

Family and Medical Leave

The Federal Family and Medical Leave Act of 1993 (FMLA) requires University of Detroit Mercy to grant up to twelve weeks of unpaid leave in a twelve month period to eligible employees for certain family and medical reasons. An amendment to the FMLA Act of 1993 provides eligible employees family-medical leave for certain covered military related reasons as described in this policy.

Eligibility

An employee is eligible if the employee has worked for the University for at least one year and has worked at least 1250 hours during the twelve months before the start of the leave. (*Hours worked include overtime hours worked, but exclude paid time off, leaves of absence, and layoffs*). In addition, an employee is eligible for military caregiver family leave who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty. An employee who is not eligible to take Family Medical Leave time may be entitled to time off under other University policies.

Reasons for Taking Leave

An eligible employee may take FMLA leave for any of the following reasons:

- ☞ for the care of the employee's child after the birth, adoption, or foster care placement of the child.
- ☞ for the care of the employee's spouse, child, or parent who has a serious health condition.
- ☞ for a serious health condition that makes the employee unable to do the essential functions of the job or to work at all.
- ☞ for the care of the employee's covered injured servicemember who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on temporary disability retired list, for a serious injury or illness.

for a "qualifying exigency" arising out of the fact that the spouse, 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 in the National Guard or Reserves. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending to certain post-deployment activities.

Serious Health Condition

A "serious health condition" includes an illness, injury, impairment, or physical or mental condition involving:

- ☞ any period of incapacity requiring continuing treatment by a health care provider, and absence from work, school, or regular daily activities of more than three days;
- ☞ any period of inpatient care;
- ☞ any period of incapacity due to pregnancy or pre-natal care; or
- ☞ any period of incapacity due to a chronic serious health condition that requires periodic visits for treatment and may cause episodes of incapacity.
- ☞ any period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective.

Treatment by a health care provider requires a visit to the health care provider. A telephone conversation with a health care provider does not qualify as treatment by a health care provider.

An absence due to an incapacity of more than three consecutive days caused by a work-related injury and for which the employee receives worker's compensation benefits is counted as a family-medical leave. An absence due to an incapacity of more than three consecutive days caused by an injury or illness for which the employee receives short-term disability is also counted as a family-medical leave.

Each time an employee is absent because of an FMLA qualifying reason, the University will designate the absence as FMLA leave and will count that absence against the employee's twelve weeks of family-medical leave allowable during that twelve month period, even if the employee has not specifically requested the use of FMLA leave. One hour is the shortest period of time that is charged.

An absence, tardiness, or leaving early for a qualifying family-medical reason is not counted against an employee's attendance record for disciplinary purposes. Time-off that is not for a qualifying family-medical reason is counted against an employee's attendance record for disciplinary purposes.

Calculation of Family-Medical Leave Time

A rolling twelve-month period measured backwards from the date leave is first used is the twelve-month period during which the twelve weeks of family-medical leave may be taken.

Employee's Duty to Provide Notice

Employees requesting leaves under the FMLA for their own or a family member's serious health condition or for a family military leave are required to use the University's regular procedures for time off requests. An employee must provide sufficient information for the University to determine if the leave may qualify for FMLA time off and the anticipated timing and duration of the leave. After a FMLA leave has been approved, an employee using FMLA time must specifically reference the qualifying reason or state FMLA time when requesting such time off.

∞ **Foreseeable Leave and Advance Notice**

An employee must provide thirty (30) days advance notice when a family-medical leave is foreseeable. If an employee fails to give the thirty days notice for a foreseeable leave, the University may deny the taking of the leave until at least thirty days after the employee provides the notice.

If thirty days advance notice cannot be given due to the circumstances, an employee must give notice as soon as practicable, which normally means the same business day that the employee learns of the need for the leave or the next day. The University will notify the employee whether the leave will be treated as a qualifying family-medical leave and what the employee's rights and responsibilities are.

∞ **Notice of Unforeseeable Leave**

An employee must notify the University of the need for an unforeseeable family-medical leave as soon as practicable, which normally means the same business day that the employee learns of the need for the leave or the next day. In addition, the employee must follow the University's regular attendance notification policy to report an unforeseeable absence. Calling in sick without providing more information is not sufficient notice of a need for family-medical leave on an unforeseen basis.

Medical Certification

The University will provide the employee with a medical certification form (WH 380). An employee must provide medical certification of the need for a serious health condition leave by fifteen days after the University requests the medical certification.

If the medical certification form (WH 380) submitted by the employee is incomplete or insufficient, the University will notify the employee and instruct the employee to have it properly completed by the employee's health care provider by seven (7) days of the date the University notifies the employee about the incomplete form.

The University will not treat a "serious health condition" for incapacity of more than three days as qualifying time off unless the employee submits to the University a completed medical certification form. An employee's failure to submit a completed medical certification form means that the time off is not qualifying and will be counted against an employee's attendance record for disciplinary purposes.

The University may require, at its expense, a second opinion. If the opinions of the employee's health care provider and the University's doctor differ, then the University may require the employee to undergo a medical examination, at the University's expense, by a health care provider selected by the University or its second-opinion doctor and the employee or the employee's health care provider. The third opinion will be final and binding on the University and the employee.

