

## University of Kansas, Human Resources & Equal Opportunity FMLA (Family and Medical Leave Act) FAQ

### *What is FMLA?*

The Family Medical Leave Act (FMLA) is a United States labor law which allows an employee a specific period of leave due to the following conditions:

- **Basic medical** (including personal or family illness or parental leave) allows up to 12 weeks of paid and/or unpaid leave in a 12 month period for specified medical reasons for an employee or his/her qualifying family member.
- **Military** allows employees to use their 12 week entitlement to address/attend certain qualifying military exigencies related to active duty deployment and up to 26 weeks to care for a covered military service member during a single 12 month period.

### *What does FMLA provide?*

Qualifying leave under FMLA provides entitlement to maintenance of health benefits during leave, protection from discipline for FMLA qualifying absences, and job restoration after leave.

### *Who is responsible for designating leave as FMLA qualifying?*

HR/EO, on behalf of the University, is responsible in all circumstances for designating leave as FMLA-qualifying, and for giving notice of the designation to the employee.

### *What medical conditions qualify for FMLA?*

FMLA is available for [serious health conditions](#) of an employee or a family member. A serious health condition under FMLA is defined as:

An employee which has missed more than three full consecutive days of work, visited a health care provider within seven days of the first date of incapacity, and has subsequent treatment or a period of incapacity related to the same condition that involves:

- Treatment two or more times within the first 30 days of incapacity by a health care provider
- Treatment by a health provider on at least one occasion that results in a regimen of continuing treatment by a health care provider
- Overnight inpatient hospital care and its resulting incapacity or subsequent treatment;
- Incapacity due to pregnancy or for prenatal care
- A chronic condition(s) which requires:
  - Periodic visits, at least two annually, by a health care provider, nurse, physician's assistant under the direct supervision of the health care provider;
  - Continues over an extended period of time; and
  - May cause episodic rather than a continuing period of incapacity; or
  - Permanent long term conditions requiring supervision by a health care provider but not active treatment (e.g., Alzheimer's, a severe stroke, terminal stage of a disease); or
  - Multiple treatments for non-chronic conditions that result in a period of incapacity of more than three consecutive days in the absence of medical intervention or treatment, such as but not limited to, cancer, severe arthritis, or kidney disease.

***What conditions qualify for parental leave under FMLA?***

Parental leave under FMLA may be granted for the birth of an employee's child or placement of a child through adoption or foster care, and the care of the child upon birth. Such leave must be taken within the first 12 months following the birth or placement of the child.

***As a faculty member, my request to [Interrupt the Tenure Clock](#) process due to a birth or adoption has been approved. Does that automatically approve me for FMLA?***

No. FMLA paperwork must also be included to determine employee eligibility and that the birth or adoption meets the qualifying event factors as listed under FMLA.

***What military conditions qualify for FMLA?***

- **Exigency Leave** - eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in the National Guard or Reserves or regular Armed Services in support of a contingency operation and deployed to a foreign country may use up to 12 weeks of leave entitled to address certain qualifying exigencies. Qualifying exigencies may vary but would 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.
- **Military Caregiver Leave** - eligible employees may 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 member of the Armed Forces, including a member of the National Guard or Reserves, who has incurred a serious injury or illness while deployed that may render the service member medically unfit to perform his or her duties. The service member must be undergoing medical treatment, recuperation, therapy. The medical treatment, recuperation, or therapy may begin at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

***Who are considered "family members" for purposes of FMLA?***

- **Basic Medical Leave** – Family members are limited to the employee's spouse, children under 18 (unless they are incapable of self care because of an eligible mental or physical disability), and the employee's parents.
- **Exigency Leave** – Spouse, son, daughter, or parent on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation.
- **Military Caregiver Leave** – spouse, son, daughter, parent, or next of kin (brothers and sisters, grandparents, aunts and uncles, first cousins, or designation in writing by the service member of another relative as being his/her nearest blood relative).

***What are the eligibility requirements for FMLA?***

Any employee who has worked for the State of Kansas/University for at least 12 months in a regular position within the last seven years (excluding breaks due to National Guard or Reserve service obligation) and has worked at least 1,250 hours during the twelve months prior to the start of FMLA.

