

DANE COUNTY FAMILY AND MEDICAL LEAVE (FMLA) POLICY

Introduction

This is the policy of Dane County (the “County”) on the use of family and/or medical leave (FMLA) by its employees. Eligible employees will be allowed up to twelve (12) work weeks (pro-rated for part time employees) of unpaid leave as a result of:

- a birth or placement of a child for adoption or foster care
- when a serious health condition is experienced by the employee
- the employee’s parent, child or spouse/Domestic Partner
- military qualifying exigency leave or
- military caregiver leave

This leave will run concurrently with any other leave, which is available to the employee under the policies, Employee Benefit Handbook and bargaining agreements of the County. Federal and Wisconsin FMLA provisions will run concurrently where both laws cover the reasons for leave. All or a portion of the period of Family and Medical Leave may be paid based on available leave balances. The use of leave under this policy will not be used against an employee in any employment decision, including in the determination of raises or discipline.

If the leave is required due to a work related injury, workers’ compensation leave may run concurrently with the FMLA leave an employee is entitled to under the law, to the extent permitted by law.

Eligibility for Leave

It is the policy of the County to provide family or medical leave to all employees hired in regular budgeted positions if they have worked for the County for at least 12 months and have been paid for at least 1,000 hours in the 12 month period prior to the time leave begins. Employees hired as casual, work-study or interns are specifically excluded from this policy. The leave taken under Dane County’s FMLA policy will count toward any leave to which an employee may be entitled under Federal law, Wisconsin law, or collective bargaining agreement.

Alternative Family/Domestic Partner

Please reference definition in the Employee Benefit Handbook or collective bargaining agreements.

When Leave is Available

Wisconsin FMLA

Leave entitlements under Wisconsin State law run on a calendar basis. Each January 1 the employee receives new state entitlements.

Federal FMLA

Leave entitlements under Federal law run on a rolling calendar year in which a twelve (12) month period is measured forward from the date the employee’s first FMLA leave begins. For example, if an employee’s first use of FMLA leave (block or intermittent) involves a period of leave that

commences on April 1st of a given year, his/her 12 month period for calculating leave entitlement will run from April 1st through March 31st of each year. Paperwork for FMLA must be renewed each rolling calendar.

Amount of Leave Available

Under Wisconsin law, the leave entitlement varies based on the reason for leave: six (6) weeks for birth/adoption/foster care; two (2) weeks for the care of a qualified family member; and two (2) weeks for self-care. Under Federal law, the entitlement is for a maximum of twelve (12) weeks. Federal and State leave entitlements will run concurrently.

Spouses with the same employer are limited under Federal law to a combined total of twelve (12) weeks for the birth/placement of a child. This limitation does not apply to leave for either their own, each other's or a child's serious health condition.

Birth or Placement for Adoption or Foster Care of a Child

Unpaid leave may be taken by an eligible employee upon the birth or placement for adoption or foster care (foster care is a Federal leave entitlement only) of a child with the employee for up to 12 weeks. An additional 14 weeks of leave is provided per ordinance to give a total of up to 26 weeks (birth or adoption only). Employees shall continue to receive health and dental insurance for the duration of the leave. Leave is normally granted all at once. Within the first sixteen (16) weeks of leave after the date of birth, adoption or foster placement, leave may be taken on an intermittent basis. Intermittent use of leave may extend beyond the first sixteen (16) weeks upon approval from the department and Employee Relations. Any sick leave, vacation, holiday and comp time accrued at the time leave begins may be used for this, otherwise, unpaid time. Extensions of family leave will not be permitted, except as required by law or provided by applicable Employee Benefit Handbook, bargaining agreement, or County ordinance. The entitlement to leave for birth or placement for adoption or foster care ends twelve (12) months after the birth or placement for adoption or foster care.

Health Care Certification: The employee will be required to provide certification of the birth or placement.

Serious Health Condition of Employee

The employee may take unpaid leave of up to twelve (12) weeks under Federal law and/or up to two (2) weeks under Wisconsin law (running concurrently when allowable by law) in the event he/she experiences a "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 them from participating in other daily activities.

Federal FMLA: 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 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. Serious conditions include but are not limited to heart attacks, conditions requiring bypass surgery, most cancers, back conditions requiring extensive therapy or surgery, spinal injuries,

appendicitis, pneumonia, severe arthritis, severe nervous disorders, pregnancy, miscarriages, complications related to pregnancy, need for prenatal care, childbirth and recovery from childbirth, a parent suffering from Alzheimer's disease or clinical depression. Absences of four days or more will prompt inquiries about the seriousness of the health condition, however, illnesses such as colds and flu do not qualify as serious health conditions unless there is significant medical intervention to suggest otherwise.