Re-Certification and Status during FMLA Leave

If an employee will be taking FMLA leave during an extended period, the University may require medical re-certification. . The employee on FMLA leave also must report his or her status and confirm an anticipated return date. The University also requires that the employee submit a request to return from a long-term FMLA leave at least 10 days before the anticipated return date.

Pay, Benefits, and Reinstatement Pay

FMLA leave is generally unpaid. The University may require an employee taking FMLA leave to use his or her paid vacation allowance for FMLA leave as well as any available sick or personal time. An employee also may receive short-term disability benefits or workers' compensation benefits during a family-medical leave, depending on the reason for the leave. An employee must notify the University if the employee does not wish to use available time off benefits to supplement a paid time off benefits, such as short-term disability or workers' compensation benefits, to the level of full salary

∞ **Benefits**

The University will continue to pay for its share of the premiums for an employee's health and dental insurance coverage during an FMLA leave for up to twelve weeks in the twelve-month period. If an employee does not return to work at the end of an FMLA leave, the employee will be required to reimburse the University for all health, dental, life, and disability insurance premiums paid by the University on the employee's behalf, unless the failure to return to work was due to certain reasons beyond the employee's control or a continued serious health condition.

∞ **Reinstatement**

At the end of a family-medical leave of twelve weeks or fewer, the University will restore an employee to the employee's pre-leave position or an equivalent position. The employee must provide a fitness-for-duty certification from the employee's health care provider upon returning to work and the fitness-for-duty certification must state whether the employee can perform the essential functions of the employee's job. The University reserves the right to deny reinstatement to a "key employee" to the extent allowable by law. A "key employee" is a salaried employee who is among the highest paid 10% of the University's employees.

Intermittent or Reduced Work Schedule Leave

An employee may take FMLA leave on an intermittent or reduced work schedule basis if it is medically necessary. An employee must notify the University about a medical need for an intermittent or a reduced schedule leave. The University will issue a medical certification form (WH 380) to the employee, who must submit, within fifteen days of receiving it, the completed form indicating the medical need for an intermittent or a reduced schedule leave.

The employee must work out the intermittent or reduced leave schedule with his or her supervisor and with the Human Resources Department. The University does not allow an intermittent or a reduced work schedule leave for post-childbirth or post-adoption/foster care placement reasons.

An employee using this type of leave for planned medical treatment must make a reasonable effort to schedule treatment in a way that will not disrupt the University's operations. This includes consulting with your supervisor about the scheduling of appointments at times that do not conflict with the University's operation. The University, whenever possible, will temporarily transfer an employee to an available alternative position for which the employee is qualified and which better accommodates the intermittent or the reduced work schedule leave.

Extension of Family-Medical Leave

The University will not permit an employee who has exhausted the maximum twelve-week FMLA leave period to extend the family-medical leave beyond the twelve-week maximum. An employee who has exhausted the twelve weeks of family-medical leave may be eligible for an extension of the time off under other University policies and may be eligible for short-term disability or worker's compensation benefits, depending on the reason for the time off.

Other Employment and Activities

An employee will not be allowed to engage in any other employment during a FMLA absence, except as approved by the University. Violation of this policy is grounds for termination. Participation in non-work related activities inconsistent with the qualifying reason for the leave or conduct that abuses the grant of a leave of absence may result in loss of leave approval and may subject the employee to discipline and/or discharge.

Injured Service Member Family-Medical Leave

An eligible employee may take a total of 26 work weeks during a single 12-month period to care for a spouse, son, daughter, parent, or next of kin who is a member of the Armed Forces, including the National Guard or Reserves, and is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status or on the temporary disability retired list for a serious injury or illness.

For purposes of a service member family leave, the following definitions apply: 1) "next of kin" means the nearest blood relative other than the service member's spouse, parent, son, or daughter in the following order: blood relatives who have been granted legal custody of the service member, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the service member has specifically designated another blood relative as his nearest blood relative for the purpose of a service member family leave; and 2) a "serious injury or illness" means an injury or illness incurred by the military member in the line of duty in the Armed Forces that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating.

Amount of Leave: During a single 12-month period, an eligible employee will be entitled to a combined total of 26 work weeks (130 work days) of leave for military service member family leave and all other kinds of family-medical leave. This combined total during the single 12-month period when service member family leave is used will have no effect on the availability of family-medical leave for any qualifying reason during any other 12-month period.

Each time an employee is absent because of a military service member family leave, that absence is counted against the employee's 26 weeks of family-medical leave in a single 12-month period. The leave may be taken on an intermittent or reduced-schedule basis, but all 26

weeks must be used during a single 12-month period. One hour is the shortest period of time that is charged.

When the University employs both the husband and wife, they are entitled to a combined total of 26 weeks of leave during a single 12-month period for a military service member family leave or for a combination of service member family leave and all other kinds of family- medical leave during a single 12-month period.

The University will not permit an employee who has exhausted the maximum of 26 weeks of service member family leave in a single 12-month period of to extend that leave beyond the 26-week maximum. An employee who has exhausted the 26 weeks of service member family leave may be eligible for an extension of the time off under other University leave policies.

Poster

The University's FMLA poster also contains information about the FMLA.