***At what time should the employee notify the employer that FMLA is needed?***

When the need for leave is foreseeable, the employee must provide at least 30 days notice to the Department of Human Resources and Equal Opportunity (HR/EO); otherwise the employee must provide notice as soon as practical. A determination of what is "as soon as practical" is unique to the particular circumstances of the situation. Failure to provide adequate notice of the need for leave can result in the delay or denial of FMLA leave.

***What if both spouses are employed by the same employer, do we both get twelve weeks of FMLA?***

Yes, spouses employed by the same employer (KU) are entitled to 12 weeks for the birth/placement (through adoption or foster care) and the care of such of such child within 12 months of the birth or placement, to care for an employee's family member who has a serious health condition, or in the event that both spouses has a personal qualifying serious health condition. Both spouses also qualify for 26 weeks of Military Caregiver Leave in the event a qualifying event is approved.

***How is FMLA requested by an employee or how is HR/EO notified of medical or military absence?***

- **Employee:** The employee should notify HR/EO (30 days in advance if possible) of the need for leave and complete the FMLA forms provided.
- **Department:** The personnel related staff member (PRS) or supervisor should notify HR/EO immediately by phone (785-864-4946) or email ([hrdept@ku.edu](mailto:hrdept@ku.edu)) if a faculty or a staff member is out of the office for three or more full consecutive days for medical reasons that may qualify for FMLA or in the event of military related leave.

In addition, if the faculty or academic staff member has been approved for medical leave through his/her Dean and Chairperson, the department should provide HR/EO a copy of the approval letter as soon as possible.

***When must the employee return the required FMLA certification form?***

The employee must provide the requested certification within 15 calendar days of receipt. The certification must be complete, sufficient, and legible. Failure to return the certification form by the deadline may result in the denial of FMLA leave.

***How is the employee notified about FMLA approval?***

HR/EO will send the employee a written Designation Notice outlining if the leave is FMLA qualifying within five business days upon receipt of the request. (Copies will also be distributed to the department personnel related staff member (PRS) and the benefits office.)

***Once I am approved how do I notify my supervisor that I need time away from work for FMLA leave?***

You must provide your supervisor as much notice as possible and sufficient information regarding your FMLA approved absence. Simply stating you will be absent for FMLA is not adequate.

***Is time off for workers' compensation FMLA?***

If the reason for the absence qualifies, yes. However, the employee must receive notice from HR/EO that the leave will be counted as FMLA.

***Can [Shared Leave](#) be part of FMLA?***

Yes, as long as the reason for the absence is due to a qualifying serious illness or injury under FMLA. [Requests for shared leave](#) must be made to HR/EO for review and approval and should be submitted in conjunction with the applicable FMLA form.

***Will my time off on FMLA be paid leave?***

It depends. Employees with accrued leave balances are required to use all existing forms of leave prior to being placed on a leave without pay status while on FMLA.

***How is FMLA tracked if I am exempt (not eligible for overtime)?***

As with non-exempt employees, FMLA is tracked in 15 minute increments.

***How is the employee notified about FMLA approval?***

HR/EO will send the employee a written Designation Notice outlining if the leave is FMLA qualifying within five business days upon receipt of the request. (Copies will also be distributed to the department personnel related staff member (PRS) and the benefits office.)

***What if additional leave is required after the employee exhausted all FMLA leave?***

Leave beyond the FMLA entitlement (i.e., Shared Leave and Leave without Pay), is possible for approved circumstances. Requests must be made in advance and prior to the expiration of the FMLA period to HR/EO.

***While on FMLA will I have to pay for my entire health insurance premium if a portion of the leave time is unpaid?***

No. While on FMLA designated leave, the employer's portion of the employee's health insurance premiums will continue to be paid by the employer regardless of whether the employee is on paid or unpaid leave. The employee only has to pay his/her portion during this time. Once the FMLA period is over, and it is approved by HR/EO that the employee continues in a leave without pay status, he/she will be billed for both the employee's portion of health insurance premiums and the employer's share of health insurance premiums.