



## Family and Medical Leave (FMLA) - Additional Information

For FMLA guidelines regarding eligibility, entitlements and procedure, please review the [FMLA policy](#).

### FMLA Approval

Once Human Resources receives the completed FMLA forms, the employee, supervisor (who signed the FMLA Request form) and payroll will be notified, in writing, if the request is approved, provisionally approved, or denied.

The final decision on the amount of approved leave time will be based on the medical certification and the employee's eligibility for leave.

Human Resources may periodically check in with the employee during FMLA leave to confirm that the leave continues to qualify for FMLA purposes.

### Health Benefits

The City is required to maintain group health insurance coverage for an employee on FMLA leave on the same terms as if the employee were working. During an **unpaid** FMLA leave employees are responsible for paying their insurance premiums (health, dental, flex) and the City will continue paying the Employer's portion. Any additional insurance (e.g., supplemental life insurance, etc.) deductions must also be paid by the employee during any unpaid leave. If the employee fails to make a required payment, benefits may be discontinued. If the employee fails to return to work after taking FMLA leave, the employee may be liable for repayment of health insurance premiums paid by the City during the FMLA leave.

### Holiday pay

Holiday hours count towards the FMLA hours. In order to receive holiday pay, the employee must be in a paid status either the regularly scheduled day before, or the regularly scheduled day after the holiday. (2-18-603, M.C.A.). If the employee is on an unpaid FMLA leave, they may not be eligible for holiday pay.

### Immediate family members

An employee's spouse, partner, 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 " life activities", or the injury is the result of active military duty, as those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the Americans With Disabilities Amendments Act (ADAA).

### Intermittent Leave

Employees may take leave on an intermittent basis or work a reduced schedule under certain circumstances. Only the number of leave hours actually taken while on an intermittent/reduced schedule will be charged as FMLA leave. Employees are not required to take more FMLA leave than necessary to address the circumstances requiring the leave. Due to the intermittent schedule, the 12 or 26-week entitlement will be calculated using 480 or 1040 hours for full-time employees who work forty hours a week. FMLA leave for part-time employees will be pro-rated.

### Medical Certification

The City requires that the need for leave for a serious health condition of the employee or the employee's immediate family member be supported by a medical certification issued by a health care provider. The employee typically has 15 calendar days from request to obtain medical certification and return it to the Human Resources department. No medical certification is required in the event of a birth or placement of a child.

The City may require the employee to obtain a second or third medical opinion. The City also may require medical recertification every 30 days, at the employee's expense, during the FMLA leave. There are some exceptions to this time frame that allow recertification prior to the end of the 30-day period. Exceptions may include, but are not limited to, the following:

- The employee requests an extension of the leave.
- The original medical certification has changed
- There is some question as to the validity of the certification
- The employee is unable to return from leave at the specified time

A "health care provider" is defined as: a doctor of medicine or osteopathy, podiatrist, dentist, chiropractor, clinical psychologist, optometrist, nurse practitioner, or nurse-midwife who is authorized to practice by the State and performing within the scope of practice as defined by State law.

### **Return to Work Rights**

Employees who are unable to return to work and have exhausted their 12-weeks of FMLA leave in the designated 12 month period no longer have FMLA protections of leave, health insurance continuation, or job restoration.

### **Returning to Work Certification**

***Return to Work Certification*** is required when an employee returns to work from FMLA used to address the employee's serious health condition. The employee must present the ***Return to Work Certification*** immediately upon their return to work.

### **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 calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
- Any period of incapacity due to pregnancy, or for prenatal care; or
- Any period of incapacity (or treatment thereof) due to a chronic serious health condition (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 diseases, etc.); or
- Leave for multiple treatments by a health care provider for a condition that likely would result in an incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

### **Timekeeping while on leave**

It is the responsibility of the employee to make arrangements with their supervisor for use of accrued leave. The employee may elect the order in which accrued leave and/or leave without pay is used.