

Title: Family & Medical Leave Policy
Policy Number: 607
Effective Date: July 1, 2009
Revision Date:
Authorized by: Board of Supervisors

Policy:

Pottawattamie County will comply with all applicable requirements of the Family and Medical Leave Act ("FMLA").

Comments:

- (1) The FMLA requires all public agencies, including state, local, and federal employers, to provide eligible employees up to twelve (12) weeks of job-protected leave in any twelve (12) month period for certain personal and family medical reasons. The twelve (12) month period is a rolling period measured backward from the date an employee uses any FMLA leave.
- (2) Employee Eligibility.
The FMLA defines eligible employees as employees who have worked for the County for at least twelve (12) months and who have worked at least 1,250 hours in the previous twelve (12) months.
- (3) Leave Entitlement.
Eligible employees may take leave for the following reasons:
 - (a) To care for the employee's child upon birth or in connection with a child's placement with the employee for adoption or foster care;
 - (b) To care for a parent, spouse, or child with a serious health condition;
 - (c) When the employee is unable to work because of the employee's own serious health condition.
- (4) Serious Health Condition.
According to the FMLA, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
 - (a) Inpatient care (i.e., an overnight stay), including any period of incapacity or any subsequent treatment in connection with the inpatient care;

- (b) “Continuing treatment” by a health care provider which includes any period of incapacity as a result of:
 - (i) A health condition lasting more than three consecutive days and any subsequent treatment or period of incapacity relating to the same condition that also includes (a) treatment two or more times by or under the supervision of a health care provider; or (b) one treatment by a health care provider with a continuing regimen of treatment;
 - (ii) Pregnancy or prenatal care, including severe morning sickness;
 - (iii) A chronic serious health condition that continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity;
 - (iv) A permanent or long-term condition for which treatment may not be effective, if the employee is under the supervision of a health care provider (but not necessarily receiving active treatment); or
 - (v) Any period of absences to receive multiple treatments by 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 consecutive calendar days if not treated.
 - (vi) Any period of absence for the treatment of substance abuse. Absence because of the employees actual use of the substances, does not entitle the employee to FMLA leave.

- (5) Spouses employed by the same employer are jointly entitled to a combined leave of twelve (12) workweeks of family leave in the twelve (12) month period to care for a parent who has a serious health condition. However, each spouse may take up to twelve (12) workweeks of leave to care for a child or spouse with a serious health condition.

- (6) *Birth, Adoption, or Foster Care of Children.*
FMLA leave for birth or placement for adoption or foster care must conclude within twelve (12) months of the birth or placement. In addition, spouses employed by the same employer are jointly entitled to a combined leave of twelve (12) workweeks of parental leave in the twelve (12) month period for the birth or placement of a child for adoption or foster care.

(7) *Intermittent or Reduced Work Schedule Leave.*

In certain circumstances, eligible employees may take FMLA leave intermittently (for example, in blocks of time) or by reducing their work schedule. If FMLA leave is to care for a child after the birth or placement for adoption or foster care, employees may take their FMLA leave intermittently or on a reduced work schedule only with the County's permission. If the FMLA leave is because of the employee's serious illness or to care for a seriously ill family member, the employee may take the leave intermittently or on a reduced work schedule if it is determined by a health care provider to be medically necessary.

(8) *Notice and Certification.*

- (a) Employees who want to take FMLA leave ordinarily must provide their Department Head at least thirty (30) days notice of the need for leave, if the need for leave is foreseeable. If the employee's need is not foreseeable, the employee should give as much notice as is practicable. The Department Head and/or the employee shall notify the Auditor's Office/Payroll Division of the need for the leave. For tracking purposes, the Auditor's Office/Payroll Division shall mail FMLA forms to the employee's home address upon request.
- (b) When leave is needed to care for an immediate family member or for the employee's own illness and is for planned medical treatment, the employee must try to schedule treatment in order to minimize disruptions of their department operations.
- (c) In addition, employees who need leave for their own or a family member's serious health condition must provide medical certification from a health care provider of the condition on a certification form provided by the employer. (A copy of the medical certification form is attached to this policy and may also be obtained from your Department Head, the Auditor's Office/Payroll Division, Human Resources, and the County Intranet). The County also may require a second, and if necessary, a third opinion (at the County's expense), periodic re-certifications of the serious health condition, and, when the leave is a result of the employee's own serious health condition, a fitness for duty report to return to work.
- (d) Medical certification forms shall be submitted to the Auditor's Office/Payroll Division for processing. Final approval of FMLA leave shall be made by the Auditor's Office/Payroll Division in conjunction with the Human Resources Director upon review of the medical certification. Approval of FMLA may be delayed or FMLA may be denied for lack of proper medical certification. FMLA leave may also be delayed for employees who do not provide proper advance notice of the foreseeable need for leave.

