normally this would require visits to the health care provider or to a nurse or physician’s assistant under the direct supervision of the health care provider.
- The employee or family member is treated for the injury or illness two or more times by a provider or health care service (e.g. physical therapist) under orders of, or on referral by, a health care provider or is treated for the injury or illness by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider – for example, a course of medication or therapy to resolve the health condition.

FMLA Definitions of Family

A. Spouse means a husband or wife as defined or recognized under State law for purposes of marriage.

B. Parent means a biological parent or an individual who stands or stood in the place of a parent to an employee when the employee was a child (including step-parents or grandparents who parented the employee). This term does not include parents "in law."

C. Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in the place of a parent, who is under age 18, or incapable of self-care because of a mental or physical disability.

D. FMLA definitions of family may differ from other agency policies and procedures because MOPS provides an extended definition of "family," an employee may qualify to use their paid leave or an unpaid leave but not Family Medical Leave.

Employee Notice and Certifications

A. The employee must provide 30 days advance notice when the leave is "foreseeable." The employee should provide the agency with the date the leave will begin and the anticipated return date. On rare occasions, advance notice might not be possible (for example, premature labor), the employee should contact the agency within two business days and return the Medical Certification as soon as possible. These situations will be evaluated on a case-by-case basis.

B. The agency will provide employees notice of any time being counted towards FMLA leave within two days of the absence, if the reason for the absence is a qualifying event and the employee has not requested an FMLA leave.

C. Forms for medical certification are available from the Administrative Coordinator. The agency's preferred form is DOL form number 1215-0181. Other suitable documentation may include a statement from the physician written on official letterhead that includes the diagnosis, prognosis, start date of the illness, and anticipated return to work date with the employee's name or the name and relationship of the employee's family member under the care of the physician. The agency will notify the employee if any required information is missing when the certification is submitted and will make every effort to maintain the confidentiality of any information submitted.

D. Medical certification will be required prior to approval of leave indicating the employee is needed to provide care or unable to perform his/her job. The agency can require that the employee obtain a second opinion where the validity of the certification provided by the employee is in question. The company must pay for any second opinion, and the company may not use a physician who is employed by the agency. Where there is a conflict of opinion between the employee's physician and the agency's position, the agency and the employee must pick a tie breaking physician for a third opinion (the agency pays for the third opinion). The third opinion is considered final and binding on both parties.

E. Medical certifications must be returned to the agency within 15 days of the employees request for FMLA (forms that are not returned within the required time may result in a delay in leave) or the employee's first FMLA qualifying absence.

F. The agency reserves the right to seek clarification of the medical condition from the employee's healthcare provider through a healthcare provider representing the agency with a release from the employee.

G. Leave may be denied if the employee fails to provide the required medical certification.

H. Continued medical certification will be required if the situation warrants, but not more frequently than every 30 days unless the agency has reason to believe the employee is able to return to work.

I. Re-certification will be required upon an employees request to extend FMLA leave beyond the original request if additional FMLA time is available.

Calculating FMLA Time

A. The agency will use a “rolling” 12 month period, measuring FMLA time by looking back 1 year and determining how much FMLA leave an employee has already used. Each time an employee takes FMLA leave, the remaining leave entitlement would be the balance of the 12-weeks, which has not been used during the immediately preceding 12 months.

Maximum Leave Entitlement

A. Up to 12 weeks of absence from assigned duty may be requested within a 12-month period.

B. In the event both spouses are employed by the agency, the couple will be limited to a combined maximum of 12-weeks of leave to care for a newborn or to care for a sick parent. This limit does not apply in the case of leave needed to care for a sick child, or to care for an ailing spouse.

Intermittent and Reduced Leave Schedule

A. In the event of employee or immediate family member illness only, an employee may request a reduced work schedule. Necessity for the leave must be such a medical need that can best be accommodated through an intermittent or reduced leave schedule. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt agency operations.

B. Intermittent basis is defined as anything less than a 12 –week cycle that reduces the employee’s usual number of hours per workweek or hours per workday. Medical certification documenting the necessity both for the leave and the taking it on an intermittent basis is required.

B. Mid-Ohio Psychological Services, Inc may transfer an employee to an alternative position with equivalent pay and benefits in order to accommodate the request when such a reassignment is available and expedient for the duties in question.

C. Leave taken on an intermittent or reduced schedule will be calculated on a pro rata or

proportional basis comparing the employee's new schedule to his or her prior schedule. FMLA leave time for intermittent leave is granted in one hour increments and an employee may not be required to take off more time than is actually required.

Concurrent Use of Accrued Paid Leave

- A. FMLA leave is taken concurrently with other agency paid leave. The employee should be notified of the number of hours of paid leave available.
- B. A parent meeting the eligibility criteria under the Family and Medical Leave Act may, upon application, use up to five days accrued paid leave for the qualifying event of birth or adoption of his or her child. The twelve-month employment requirement of the Family Medical Leave Act will not apply.

