



Family and Medical Leave Act (FMLA) Frequently Asked Questions

Q1. What is FMLA?

The federal and Wisconsin Family and Medical Leave Acts (FMLAs) were enacted for the valid purpose of providing employees with unpaid, job protected leave for specific medical and family reasons.

Q2. Who is eligible for federal FMLA?

Employees that have worked for Milwaukee County for at least 12 months and have worked at least 1,250 hours in the past 12 months preceding the beginning of the leave.

Q3. Who is eligible for state FMLA?

An employee is eligible for state FMLA if the employee has worked for Milwaukee County for at least 52 consecutive weeks and has been paid for at least 1,000 hours in the past 52 weeks prior to the request for leave.

Q4. How much time can I take?

For each calendar year (January 1st through December 31st), the employee can take 10 weeks of leave under the Wisconsin FMLA and 12 weeks of leave under federal FMLA, which are run concurrently. The federal FMLA is a total of 12 weeks for any condition that meets the FMLA criteria.

The state time must be used as follows:

- z Six weeks for the birth or adoption of a child;
- z Two weeks to care for a covered family member or domestic partner who has a serious health condition; and
- z Two weeks for the employee's own serious health condition.

Q5. When do I make my request?

If an employee's absence is planned, the employee must notify the FMLA Specialist or Risk Management employee thirty days before the planned leave with the dates and reason for the absence.

If an absence is unplanned due to an emergency, an employee must notify the FMLA Specialist (or Risk Management representative) the same or next business day after learning of the need for FMLA leave.

An employee's failure to give timely notice will result in the delay or denial of FMLA leave and may subject an employee to discipline under Milwaukee County policies.

Q6. When is the medical certification form due?

The medical certification form (completed by a health care provider) or legal documentation supporting the placement of the child must be submitted within fifteen calendar days of the date of request for leave. If this is not provided within the time frame allowed, the leave will be delayed or denied.

Q7. What qualifies as a serious health condition?

Under federal FMLA:

- > means an illness, injury, impairment or physical or mental condition that involves:
 - Inpatient care in a hospital, hospice or residential medical care facility; **or**
 - A period of incapacity of more than 3 consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:
 - Treatment two or more times by or under the orders of a health care provider; **or**
 - Two treatments by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of a health care provider.
 - Any period of incapacity due to pregnancy or for prenatal care;
 - Chronic conditions requiring periodic treatment by or under the supervision of a health care provider that continue over an extended period of time and may cause an episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
 - Permanent/long term conditions requiring supervision for which treatment may not be effective (e.g. Alzheimer's, a severe stroke, or the terminal stages of a disease);
 - Multiple treatments by or under the supervision of a health care provider either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy), severe arthritis (physical therapy), or kidney disease (dialysis).

Under state FMLA:

- > means a disabling physical or mental illness, injury, impairment or condition involving either:
 - Inpatient care in a hospital, nursing home, or hospice, **or**
 - Outpatient care that requires continuing treatment or supervision by a health care provider (at least two visits to a health care provider which must be direct, continuous and firsthand).
 - Disabling-- incapacitation or inability to pursue an occupation due to physical or mental impairment if employed; not employed; serious health condition is a physical or mental impairment that interferes with normal daily functions.

Q8. Who are my covered family members?

- > Spouse = employee's legal husband or wife
- > Child = biological; adopted; foster; step; legal ward; and, under federal FMLA, the child of a person standing in loco parentis
- > Parent = biological; adoptive; step; legal; under federal FMLA, in loco parentis to employee; or under state FMLA, foster or in-laws
- > Domestic Partners = partnerships registered with the Clerk of Courts and the Register of Deeds (covered only under state FMLA)

Q9. What is a second opinion?

Milwaukee County has the right to request a second opinion to determine whether the condition qualifies under FMLA. In these cases, Milwaukee County will schedule an appointment with a doctor of their choosing. The employee must attend the appointment and provide copies of all of the medical records available pertaining to the condition for which you have request FMLA leave. Milwaukee County is responsible for the cost pertaining to the appointment. The employee will be notified in writing if a second opinion is required.

Q10. How long before I receive a decision (approval/denial) on the request?

The FMLA Specialist (or Risk Management employee) will approve, deny, request a second opinion, or request clarification of the leave information within five (5) business days of receiving all of the required documentation.

Q11. Can I appeal a denial?

Yes, a secondary review can be requested through the FMLA Specialist. A Human Resources Manager/Coordinator outside of the employee's department would perform the review.

Q12. What is an intermittent leave?

FMLA leave may be taken in non-continuous increments to care for a family member with a serious health condition or for the employee's own serious health condition when medically necessary for treatment, recovery from treatment, or recovery from a serious health condition. FMLA leave may be taken intermittently or on a reduced schedule for pre-natal care or before the placement of a child for adoption or foster care. FMLA leave for the birth or after the placement of a child for adoption or foster care may not be taken intermittently unless approved by Milwaukee County.

Q13. If I am approved for a FMLA leave on an intermittent basis, what is expected of me?

When the leave is foreseeable, medical or family care leave should be scheduled in advanced and planned so as not to unduly disrupt the employer's operations.

An employee requesting intermittent FMLA leave that is non-foreseeable must inform the FMLA specialist or HR representative within 2 business days of returning to work.. The employee must also notify his or her supervisor at the time that they call-in that the absence is related to FMLA. ~ If the notification is not made in a timely manner, the leave will **not** be designated as FMLA and the employee could be subject to corrective action up to and including the filing of written charges for discharge for the unexcused absences.

Q14. Where can I find additional information on FMLA?

Additional information on FMLA can be found at the following links:

Milwaukee County FMLA Policy

<https://mcintranet.milwaukee.gov/ImageLibrary/Groups/cntyIMSDIntranet/docs/FMLAPolicy.pdf>

Department of Labor

<http://www.dol.gov/esa/whd/fmla/>

Wisconsin Department of Workforce Development

http://www.dwd.state.wi.us/er/family_and_medical_leave/default.htm

Q15. Who do I contact if I have FMLA questions?

Annette Olson FMLA Specialist = (414) 278-2921