

# JUDICIARY HUMAN RESOURCES DEPARTMENT

## FACT SHEET

### Administration of the Family and Medical Leave Act (FMLA)

(Reference: Policy on Family and Medical Leave Act)

#### GENERAL INFORMATION

- FMLA is a Federal law providing for an **unpaid** period of “**protected absence**” of up to **12 weeks**, or up to 26 weeks for Military Caregiver Leave, **in a twelve-month period** for a qualifying event (see below).
- The employee will not suffer negative consequences as a result of the absence.
- An employee must use paid leave while on a FMLA protected absence. An employee may use Leave-Without-Pay if paid leave, including leave bank, is exhausted or otherwise not available.

#### ELIGIBILITY CRITERIA

- The employee worked at least **twelve months** for the State of Maryland ( may be non-consecutive); and
- Worked (**not including paid or unpaid leave**) at least **1,250 hours** in the preceding twelve months; and
- Has a qualifying reason for the absence.

#### QUALIFYING REASONS FOR FMLA (include, but are not limited to)

- The birth of a child, and to care for a newborn.
- The placement of a child for adoption or foster care.
- Caring for the employee’s seriously ill spouse, parent, or child, if the child is under 18 or is over 18 and incapable of self-care due to a disability as defined by the Americans with Disabilities Act.
- The employee’s own serious health condition that prevents the employee from performing the essential functions of his or her job.
- **Military Caregiver Leave** allows a covered spouse, child, parent or nearest blood relative of a current service member in the Regular Armed Forces, National Guard or Reserves, to use up to 26weeks to care for the service member who has incurred a serious injury or illness in the line of duty while on active duty.
- **Military Exigency Leave** allows a covered spouse, parent or child of a current member of the National Guard or Reserves to take up to 12 weeks of leave due to a qualifying exigency resulting from the covered family member’s active military duty or federal call to active duty status in support of a contingency operation. It includes non-medical, non-routine activities.

#### TRIGGERING EVENTS (include, but are not limited to)

- Overnight inpatient treatment.
- A period of incapacity (an inability to work) of more than three consecutive calendar days.
- Pregnancy (including prenatal visits).
- Multiple treatments for a chronic health condition such as, but not limited to, diabetes, multiple sclerosis, or migraine headaches.
- A qualifying exigency resulting from a family member’s active duty, or call to active duty, in support of a contingency operation.

#### EMPLOYEE RESPONSIBILITIES

- The employee must notify his/her supervisor of a possible need for FMLA (oral notification is acceptable).
- The employee has **15 calendar days** to provide supporting medical documentation.

- The documentation should be faxed or e-mailed to the Employee Relations (ER) for review so that a final determination of eligibility can be made and the employee notified of the determination. Original documents are not necessary.
- An employee must continue to follow established call-in procedures and specify if an absence is for an approved FMLA condition. FMLA absences must conform to the medical documentation submitted for that condition. For extended absences, the employee must contact his/her supervisor at least once each pay period regarding the status of the employee's condition and intention to return to work.
- Pursuant to policy regarding the use of sick leave, the employee must provide medical documentation upon returning to work from an absence of three or more days. An absence of more than three days may trigger a FMLA event.

### **MANAGEMENT RESPONSIBILITY**

- The manager or supervisor must notify ER once he/she becomes aware an employee's pending or current absence may be covered by the FMLA.
- If approved by ER, the employee's absence should be designated as FMLA and coded as such on the time sheet using only the proper leave codes (13, 24, 34, 48 or 76), or designated as such on the contractual or temporary employee's time report.
- Proper leave code adjustments should be made on a subsequent time sheet/report if it is determined later that an absence should have been, or should not have been, coded FMLA.
- The supervisor is responsible for properly tracking and recording an employee's use of FMLA. It also is the supervisor's responsibility to track and record contact with the employee. The Judiciary's Payroll Office may provide leave reports upon request.
- The supervisor should contact ER once the employee reaches the twelve-week limit.
- Send requests for extensions of FMLA leave, with supporting documentation, to ER.

### **ER RESPONSIBILITY**

- ER will make a determination of eligibility, send the appropriate FMLA forms to the employee and copy the Administrative Official.
- A determination will be made as to what action should be taken regarding the employee's employment status once the employee has exhausted FMLA protections.

### **ADDITIONAL FACTS**

- FMLA can be used intermittently.
- Employers should assist with the completion of employees' time sheets when employees are on continuous FMLA leave.
- An employee can have an unlimited number of FMLA approvals concurrently or over the course of a year. The amount of protected leave, however, is limited to 12 weeks in a rolling 12-month period (26 weeks in the case of Military Caregiver Leave) regardless of the number of qualifying events.
- Each distinct qualifying event should trigger a new FMLA determination.
- Fathers may use up to 12 weeks of FMLA for birth, adoption or foster care as well as mothers.

### **FOR QUESTIONS OR MORE INFORMATION**

If you have any questions, contact the ER at 410-260-1732, [ER@mdcourts.gov](mailto:ER@mdcourts.gov) or consult the *Policy on Family and Medical Leave Act* at [mdcourts.gov](http://mdcourts.gov), Human Resources page, Employee Relations, Policy Manual.