Continuation of Benefits during Leave

- A. An employee's coverage in a group health plan will continue under the same conditions that existed prior to family/medical leave. Employee medical coverage will be paid on behalf of the employee by MOPS if the employee is enrolled in medical coverage at the time the leave is requested. MOPS will recover the employee portion of the funds as written in section G.
- B. All optional benefits (ie. AFLAC) regularly paid by the employee will be paid by the employee while on leave or cancelled.
- C. Dependent coverage of existing benefits would continue to be paid by the employee as under normal circumstances.
- D. Employee contributions for medical coverage will be made by the agency on the employee behalf during the unpaid FMLA leave. The contributions will be repaid by the employee through payroll deduction upon their return to work through payroll deduction for up to 90 days at a rate of an additional 25% being deducted from an employees check.
- E. Contributions to the agency's retirement IRA and flexible benefit accounts will stop during FMLA leave. Claims may still be submitted to the flexible spending account up to the amount of funds available.
- F. In the event an employee elects to cancel insurance coverages, such cancellation will be effective the end of the month after written notice to MOPS Accounts Payable Manager. No partial premiums will be calculated.
- G. If an employee fails to return to work from unpaid leave, except where health conditions will not permit or death, the employee will be required to reimburse MOPS for all premiums paid on behalf of the employee during the family/medical leave. The employee will be billed by the agency with payment allowed on the

balance for up to 90 days or the employee can return to work with the agency with their resignation effective at an agreed upon time that allows the agency to recover all funds paid on the employee's behalf. If neither of these remedies result in repayment to the agency for premiums paid on the employee's behalf, the agency will pursue collections action against the employee.

Restoration of Employment

- A. Upon return from FMLA leave, an employee will be restored to his/her original or equivalent position with equivalent pay, benefits, and other terms of employment, with essentially the same work schedule that was used before FMLA leave, unless a mutually beneficial change in schedule or employment status can be reached.
- B. An employee may not be restored to an original or equivalent position if such position has been eliminated through a reduction in workforce.
- C. If the reason for leave is personal illness or injury of the employee, medical proof of fitness to return to work will be required indicating the employee is able to perform the essential functions of the job prior to the employee returning to work.
- D. Time on leave of absence without pay may not count toward credited service for paid leave purposes or other benefits accrued for length of service to the agency.

Restoration of Benefits

- A. MOPS paid benefits such as MOPS paid health care and life insurance will be restored to the employee once returning from leave and will be equivalent to what the employee would have had without taking the leave. If the employee does not want the insurance during this leave, s/he should cancel the insurance and upon return to work should notify the Accounts Payable Manager of his/her desire to reinstate the benefits. Insurance will be reinstated according to what is allowable by the medical insurance carrier's rules.
- B. Benefits normally paid for by the employee such as dependent coverage, long-term disability, etc. would also be reinstated.
- C. Health and dependent care reimbursement accounts will be reinstated once the employee is back on paid status if s/he was enrolled at the time of his/her leave.

Notice to Employees

- A. Notice of the Family and Medical Leave Act is posted in designated buildings. The Administrative Coordinator is responsible for ensuring such notification exists.
- B. Copies of this policy and procedure should be made available to employees upon their request.

C. When leave is requested, the Administrative Coordinator is required to respond in writing to the employee specifying the rules for eligibility, 12-month period used, medical certification requirement, required substitutions of leave, rules on payment of benefit premiums, liability of employee for repayment, medical certification requirements for return to work, status as a key employee, and right to restoration of original or equivalent position. Forms suitable for this response are available from the Administrative Coordinator.

Recordkeeping

A. The Administrative Coordinator will maintain adequate up-to-date records for each staff member that accurately reflect the rate and the amount of leave taken, the dates when such leave is used, and the current untaken leave balance.

B. Each new incident will be documented by the Administrative Coordinator and may require an updated medical certification form (ie. A staff member returns to work and has an incident related to the original qualifying event and has to be off work again.)

C. The Administrative Coordinator will generate appropriate forms on any leave taken under FMLA.

D. The Administrative Coordinator will maintain accurate leave balances. Leave used will be reported on biweekly time reports.

E. Documentation for use of leave will be maintained for three years.

Exhaustion of Family and Medical Leave

A. FMLA time cannot be made up, each employee is only entitled to 12-weeks during any rolling 12-month period.

B. Once an employee has exhausted the 12 work-week eligibility under this policy and other paid leave does not apply, the employee must return to work immediately or pursue a personal leave of absence.

C. If no other leave is approved, the employee will be terminated.

COBRA

A. If an employee does not return to work after FMLA leave, MOPS will offer COBRA as required under the Consolidated Omnibus Benefits Reconciliation Act.

B. The qualifying event that will trigger an offer of COBRA continuation of coverage occurs on the last day of the employee's FMLA leave. The last day of FMLA leave is the earlier of (1) the date the employee gives termination notice or (2) the last scheduled day

of the FMLA leave.

C. Length of the COBRA coverage is measured from the day of the qualifying event.

Other Matters

- A. Employees are prohibited from having any other job while using FMLA leave from the agency.
- B. Employees will not be eligible for holiday pay during FMLA leave.
- C. A supervisor who has reason to believe the employee's illness, injury, disability, or pregnancy is inhibiting the usual performance of duties may request in writing that the employee begin leave at an earlier date than selected by the employee. The employee may appeal such an action. Medical data supporting the employee's case must accompany the appeal.

EXCEPTIONS

The authority to grant exceptions to one or more of these policies and procedures is the responsibility of the Executive Director, if the Executive Director is not available the matter will be brought to the attention of the Board of Directors.

The provisions of this policy are intended to comply with applicable law, including the Family Medical Leave of 1993 and applicable regulations. Any terms used from the FMLA will have the same meaning as defined by the Act and/or applicable regulations. To the extent that this policy is ambiguous or contradicts applicable law, the language of the applicable law will prevail.

Mid-Ohio Psychological Services reserves the right to change this Policy and Procedures or any portion thereof at any time without prior notice. This policy will be reviewed at least annually for compliance with state and federal law.