

Standard Operating Policy and Procedure Guide

Department All	Type General	Effective 7/25/2014	Revision
Number 1.6.1	Topic Family Medical Leave Act	Approvals (A/L) DM/WR	Reviewed

OVERVIEW

The Family and Medical Leave Act (FMLA) provides eligible associates up to 12 work weeks of unpaid leave per calendar year, and requires group health benefits to be maintained during the leave. Associates are also entitled to return to their same or an equivalent job at the end of their FMLA leave.

The FMLA also provides certain military family leave entitlements. Eligible associates may take FMLA leave for specified reasons related to certain military deployments of their family members. Additionally, they may take up to 26 weeks of FMLA leave in a single 12-month period to care for a covered service member with a serious injury or illness.

SECTION A

In order to be eligible to take leave under the FMLA, an associate must:

- Work for an employer with 50 or more associates
- Worked 1,250 hours during the 12 months prior to the start of leave;
- Work at a location where the employer has 50 or more associates within 75 miles; and
- Worked for the employer for 12 months.

The 12 months of employment are not required to be consecutive in order for the associate to qualify for FMLA leave. In general, only employment within seven years is counted unless the break in service is (1) due to an associate's fulfillment of military obligations, or (2) governed by a collective bargaining agreement or other written agreement.

SECTION B

Eligible associates are entitled to:

Twelve workweeks of leave in a 12-month period for:

- The birth of a child and to care for the newborn child within one year of birth;
- The placement with the associate of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- To care for the associate's spouse, child, or parent who has a serious health condition;
- A serious health condition that makes the associate unable to perform the essential functions of his or her job;
- Any qualifying exigency arising out of the fact that the associate's spouse, son, daughter, or parent is a covered military member on "covered active duty;"

Twenty-six workweeks of leave during a single 12 month period to care for a covered service member with a serious injury or illness if the eligible associate is the servicemember's spouse, daughter, parent, or next of kin (military caregiver leave).

Mothers and fathers have the same right to take FMLA leave to bond with a newborn child. A mother can also take FMLA leave for prenatal care, incapacity related to pregnancy, and for her own serious health condition following the birth of a child. A father can also use FMLA leave to care for his spouse who is incapacitated due to pregnancy or child birth.

An associate must provide notice of the need for qualifying exigency leave as soon as practicable. For example, if an associate receives notice of a family support program a week in advance of the event, it should be practicable for the associate to provide notice to his or her employer of the need for qualifying exigency leave the same day or the next business day.

When the need for leave is unforeseeable, an associate must comply with an employer's normal call-in procedures absent unusual circumstances. An associate does not need to specifically assert his or her rights under FMLA, or even mention FMLA, when providing notice. The associate must provide "sufficient information" to make the employer aware of the need for FMLA leave and the anticipated timing and duration of the leave.

Associates must fill out and submit a "Family and Medical Leave Act Request" form to the administrative services at least 30 days in advance when the leave is "foreseeable". Please see Division Managers to request the appropriate form. Associate may also access the most current forms directly at <https://www.dol.gov/agencies/whd/fmla/forms>.

Under some circumstances, associates may take FMLA leave on an intermittent or reduced schedule basis. That means an associate may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the associate must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations. If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the employer's approval.

SECTION D

Under certain conditions, associates may choose, or employers may require associates, to "substitute" (run concurrently) accrued paid leave, such as sick or vacation leave, to cover some or all of the FMLA leave period or to cover their share of the cost of company health benefits. An associate's ability to substitute accrued paid leave is determined by availability of unused sick/vacation time as outlined in our normal [1.16.1 Paid Time Off](#) policy.

For additional information regarding the "Family Medical Leave Act" please visit <https://www.dol.gov/agencies/whd/fmla>