- (e) If an employee does not specifically request FMLA leave, the County may designate any leave time, as FMLA leave based upon the qualifying reason given for the leave. Department Heads shall notify the Auditor's Office/Payroll Division immediately of any employee absence(s) which may be a qualifying event. The County shall notify the employee of their eligibility status and that the leave taken will be designated as FMLA. This notification may be made orally or in writing within five (5) business days of acquiring knowledge that the leave is being taken for an FMLA qualifying reason. If the notice is made orally, the County shall confirm it in writing via U.S. Postal service.

(9) Benefits During FMLA Leave.

- (a) Employees taking leave under the FMLA are entitled to receive health and dental benefits during the leave at the same level and terms of coverage as if they had been working throughout the leave. If applicable, arrangements will be made for employees to pay their share of health insurance premiums while on leave. If an employee chooses not to return to work from FMLA leave, the County may be entitled to recover premiums it paid to maintain health and dental coverage during the leave.
- (b) The employee's use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave. All applicable accrued leaves must be utilized before an employee is placed on an unpaid status (*See Leaves of Absence, #606*). An employee may utilize compensatory time for an FMLA qualifying reason however, the compensatory time taken shall not be counted towards an employees FMLA period.

(10) Job Restoration After FMLA Leave.

The County generally will reinstate an employee returning from FMLA leave to the same or equivalent position with equivalent pay, benefits, and other employment terms and conditions. However, an employee on FMLA leave does not have any greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

(11) FMLA Leave for Military Families.

- (a) An eligible employee who is the spouse, child, parent, or “next of kin” of a wounded U.S. military service member may receive a total of twenty-six (26) weeks of unpaid leave during a twelve (12) month period to care for the service member. The employee must use any applicable accrued paid vacation, personal, sick days, and other similar leave during an unpaid FMLA leave. Sick leave may be utilized as allowed by the collective bargaining agreement or county sick leave policy.
- (b) Eligible employees may take up to twelve (12) weeks of unpaid leave during any twelve (12) month period because of “any qualifying exigency” arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty or has been notified of an impending call to active duty status, in support of a contingency operation. The employee must use any accrued paid vacation, personal days and other similar leave (other than sick days) before being placed on an unpaid status.

(12) Other Provisions.

- (a) The 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.
- (b) Employees may not perform work for self-employment or for any other employer during an approved leave of absence, except when the leave is for military or public service or when the County has approved the employment under its Secondary Employment policy and the employee’s reason for FMLA leave does not preclude the outside employment.
- (c) It is the intent of this policy to comply with the Family and Medical Leave Act as amended and to outline the general guidelines which shall be followed by Pottawattamie County. Any disputes arising from the policy statement or the Family and Medical Leave Act as amended shall be presented to the Pottawattamie County Board of Supervisors for discussion, interpretation and resolution.

(13) Definitions.

In accordance with the Family Medical Leave Act of 1993, the following definitions shall be used for the outlined terms:

"Son" or "Daughter" or "Child" means the inclusion of a biological, adopted or foster child, a stepchild, legal ward or child of a person standing in loco parentis (in place of a parent). The son, daughter or child must be either under age 18 or 18 and over but incapable of self care because of a mental or physical disability.

"Parent" means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child as defined above. *The terms do not include parents-in-law.*

"Spouse" means a husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriages for employees residing in the State of Iowa.

"Health Care Provider" is defined as those authorized to practice by the state in which they practice. (For complete listing see DOL Final FMLA Regulations, 825.118) Including

- Doctor of medicine or osteopathy
- Podiatrist
- Dentist
- Clinical psychologist
- Optometrist
- Chiropractor (care limited)
- Nurse practitioner
- Nurse midwife
- Clinical social worker
- Christian Science practitioner listed with First Church of Christ, Scientist, Boston
- Any health care provider recognized by the employer's group health plan
- A health care provider as defined above who practices and is licensed in a country other than the U.S.