

CITY OF RACINE

FAMILY AND MEDICAL LEAVE

QUESTIONS & ANSWERS

Information in this packet is intended to reflect State and Federal laws regarding leaves as well as interpretations of these laws by court determinations.

Family or Medical Guidelines

The Family and Medical Leave Act (FMLA) is a provision created by Federal and State law that provides leave of absence from work for specific family and/or medical reasons. Provisions for leave differ under Federal and State law, however, both Federal and State benefits run concurrently.

Q. What are the purposes for Family and Medical Leave?

- To balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity; and
- To entitle an employee to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition.

Q. Why should an employee always be asking for FMLA when entitled?

- Job protection
- Continued health care coverage
- Guaranteed time off
- No repercussions - cannot be disciplined, demoted, terminated or harassed
- So they don't lose their rights to protection under the law.

Q. What are the circumstances for utilizing Family or Medical Leave?

- The birth of a child and to care for the child.
- The placement of a child with an employee for adoption or foster care.
- To care for a spouse, child, or parent if the family member has a serious health condition.
- Due to a spouse, child, or parent being on exigent active duty or having been notified of an impending call or order to active duty.
- An employee is unable to perform the functions of the position because of the employee's own serious health condition.

Q. How much leave can an eligible employee take?

Employees are entitled to a maximum of 12 work weeks of unpaid leave per 12 month period. Days are calculated based on 'calendar days'. The City will calculate the 12-month period as a calendar year.

State law maximum allowances are less than Federal; however, both Federal and State leave allowances run concurrently. In the event an employee is not eligible for FMLA under federal law, state law provisions will be discussed

FMLA may be taken all at once or in smaller increments where medically necessary (one hour minimum increments).

Q. Can leave days be taken intermittently?

Intermittent leave or a reduced work schedule may be approved for the care of a seriously ill family member or because of the employee's own serious health condition as long as it is medically necessary. However, the intermittent leave or reduced work hours must be scheduled as to not 'unduly disrupt' the City's operations.

Under Federal law, an employee is not entitled to intermittent leave after the birth, adoption, or foster care of a child unless the city agrees to the intermittent leave. Under Wisconsin law, the intermittent leave must commence within 16 weeks before or after the birth or adoption.

Q. What if my leave doesn't begin or end on the anticipated start date (birth of a child) or my anticipated return date needs to be extended?

The City realizes that predicting a birth date is not yet an exact science or conditions arise that cause an extension of the leave. We will correct the date(s) to the actual date(s) once the leave actually begins. The Human Resources Department needs to be notified when an extension is requested so that the extension can be approved or denied, dependent upon the reason for the request.

Q. What happens to benefits while on leave?

The City will maintain health/dental and other benefits as if the employee were at work. The employee is responsible to provide his/her share of the plan premium(s) during an unpaid leave. In the event the leave is unpaid, payment arrangements must be made prior to the start of the leave or as soon as practicable.

Q. Am I guaranteed a return to my former position?

Every effort will be made to return an employee to his/her former position but the Acts do allow for the City to place an employee in an 'equivalent position'. An 'equivalent position' is one that has 'equivalent benefits, pay, and other terms and conditions of employment'. Further, an employee returning from a leave for his/her own serious health condition must be able to perform all of the essential job functions of that position or the equivalent position.

Q. If I am absent from work due to a work related injury, does FMLA apply?

In the event the work related injury or illness qualifies under the definition of a serious health condition, as outlined under FMLA, then all provisions of the Family and Medical Leave Act apply to the worker's compensation leave. FMLA and worker's compensation leaves run concurrently.

Q. How does this leave differ from 'traditional' paid leave days?

FMLA days are provided for special family or medical situations such as a birth of a child or extended illness, etc. and require prior approval. Occasional short term absences, i.e., colds, flu, etc. are not considered as days provided by the Family and Medical Leave Act but can be compensated from accrued sick leave days.

Q. Can the employee substitute accumulated sick leave or vacation for leave days provided by Family or Medical Leave?

The employee may substitute accumulated sick leave, vacation, or unpaid leave for Family or Medical leave purposes. However, the employee may not 'borrow' sick leave or vacation, only the amount accrued is available. Where police and fire personnel accrue holidays, holiday time may be substituted for Family or Medical leave.