Wisconsin FMLA: A serious health condition is a disabling physical or mental illness, injury, impairment or condition involving any of the following:

Inpatient hospital care **or** (2) Outpatient care that requires continuing treatment or supervision by a health care provider. Communication with the healthcare provider via phone, email, text message, My Chart, mail or web conferencing are not valid forms of treatment .

Serious Health Condition of a Son or Daughter, Parent, Spouse/Domestic Partner

Unpaid leave of up to twelve (12) work weeks under Federal law and/or up to two (2) work weeks under Wisconsin law (running concurrently when allowable by law) may be taken to care for a son, daughter or other individuals for which the employee is serving in loco parentis, spouse/Domestic Partner or parent (including those who stood in loco parentis), with a "serious health condition."

The son or daughter must be under the age of 18 or if older than 18, incapable of self-care because of a mental or physical disability at the time FMLA leave is requested. To qualify as incapable of self-care, the child over 18 years of age must require active assistance or supervision to perform three or more activities of daily living and the disability must limit one or more major life activity, as defined under the Americans with Disabilities Act.

How Leave Can Be Taken

FMLA leave may be taken all at once (continuous block) or in smaller increments (intermittent) as medically necessary.

Intermittent Leave: If the use of intermittent leave is for planned medical treatments, the employee is required to make a reasonable effort to schedule the treatment as not to unduly disrupt the county's operations. A list of pre-scheduled appointments must be provided to the employee's supervisor no later than 5 days in advance of the appointment or as soon as practicable. An employee utilizing intermittent leave must still comply with departmental call in procedures. For an FMLA absence, the employee needs to make a connection between his/her immediate circumstances and the Health Care Certification that is on file. It is insufficient to merely call in and say you are sick. Employees must track the hours of intermittent FMLA used and report them to Employee Relations per pay period.

Military -Related leave

Qualifying Exigency Leave: An employee may take up to twelve (12) weeks of unpaid leave (or cover with benefit time) during any 12-month period for "any qualifying exigency" when the employee's spouse/domestic partner, child or parent is on active duty or is notified of an impending call or order to active duty in the Armed Forces (includes the Reserves, National Guard and retired reserves) in support of a contingency operation. This must be active duty for a military operation designated by the Department of Defense, war or national emergency called by the President. A

qualifying exigency may include the following circumstances: Arranging for child care; attending pre-deployment briefings; family support sessions; see children take off or come back from active duty; handle economic issues and get finances in order; and handle other family obligations that arise from deployment. Eligible employees may take leave intermittently or on a reduced leave schedule.

Military Caregiver Leave: Employees may take twenty six (26) weeks of unpaid leave during one twelve (12) month period to care for a spouse/domestic partner, child, parent, or next of kin who is a current service member (including veterans as defined by the Dept of Veterans Affairs) undergoing medical treatment, recuperation or therapy, is on out-patient status, or is on the temporary disabled retired list for a serious injury or illness. The twenty six (26) weeks of leave is a one-time only leave that must be used within a twelve (12) month period. Eligible employees may take leave intermittently or on a reduced leave schedule.

Any combination of any other FMLA leave with the 26 week leave to care for the wounded service member, moreover, is limited to 26 weeks. An employee might qualify for 12 weeks of non-military related FMLA leave for his/her own serious health condition, and an additional 14 weeks of FMLA leave to care for a covered service member. However, in no circumstances will an employee have statutory leave protection –even in the case of providing care for a covered service member- for more than a combined total of 26 weeks during a 12 month period.

Notifying the County of Your Need for Family Medical Leave or Military Leave

In the event an employee experiences an event covered under this policy, Employee Relations must be notified, verbally or in writing, at least thirty (30) calendar days before the date on which leave is to begin, except in the case of an emergency. In the event of an emergency, notice must be provided no later than two (2) working days after the commencement of leave. The failure to timely notify the County of the need for leave may result in the delaying of leave until proper notice is received. An employee must provide the County, within fifteen (15) calendar days of requesting leave, with a Leave of Absence form and a Health Care Provider Certification Form, which is completed by the employee's treating health care provider. Health Care Provider Certification Forms and Leave of Absence/FMLA Request Forms are available from Employee Relations or on DCINET. Forms will also be sent to an employee immediately upon the indication that the employee's absence is due to a serious health condition. It is the employee's responsibility to have the Health Care Certification completely filled out by the physician.

