

MEDICAL LEAVE FACT SHEET

Family and Medical Leave Act

As a faculty or staff member employed at Illinois State University, you may take up to twelve (12) weeks of paid/unpaid, job-protected leave for certain family and medical reasons. Whether the leave is paid or unpaid is dependent on what benefits you have available. You are eligible for this leave if you have total cumulative service of at least one year and have worked at least 1250 hours during the previous 12 months. Your FMLA leave time will be calculated on a “rolling” 12-month period measured backward from the date of any FMLA leave usage. All approved requests for Extended Illness Leaves and Worker’s Comp Leaves will count toward the 12-week limit if you qualify for an FMLA leave.

Although most leaves will be continuous, some leaves may be intermittent. Approved FMLA leave is used concurrently with any payable time. Earned sick, vacation, and compensatory time must be used and will count toward the 12-week limit.

Notification Requirements

If you are going to be absent for more than 3 consecutive days due to a serious health condition, please review the reverse side of this fact sheet for more information. You must notify your immediate supervisor and Human Resources Benefit Services (Nelson Smith Building, Room 101, 438-8311) at least 30 days before you want to go on leave under the FMLA. If 30-days notice is not possible, then notification must be as soon as possible. Written documentation to support the absence must be received no later than 15 calendar days following the FMLA request date. If proper documentation is not received within the 15 days, your request for FMLA could be denied.

Your Responsibilities

Employee: It is your responsibility to inform your supervisor of any time missed due to your FMLA leave. Benefit time should be reported using the Time Reporting Code FMLA Sick (and FMLA Vacation once sick is exhausted) on iPeople.

Supervisor: Time reporting is the responsibility of the supervisor during the employee’s absence.

Approval/denial of leave will be sent via e-mail to the employee and their supervisor. If you require a paper copy of this notification, please contact your Benefits Counselor.

Returning to Work

- If you have been off work due to your own serious health condition and your physician returns you to work with no restrictions, you must submit a physician’s release to Human Resources as soon as you receive it.
- If your physician returns you to work with restrictions or on a part-time basis, the University may need up to five working days to determine if you will be able to perform your duties according to your job description. During this five-day period, you will remain on leave. You CANNOT return to work with restrictions until the University agrees to accept the limitations.
- If you are an individual with a disability and need a reasonable accommodation under the Americans with Disabilities Act (ADA) or other state or federal law you may request an accommodation by contacting the Assistant Director, Employee Accommodations in the Office of Equal Opportunity, Ethics, and Access at 309-438-3383.
- If you are returning to work from a continuous FMLA leave for caring for a family member, you must notify Human Resources of your impending return as soon as possible.
- If you are returning to work following a worker’s compensation leave, you must take a physician’s release to the Office of Human Resources (Nelson Smith Building Room 101, 438-8311) in order to return to work.

Job Protection and Benefits

- When you return from FMLA leave, you will be restored to your original or equivalent position with equivalent pay, benefits, and other terms of employment.
- Your group health insurance and other existing benefits will be maintained for the duration of FMLA leave.
- You will accrue benefits while using earned sick and vacation time. You will not accrue benefits while on unpaid FMLA leave.
- Extended benefits (150 hours) will not be paid until proper medical documentation is received.

Intermittent Leave

The “Requirements While on Intermittent Leave” checklist must be completed for each intermittent leave and submitted to your Benefits Counselor with your application for leave. Calling in consistent with your department call-in procedure is required. When reporting an unscheduled FMLA absence, you must designate the absence as FMLA at that time. If your intermittent leave provides for scheduled absences, you are required to notify your supervisor of dates and times of your absences in advance. Supporting documentation may be requested.

Insurance

Should you find that your payable benefits do not cover the entire duration of your FMLA leave, Illinois State University will continue your insurance program as it existed just prior to your FMLA leave. You will be billed for your normal payroll deduction amounts. If you fail to pay your bill, your insurance coverage will be terminated.

Your Rights

If you feel that your rights have been denied, please forward your appeal to the Director of Human Resources.

Employee Rights and Responsibilities

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of 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 the qualified family member from participating in school or other daily activities.

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 care 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.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.