

## Family Medical Leave Act Certification Process

1. The employee is absent from work due to one of the following conditions:
  - Birth of a child
  - Placement in the employee's home of a child for adoption or state-certified foster care
  - The employee's serious health condition (illness, injury, or pregnancy); or
  - To care for the employee's spouse, child or parent who has a serious health condition.
2. A "serious health condition" under FMLA is defined as:
  - Any period of incapacity requiring absence from work for more than three calendar days requiring treatment by a health care provider;
  - Any period of incapacity or treatment in connection with or following inpatient care at a hospital, hospice, or residential medical care facility;
  - Continuing treatment by a health care provider for prenatal care or long-term care for a condition so serious that, if not treated, would result in a period of incapacity for more than three days; or
  - Because a serious health condition makes the employee unable to perform one or more of the essential functions of his job.
3. The employee **must request time off** as sick leave, annual leave, state compensatory time, and/or leave without pay. Paid leave and leave without pay should be **requested prior to taking the leave** when the need for the leave is foreseeable. When an employee plans to take **unpaid leave** under the Act, the employee should provide the departmental manager/supervisor 30 days notice when possible or as much as practicable under the circumstances. This will ordinarily be within one or two business days after the employee learns of the need for leave, but may be at the last moment in the case of a medical emergency. The department manager/supervisor must immediately notify the Payroll Department when leave without pay is requested.
4. If the employee is applying for leave for one of the reasons listed in item #1, **the employee must use all paid leave before taking unpaid leave unless otherwise stated in the contract.** However, sick leave may only be used for situations that are normally eligible for sick leave. **FMLA leave runs concurrently with any available sick leave, annual leave, state compensatory time, and/or leave without pay.**
5. The employee may designate the leave as FMLA in SmartFind. However, *the Payroll Department will make the final determination as to whether or not the leave qualifies as FMLA.*
6. If the employee's reason for leave could qualify as being covered by FMLA, the Payroll Department reviews the employee's record to determine if the employee is eligible for FMLA leave. The employee is eligible for FMLA if he/she has worked 1,250 hours in the previous calendar year from the first day of leave and has previously completed 12 months of total state service time. Part-time employees and those who work variable hours must have at least 52 weeks of service, not necessarily within 12 consecutive months, and must have worked 1,250 hours for the state during the 12 months immediately preceding the leave. An employee on the payroll for any part of a week is credited with a week of service for purposes of calculating the 12-month requirement. Employees who are not eligible for FMLA leave may be eligible for parental leave for the birth or adoption of a child or placement of a child for foster care. If an employee requests FMLA leave before he/she is eligible, the Payroll Department must provide written notification to the employee that he/she is not eligible for FMLA leave. The Payroll Department will notify the employee when he/she becomes eligible for FMLA leave.
7. If the individual meets the eligibility criteria in item #6 and the need for the leave appears to meet the eligibility criteria mentioned in item #1 and #2, the leave is tentatively designated as FMLA leave by the Payroll Department.
8. The Payroll Department will complete and deliver an FMLA information packet to the employee. The cover letter attached to the FMLA packet will inform the employee that he/she does or does not qualify for FMLA benefits at the present time. The Payroll Department must notify the employee that the leave will count as part of the employee's FMLA entitlement before the leave begins, if possible, or as soon as possible after learning the reason for the leave. A copy of the cover letter is kept in the employee's leave folder. If the FMLA information packet is mailed, it is sent by certified mail.

9. The employee should return the Physician's statement or Medical Certification form, whichever form is applicable, within 15 calendar days of receipt of the FMLA packet. The Medical Certification Form must be completed for any unpaid portion of FMLA leave. If the absence is for three days or more, only a physician's statement is required for the paid portion of FMLA leave. The Payroll Department, upon receipt of the medical information, examines the physician's statements and determines whether or not the condition is an illness covered by FMLA. The definition of a "serious health condition" as defined in item #2. For adoption of a child, the employee must submit a brief written statement to the Payroll Department indicating the age of the child, the anticipated or actual date of placement in the employee's home, and the number of days of FMLA leave requested. The employee also must submit proof of the placement of a foster child in his/her home.
10. The employee's absence is designated as FMLA leave if the documentation supports an FMLA condition. **All medical documentation is kept in the employee's medical folder.** This designation of leave as FMLA leave may be made orally, but must be followed by written confirmation no later than the following payday, or the next payday if the following payday is less than one week after the oral notice. The written confirmation should reference the date of the oral designation and be mailed to the employee by certified mail. With 15 days notice, the Payroll Department may request recertification of the medical condition. Recertification may be required every 30 days or more frequently if the circumstances of the illness or injury change or if information is received that the most recent certification may not be valid.
11. If the documentation does not support the criteria to meet FMLA eligibility, the employee is informed in writing that it is not a condition covered under FMLA. A copy of the notice should be kept in the employee's medical folder. If the notice is mailed, it is sent by certified mail.
12. The employee's time off is documented as sick leave and/or leave without pay. An employee may request intermittent leave (taking off several hours, days or weeks, as needed) or reduced hours (adopting a shortened week for a period) if medically necessary because of a serious health condition of the employee or a member of the employee's family. Also, intermittent leave may be taken for birth or adoption/foster care purposes if the employee and department agree.
13. If the employee will enter LWOP status for a partial month, the Payroll Department will adjust the employee's contracted amount accordingly. .
14. If the employee will return to work earlier than expected, the employee must give his/her supervisor two work days' notice of the return date, when feasible.
15. The employee will need to submit a release from the doctor when returning to work from the employee's own serious health condition.