County Right to Determine Applicability of Family Medical Leave or Military Leave

As the employer, Dane County has the right to determine that paid and unpaid leaves for serious health conditions and the birth or placement of children in the home qualify as FMLA entitlements. Therefore, Employee Relations will provide Health Care Provider Certification Forms and Leave of Absence/FMLA Request Forms upon notification of what appears to be a qualifying absence.

Documenting and Reporting FMLA Leave Usage

It is the responsibility of the employee to document any use of FMLA on their exception time reports/time off slips. Absences not marked as FMLA may be subject to disciplinary action up to and including termination. Intermittent leave time must be tracked by the employee and hours used shall be reported to Employee Relations.

Paid Benefit Time

Any sick leave, vacation, holiday and comp time accrued at the time leave begins may be used for this otherwise unpaid time.

Other Benefits

If you are in an unpaid status, of more than 40 hours per pay period, while on FMLA, you will not accrue longevity credits, vacation or sick time. If a holiday falls during FMLA, you must be in paid status for a minimum of 4 hours for the work day immediately preceding and following the holiday in order to get the holiday paid.

Health and Dental Insurance

If employee is enrolled in the health and dental insurance program prior to FMLA, the employee will continue to maintain health and dental insurance coverage while on FMLA; the County will pay the same percentage of premium costs that are provided to you as an active employee. The employee's portion of premiums must be paid by the employee at the same time, and in the same amount, as would be required if the employee was not on leave. An employee must notify the County of his/her intent to continue health and dental insurance coverage while on leave. If an employee fails to return to work, the County may recover its portion of the premium paid for health plan coverage during the leave. Health and Dental insurance premiums will be paid according to this policy through the month following the month in which the FMLA leave ends. After that point in time, the employee becomes responsible for paying the entire premiums if they have not returned to active employment. For example, if an FMLA leave ends on June 15, health and dental insurance premiums will be paid by the County for coverage through July, as if the employee was actively at work. If the employee has not returned to work at the end of the covered period, in this case July 31, the employee will become liable for premium payment starting with the August premiums, and may continue to be liable for premium payments until returning to work.

If employee is enrolled in vision, long-term care, life or disability insurances prior to FMLA, during an FMLA leave, the employee continues to be responsible for paying vision, long term care, life and disability insurance premiums. If the employee is in an unpaid status at any time during the FMLA leave, and the premiums are not withheld from the employee's pay, the County will invoice the employee for the premium payment. Premiums must be paid, in full, by the invoice due date in order to ensure uninterrupted coverage in the plans. In some circumstances the premiums can be taken from an upcoming paycheck if the employee returns to work soon after the deduction was missed.

Additional Certifications

The County may request that an employee provide a Health Care Provider Certification from a health care provider chosen, and paid for, by the County. In the event of a conflict between the certificates of the employee and the County, a third certification may be required which will be paid by the County. The County is authorized to request that an employee recertify as to the continuation of the serious health condition at various points in time, but not more frequently than every thirty (30) days unless otherwise allowed by law. Chronic conditions will need to be recertified on an annual basis.

Extensions of Leave

Extensions of leave will only be available to the extent allowable under applicable law, Employee Benefit Handbook, bargaining agreement, or County ordinance.

Return to Employment at the End of Leave

At the end of a Family Medical Leave or Military Leave, the employee will be returned to the position held at the commencement of the leave. If there is a reorganization of the work while an employee is on leave, upon return from the leave, the employee will be placed in an equivalent position. If an employee wants to return to work before the leave is to end, and work is available, the employee must notify the County two (2) work days prior to the desired return date, however a two (2) week notice is preferred. If the reason for leave was due to the serious health condition of the employee, the County Return to Work Form must be provided to the County before the employee returns to work stating that the employee may return to work with or without restrictions. If the form is not received, the employee's return to work will be delayed until it is received. If the form is not satisfactory to the County, the County shall have the right to direct the employee to a Doctor selected and paid by the employer per the collective bargaining agreement.

Failure to Meet Policy Requirements

If an employee fails to meet the requirements of the FMLA policy, the request for leave may be denied or delayed until the requirements are met.

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If you have any questions regarding this policy, please contact the Employee Relations Division.

Updated August 30, 2018