FAMILY & MEDICAL LEAVE (FMLA) BASICS FOR FS MANAGEMENT

ELIGIBILITY CRITERIA FOR FMLA

- 12 months of State employment (temporary hours count towards the 12 months)
- 1,250 hours worked within the previous 12 months (does not include hours on leave)
- Employee or Family Member meets the definition of a “Serious Health Condition” under FMLA

FMLA ENTITLEMENTS

- 12 weeks (60 days or 480 hours) of unpaid leave per calendar year
- Ability to designate use of accrued leave (annual, sick, comp) then the use of Leave Without Pay (LWOP) in accordance with applicable Collective Bargaining Agreement
- Continuation of basic insurance benefits (employer’s portion)
- Protection from disciplinary action for FMLA designated absences
- Return to same or comparable job

USE OF ACCRUED LEAVE and LWOP

- **UW-WFSE** Collective Bargaining Agreement (Art 31) states an employee on FMLA leave, including intermittent FMLA leave, is required to use their accrued paid leave first in the following order: ALL accrued sick leave, ALL accrued compensatory time, and then accrued annual leave, with the exception of choosing to retain UP TO 80 hours MAX of accrued annual leave, before using LWOP
- **UW-SEIU** Collective Bargaining Agreement (Art 12.4(b)) states an employee on FMLA leave, including intermittent FMLA leave, is required to use their accrued leave first, with the exception of choosing to retain UP TO 80 hours MAX of any accrued leave, before using LWOP
- After ALL accrued leave is used in accordance with the applicable Collective Bargaining Agreement, an employee can then choose to intersperse 8hrs of accrued leave for UP TO 4 months MAX to maintain benefits coverage (UW-WFSE CBA Article 31.3; UW-SEIU 12.4(c))
- An employee, or the supervisor in the employee’s absence, must complete the FMLA Leave Form for all approved FMLA related time off work (partial or full days) BEFORE each payroll period cutoff and in addition to the daily timecard. The FMLA Leave Form is available on the ORR website: [https://www.washington.edu/facilities/orgrel/files/documents/payroll/fmla_leave_form_06_13.pdf](https://www.washington.edu/facilities/orgrel/files/documents/payroll/fmla_leave_form_06_13.pdf)

SUPERVISOR RESPONSIBILITY

- Contact FS Payroll ([fspay@uw.edu](mailto:fspay@uw.edu)) for verification if an employee has 12 months of State employment and has worked the required 1,250 hours in the previous 12 months
- Send the “You may be eligible for FMLA leave contingent upon an FMLA HCP form” letter ([http://www.washington.edu/facilities/orgrel/human_resources/resources](http://www.washington.edu/facilities/orgrel/human_resources/resources)) if an employee has been absent from work due to illness or injury (employee or family member) for 3+ consecutive days OR if an employee is demonstrating a pattern/excessive use of sick leave.
  
  NOTE: employee hospitalization automatically meets the definition of a “serious health condition” under FMLA and FMLA leave should be approved immediately using the “FMLA leave approved” letter and by completing a FMLA Leave Form
- Once you receive an email from an FS HR Specialist notifying you that the employee’s leave meets the definition of a “serious health condition” and therefore must be FMLA covered, send the “FMLA leave approved” letter within 5 business days.
  
  NOTE: By law the employer must designate and notify the employee of FMLA coverage within 5 business days of receipt of medical certification
- Once you receive the email from FS HR notifying you of FMLA leave, work with the employee to complete the FMLA Leave Form and use of accrued leave first then LWOP in accordance with the applicable Collective Bargaining Agreement and scan/email the FMLA Leave Form directly to [fsrolts@uw.edu](mailto:fsrolts@uw.edu) BEFORE each payroll period cutoff and in addition to the daily timecard
NOTE: If the employee is on a long term absence and/or absent on the payroll cutoff date (twice a month) then you must complete/submit the FMLA Leave Form AND daily timcard in the employee’s absence to ensure the leave is covered, recorded and to avoid an overpayment

- Know when the employee is due back and keep in touch. If the employee does not report to work as released by their doctor and as expected, contact your FS HR Specialist immediately
- NEVER keep medical documentation (originals or copies) in your email, supervisor file and/or department file. All medical documentation must always be sent to your FS HR Specialist

FREQUENTLY ASKED QUESTIONS

Q. How do I know if an employee or their family member has a serious health condition which may require FMLA leave?
A. You may become aware of an employee’s potential need for FMLA leave through different avenues such as: their disclosure of information to you, they may be off work due to illness/injury (employee or family member) for 3+ consecutive days and/or they may be using an excessive amount of sick leave. No matter how you become aware, you want to give the employee a “Family and Medical Leave Certification of Health Care Provider” form (FMLA HCP) for review, completion and for submitting directly to your FS HR Specialist. Once medical documentation is received by the FS HR Specialist, you’ll be notified via email if FMLA leave should be approved or not. The FMLA HCP form can be found on the ORR website: https://www.washington.edu/facilities/orgrel/human_resources/forms

Q. What type of leave, paid or unpaid, is an employee entitled to take when on approved FMLA leave, including when on approved intermittent FMLA leave?
A. An employee must use their accrued leave first with slight variations to this depending on the applicable Collective Bargaining Agreement; see UW-WFSE Article 31 or UW-SEIU Article 12.4b for specific language or check with your FS HR Specialist.

Q. An employee is off work due to illness/injury but does not want to have their leave covered by FMLA, what do I do?
A. Consult with your FS HR Specialist. As an employer we are obligated by law to designate FMLA leave when an employee (or their family member) meets the definition of a serious health condition, therefore it is imperative we make the employee aware of their rights/responsibilities under FMLA.

Q. If an employee is off work for 3 days due to illness/injury, can I require them to send a doctor’s note to our FS HR Specialist prior to returning to work?
A. It should be evaluated on a case-by-case basis and you should consult your FS HR Specialist. For example, if an employee was off work due to surgery than it may be reasonable to request medical documentation prior to their return to work to ensure they can return to work safely with or without an accommodation of their job duties. If an employee was off work due to flu-like symptoms, didn’t see a doctor, and requests to use their accrued sick leave (non-FMLA) then it may not be reasonable to request medical documentation prior to their return to work. The UW-WFSE and UW-SEIU Collective Bargaining Agreements both have provisions which allow management to request a doctor’s note from an employee, within reason, typically if sick leave is requested for 3+ days (UW-WFSE Article 29.1(b); UW-SEIU 10.1(b)).

Q. If an employee is off work due to an on the job injury and/or is receiving time-loss benefits, would approved FMLA leave also apply?
A. Most likely yes if the employee’s on the job injury meets the definition of a “serious health condition” under FMLA then L&I and/or time-loss benefits related leave will run concurrently with approved FMLA leave.

Contact your FS HR Specialist on complex cases and/or questions you or the employee may have

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