

	ORGANIZATIONAL POLICY		GENERAL ADMINISTRATION APPLICATION: All Employees		
	TITLE: Family Medical Leave	RESOLUTION NUMBER RC19-017	SUPERCEDE RC94-254... ...RC17-428	EFFECTIVE DATE 01/15/2019	SUPERCEDE 06/28/1994... ...12/05/2017

INTENT

It is the intent of the Washtenaw County Board of Road Commissioners to be in compliance with the Family Medical Leave Act of 1993 (FMLA). The purpose of this policy is to provide employees of the Washtenaw County Road Commission (WCRC) with a basic understanding of their rights and obligations under the FMLA.

GENERAL PROVISIONS

- A. WCRC will grant eligible employees leave under the FMLA for up to 12 workweeks (or up to 26 workweeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12 month period.
- B. An employee may elect, but is not required, to use accrued annual leave simultaneously with FML.

ELIGIBILITY

- A. An employee must be employed with the WCRC for at least 12 months. The 12 months do not have to be consecutive. Separate periods of employment will be counted provided that the break in service does not exceed seven (7) years.
- B. An employee must have worked at least 1,250 hours during the 12 month period immediately preceding the commencement of the leave. Paid absences (including workers' compensation, short-term disability and other paid or unpaid time off) prior to taking FML, are not included in the 1,250 work hours referenced above.
- C. An employee must work in a worksite where 50 or more employees are employed by the company within 75 miles of that office or worksite. The distance is to be calculated by using available transportation by the most direct route.
- D. An employee must incur a qualifying event.

QUALIFYING EVENT

- A. An eligible employee is entitled to take up to 12 workweeks of job-protected family medical leave (FML) for the following reasons:
 - 1. The birth of a child and to care for the newborn child within one year of birth;

2. The placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
 3. To care for a spouse, son, daughter, or parent who has a serious health condition;
 4. A serious health condition that makes the employee unable to perform the essential functions of his or her job;
- B. An eligible employee is entitled to take up to 26 workweeks of job-protected FML for the following reason:
1. Any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

CALCULATION OF LEAVE

- A. WCRC will measure the 12 month period as a rolling 12 month period measured backward from the date an employee uses any FML. Each time an employee utilizes FML WCRC will compute the amount of leave an employee has used in the last 12 months and subtract it from the available leave. The remaining balance is the amount an employee is entitled to use at that time.
- B. If spouses both work for the WCRC and each wishes to utilize FML for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the spouses may only use a combined total of 12 workweeks of FML or 26 workweeks to care for a covered injured or ill service member.

REQUESTS FOR LEAVE

- A. When the need for FML is foreseeable, an employee shall provide Human Resources with at least thirty (30) calendar days' notice prior to the need for leave.
- B. If the need for FML is unforeseeable an employee shall notify Human Resources as soon as they become aware of the need for FML.

DESIGNATION OF LEAVE

- A. In all circumstances, it is WCRC's responsibility and right to designate a leave of absence as FML when it qualifies.
- B. If an employee is off on workers' compensation and the work-related injury/illness would also qualify under the FMLA then workers' compensation and FML will run concurrently.

- C. If an employee is off on short-term disability (STD) and their incapacity qualifies under the FMLA then STD and FML will run concurrently.

MEDICAL CERTIFICATION

- A. WCRC will require certification for an employee's serious health condition or the family member's serious health condition(s). An employee must respond to the request within 15 calendar days of the notice of eligibility. Failure to comply with the above mentioned requirements may result in delay or denial of FML.
- B. WCRC will require certification of the qualifying exigency for military family leave. An employee must respond to such a request within 15 calendar days of the request. Failure to comply with the above mentioned requirements may result in the delay or denial of FML.
- C. WCRC will require certification for the serious injury or illness of the covered service member. An employee must respond to such a request within 15 calendar days of the request. Failure to comply with the above mentioned requirements may result in the delay or denial of FML.

LEAVE DETERMINATION

- A. If an incomplete medical certification is received, Human Resources will provide an employee with the opportunity to have the health care provider correct the certification. An employee will have seven (7) calendar days to resolve any deficiencies. If, after seven (7) calendar days the identified deficiencies have not been resolved, the FML request may be denied.
- B. WCRC may request recertification and/or a second opinion for the serious health condition of an employee or an employee's family member in accordance with the regulations under the FMLA. If WCRC questions the validity of the health care provider's opinion, a second opinion may be required. In such cases, WCRC will choose a health care provider to offer a second opinion at the employer's expense. If the first and second opinions differ, WCRC may require a third opinion. The health care provider offering the third opinion will be jointly approved by WCRC and the employee. The third opinion will be binding. WCRC will incur the expense of the third opinion.
- C. Once Human Resources receives a completed medical certification an employee will be notified within five (5) business days whether or not the FML is approved or denied.

RE-CERTIFICATION

- A. If, after the initial medical certification, an employee needs to renew or change the leave request, they are required to submit an additional or amended medical certification to Human Resources. Recertification will be necessary when an employee seeks an extension of his or her FML. An employee must provide a new medical certification in each subsequent leave year. WCRC may require

recertification of the ongoing need for leave every 30 days or more often depending on the circumstances of each individual situation. Failure to provide proper medical certification may result in the denial of FML, or in a delay of its approval.

BENEFITS DURING LEAVE

- A. WCRC will maintain health insurance and other group health benefits subject to applicable plan documents and law. If an employee wants benefits to continue during their FML, they must continue to pay their share of the premiums for those benefits at the same contribution rate as an active employee. The Finance department must receive payment prior to each bi-weekly check date. If the payment is more than 30 days late, an employee's health care coverage will be cancelled for the duration of the leave.
- B. An employee can continue to contribute to their voluntary deductions (deferred compensation, optional life, etc.) while on FML. The Finance department must receive payment prior to each bi-weekly check date. If the payment is more than 30 days late, the employee's voluntary deductions will be cancelled. If an employee chooses not to continue the voluntary deductions through their FML they may not be eligible to re-enroll until the next enrollment period.
- C. An employee will not accrue annual leave while on unpaid FML.
- D. An employee will not earn service credit while on unpaid FML.
- E. Once an employee returns from FML their review date will change by the number of days they were on FML.
- F. Holiday pay will not be granted during FML.
- G. An employee who does not return from a FML must reimburse WCRC for the total cost of benefits which were maintained by WCRC during the leave, unless the reason for the employee failing to return to work is due to the continuation or recurrence of the serious health condition or is otherwise beyond the employee's control as defined in the FMLA.

INTERMITTENT LEAVE OR A REDUCED SCHEDULE

- A. An employee may take FML in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12 month period).
- B. For the birth, adoption or foster care of a child, the WCRC and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule.

OUTSIDE EMPLOYMENT

- A. An employee may not engage in outside employment during a period of leave covered by this policy.

RETURN TO WORK

- A. An employee that is taking FML because of their own serious health condition will be required to provide a fitness for duty clearance from their health care provider on or before the date an employee is scheduled to return to work.
- B. An employee who takes FML will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions.
- C. If an employee is not medically released to return to work at the end of their FML and an employee has not been granted any additional leave, employment ends effective the last day of the approved leave, unless a continuation of leave has been granted as an accommodation under the Americans with Disabilities Act as amended, or for other extenuating circumstances.
- D. An employee is expected to return to work no later than the next regularly scheduled workday after the expiration of an approved leave. If an employee fails to return to work as scheduled after an approved leave, an employee may be subject to termination of employment.