

3.16 FAMILY AND MEDICAL LEAVE (reviewed 8/19)

Purpose

Grant County's Family and Medical Leave Act Policy is intended to conform to, and not exceed, the requirements of the federal Family and Medical Leave Act of 1993 (FMLA), and the Wisconsin Family and Medical Leave Act (WFMLA). This Policy is intended to comply with applicable laws and does not necessarily incorporate all provisions of such laws directly into the County's personnel policies. This Policy does not repeat every provision of the FMLA's or the WFMLA's statutory or regulatory requirements. Posters summarizing the benefits required to be provided under federal and state law may be found with other employment-related postings. In addition, you may contact the Personnel Department if you have specific questions.

Federal law, state law, or both may cover family and medical leave taken under this Policy. When leave taken by employees under this Policy is governed by both federal and state law, the more generous provision will control in the event of a conflict. However, when leaves are governed by state or federal law, but not both, the applicable law will control under this Policy. In this regard, you should note that both state and federal law might cover certain leaves for only a portion of the leave.

You may be required to provide advance notice and certain information as set forth below to be eligible for family or medical leave under this Policy. You may also be required to submit leave requests in writing when circumstances and applicable law permit. Use of other leaves provided by the County for the reasons covered by law, will be treated as use of family and/or medical leave whenever applicable law allows.

1. Eligibility Requirements

To be eligible for leave under federal law, you must have been employed by the County for at least twelve months, within the preceding seven years (even if there was a break in employment), must have worked at least 1,250 hours during the twelve-month period immediately preceding the commencement of the requested leave, and be employed at a

work site where 50 or more employees are employed by the County within a 75-mile radius. To be eligible for leave under state law, you must have been employed for more than 52 consecutive weeks and have been paid for at least 1,000 hours during the previous 52 weeks. The kind and amount of leave available to you under this Policy, as well as your rights during leave, depend on whether you meet the above requirements.

2. Types of Leave Available

The County provides family and medical leave for eligible employees under the following circumstances:

- a. For the birth of the eligible employee's child and to care for a newborn child;
- b. For placement with the eligible employee of a child for adoption (or foster care for federal FMLA only);
- c. To care for an eligible employee's spouse, child, parent, domestic partner (only under WFMLA), or domestic partner's parent (only under WFMLA) with a serious health condition.

"Child" under this paragraph includes a biological, adopted or foster child, a stepchild, legal ward, or a child for whom you have assumed the obligations of a parent and who is either under 18 years of age or unable to care for him or herself due to a physical or mental incapacity or serious health condition.

"Parent" under this paragraph includes parents in-law only if you are requesting leave under the WFMLA.

"Domestic Partner" under this paragraph includes individuals who file "declarations of domestic partnership" in their county of residence and individuals in less formal "domestic partnerships" that satisfy the requirements set forth in the WFMLA.

- d. Because of a serious health condition that makes the eligible employee unable to perform any of the essential functions of the employee's job.
- e. Time off for a spouse, son, daughter, parent or next of kin to care for an injured military service member only if you are requesting leave under federal FMLA.
- f. Time off (exigency leave) to address non-medical issues arising out of the fact that a spouse, son, daughter or parent is on active duty or has been notified of an impending call or order to active military reserves only if you are requesting leave under federal FMLA.

3. Certification by Health Care Provider

If leave is requested due to your own serious health condition or the serious health condition of your spouse, child, parent, domestic partner or domestic partner's parent, the County requires that the leave request be supported by certification issued by your health care provider or the health care provider of your spouse, child, parent, domestic partner or domestic partner's parent. The County reserves the right to certify all information permitted by law. A Medical Certification Form is available in the Personnel Department.

Failure to provide the County with timely and responsive certification from a health care provider within fifteen (15) days of the County's request for certification may result in denial of the leave.

4. Definition of Serious Health Condition

In conjunction with the certification provided by a health care provider, the County reserves the right to determine whether an illness, injury, impairment or physical or mental condition constitutes a serious health condition entitling you to family or medical leave under state or federal law.

In general, a "serious health condition" under this policy means an illness, injury, impairment, or physical or mental condition that involves one of the following:

A. Hospital Care

Inpatient care (i.e., an overnight stay in a hospital, hospice or residential medical care facility) including any period of incapacity or any subsequent treatment in connection with inpatient care.

B. Absence Plus Treatment

A period of incapacity of more than three consecutive calendar days including any subsequent treatment or period of incapacity relating to the same condition that also involves:

1. Treatment two or more times by a health care provider, by a nurse or physicians assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under order of, or referral by, a health care provider; or
2. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under direct supervision of a health care provider.

*Under the WFMLA, leave may also be available for a serious health condition of less than three (3) consecutive days in duration.

C. Pregnancy

Any period of incapacity due to pregnancy, or for prenatal care.

D. Chronic Conditions Requiring Treatment

A chronic condition which;

1. Requires periodic visits for treatment by a health care provider, or by a nurse or physicians assistant under direct supervision of a health care provider;
2. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
3. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.)

E. Permanent/Long-Term Conditions Requiring Supervision

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

F. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.) severe arthritis (physical therapy) and kidney disease (dialysis).

5. Amount of Leave Available

Under federal law, if you meet the eligibility requirements spelled out in Section 1, you are entitled to a total of twelve work weeks of leave during a twelve month period for any of the reasons stated in Section 2, above, with the exception of twenty six work-weeks to care

for a covered servicemember with a serious injury or illness. The twelve month period utilized by the County in applying this Policy is defined as the 12 month period measured forward from the date any employee's first federal FMLA leave begins. Wisconsin FMLA is calendar year.

Under state law, if you meet the eligibility requirements spelled out in Section 1, you are entitled to:

- a. Total of six weeks of leave for the birth of your natural child and/or the placement of a child with you for, or as a precondition to, adoption;
- b. A total of two weeks of leave to care for a covered family member with a serious health condition; and
- c. A total of two weeks of leave if you cannot perform your employment duties due to a serious health condition, as described in Section 4, above.

The County will treat use of family or medical leave under this Policy as simultaneous use of state and federal leave entitlements whenever permitted by law.

6. Manner In Which Leave Can Be Taken

Leave available under this Policy may be taken in full, and, under certain circumstances, may also be taken intermittently (e.g., one week at a time) or on a reduced leave schedule (e.g., consecutive hours at a time). Contact the Personnel Department for more information.

7. Compensation During Leave

Generally, leave taken under this policy is unpaid. However, for leaves governed exclusively by federal law, you must use the following leaves provided by the County, if available:

- a. Vacation, discretionary leave, or compensatory time, if available, for any family or medical leave; and
- b. Accrued paid sick leave, if available, to care for a seriously ill family member, or for the employee's own serious health condition.

For leaves governed exclusively by federal law, the County reserves the right to require you to use paid leave for leave that would otherwise be unpaid FMLA leave taken under this Policy. However, you may not substitute paid sick leave for leave taken under this Policy in any situation where the County would not normally provide such paid leave.

For leaves governed by state law, you may substitute paid or unpaid leave, which you have earned and accrued for leave taken under this Policy, if available. The County reserves the right to deny substitution as permitted by law.

8. Continuation of Benefits

You will remain eligible for group health insurance benefits under the County's group health plan during leave taken under this Policy under the same conditions as coverage would have been provided if you had been actively employed during the entire leave. However, you have the option of choosing not to retain such coverage during family or medical leave if you prefer.

During leave taken under this Policy, the County will continue to pay any portion of group health insurance premiums for coverage that the County was responsible for paying immediately prior to leave as required by law. You are responsible for paying your portion of health insurance premiums regardless of whether your family and medical leave is paid or unpaid. It is your responsibility to make arrangements with the Personnel Department for making premium payments for group health insurance during leaves.

To the extent permitted by law, the County reserves the right to require you to place up to eight weeks health insurance premiums in escrow prior to leave, or to discontinue coverage if such premiums are received more than thirty days late.

Your entitlement to benefits other than group health benefits during a period of family or medical leave is determined by the County's policy regarding provision of such benefits when an employee is on other forms of leave.

9. Accrual of Benefits

You will not continue to accrue seniority or any other employment benefit during leave taken under this Policy, except that such benefits shall accrue if you elect to use other leave provided by the County pursuant to Section 7, above, and if such benefits would normally accrue during such leave.

10. Employment Restoration

To the extent required by law, when you return from family or medical leave, you will be returned to the same position you held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. This policy does not entitle you to any right, benefit, or position of employment other than those to which you would have been entitled had you not taken leave. The County reserves all rights concerning restoration of employment or denial of same under state or federal law.

11. Required Advance Notice

You must provide the County with notice in a reasonable and practicable manner before leave taken under this Policy is to begin, if the need for leave is foreseeable, e.g. an expected birth, placement or adoption or foster care, or planned medical treatment for your own serious health condition or that of a family member. When requesting partial or intermittent leave in connection with child birth or adoption, you must provide at least as much notice as required for taking other non-emergency or non-medical leave, as a definite

schedule for leave. Where advance notice is not practicable due to uncertainty as to when leave will be required to begin, a change in circumstances, or medical emergency, notice must be given as soon as practicable.

You must provide a written request for leave, the reasons for the requested leave, and the anticipated beginning date and duration of the leave by submitting a completed Leave Request Form, which is available in the Personnel Department.

When planning medical treatment, you should consult with the County and make a reasonable effort to schedule the leave so as not to disrupt unduly the County's operations, subject to the approval of your health care provider. You are ordinarily expected to consult with the County in order to work out a treatment schedule which best suits your needs, as well as the County's.

12. Enforcement

An employee may file a complaint with the U.S. Department of Labor (1-866-4US-WAGE or WWW.WAGEHOUR.DOL.GOV) or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede only State or local law or collective bargaining agreement which provides greater family or medical leave rights.