

GREEN COUNTY



Green County Family and Medical Leave Act (FMLA) Policy

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I. WHAT IS THE FAMILY MEDICAL LEAVE ACT (FMLA)?

The FMLA entitles eligible employees to take job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Utilization of an FMLA request and authorization practice helps ensure consistent employee position protection. Additional information on the FMLA can be found at the United States Department of Labor website — www.dol.gov and at the Wisconsin Department of Workforce Development website — dwd.wisconsin.gov.

II. HOW DOES GREEN COUNTY COMPLY WITH FMLA REGULATIONS?

Green County will comply with all applicable state and federal laws concerning family and medical leave (FMLA). This policy describes the state and federal FMLA laws and addresses certain differences between the two laws.

When both laws apply, the leaves under state and federal law will run concurrently and the provisions more beneficial to the employee will apply. Medical leaves that qualify under the FMLA will also run concurrently with leaves under worker's compensation, short term disability and other laws, as applicable and as allowed by law. A side-by-side comparison of the FMLA entitlements can be viewed at

https://dwd.wisconsin.gov/er/civil_rights/fmla/federal_state_law_comparison.htm#

Employees should direct any questions regarding FMLA leave to the Human Resources Department. Taking FMLA leave will not be used against an employee in any employment decision contrary to law. Employees on FMLA leave with Green County may not engage in any other employment that is inconsistent with the reason for the employee's FMLA leave.

The Green County Human Resources Director is the authority on interpretation of this policy and may exercise discretion within the scope of this policy. This policy has been adopted by the Green County Personnel and Labor Relations Committee (PLRC), and may be amended at any time by the PLRC.

It is unlawful for employers to interfere with, restrain, or deny the exercise of any right provided under FMLA or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

An employee may file a complaint or bring a lawsuit under the FMLA (see FMLA posters). The FMLA does not affect federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

III. WHO IS ELIGIBLE FOR FMLA JOB-PROTECTED LEAVE?

To qualify for Federal FMLA, the employee must be employed with Green County for at least 12 months and have worked at least 1,250 hours in the preceding 12-month period.

To qualify for Wisconsin State FMLA the employee must be employed with Green County for more than 52 consecutive weeks and been paid for at least 1,000 hours in the last 52 weeks.

IV. WHAT ARE THE JOB-PROTECTED LEAVE RIGHTS OF FMLA?

Federal FMLA — Under the Federal FMLA, eligible employees are allowed up to 12 workweeks of job protected leave per 12-month period for the following reasons:

- The employee's own serious health condition that makes the employee unable to perform the functions of his or her position
- To care for the employee's spouse, child or parent with a serious health condition
- For the birth of the employee's child, or placement of a child for adoption or foster care with the employee
- For incapacity due to pregnancy, prenatal medical care or child birth
- For more information on qualifying FMLA events please reference VI "Serious Health Conditions."

Wisconsin FMLA — The Wisconsin FMLA permits eligible employees to take job protected / unpaid leave for the following reasons:

- 2 weeks for the employee's own serious health condition
- 2 weeks to care for the employee's spouse, domestic partner, child, parent or parent-in-law with a serious health condition
- 6 weeks to care for the employee's child after birth or adoption

If spouses are employed by Green County, their combined total leave for the birth, adoption or foster care placement of a child, or to care for a parent with a serious health condition, is 12 weeks. Wisconsin FMLA in connection with birth or adoption of a child must start within 16 weeks of the birth of the child. Leave for birth, adoption or foster care placement must be concluded within 12 months of the birth, adoption or placement of the child.

Military Family Leave — Military family leave is part of the federal FMLA. Usage provisions of this FMLA policy, including employee notice provisions, certification requirements, and use of paid time off and intermittent usage, apply to military family leave as well.

There are two types of military family leave.

Qualifying Exigency Leave. Eligible employees with a spouse, son, daughter or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week FMLA entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. The 12 weeks of leave afforded for a qualifying exigency is not in addition to the general 12 weeks afforded under the federal FMLA. An employee is entitled to no more than 12 total weeks of leave for any combination of personal, family or qualifying exigency military FMLA.

Servicemember Care Leave. Eligible employees may also take up to 26 weeks of leave during a single 12-month period to care for a child, spouse, parent or next of kin who is: a member of the Armed Forces and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that occurred in the line of duty; or a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that occurred in the line of duty and who was a member of the Armed Forces (including a member of the National Guard or Reserves) during the five years preceding the date of the treatment. The 26 weeks of leave afforded for servicemember care is not in addition to the general 12 weeks afforded under the federal FMLA. Any other sort of FMLA taken will decrease the 26-week period. The 26 weeks is not annual; it is a one-time leave per the same cause of injury or illness.

Married Employees. Married employees who both work for Green County are limited to no more than an aggregate of 26 weeks of leave between them for military family leave.

V. HOW ARE FMLA ENTITLEMENT PERIODS CALCULATED?

Green County will calculate the federal FMLA 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Entitlement to leave under Wisconsin FMLA will run according to the calendar year period.

VI. WHAT IS CONSIDERED A SERIOUS HEALTH CONDITION?

A serious health condition is an injury, illness, impairment or physical or mental condition that involves:

(1) Inpatient care in a medical care facility; or

(2) Continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents a qualified family member from participating in school or other daily activities.

(3) What is not considered a "serious health condition"? — "Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness or allergies may be serious health conditions, but only if all the conditions of this section are met." (Title 29, Subtitle B, Chapter V, Subchapter C, Part, §825.113(d))

Continuing treatment by a health care provider includes:

(1) A period of incapacity of more than three (3) consecutive full calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of

continuing treatment under the supervision of a health care provider (time limits apply to health care provider visits);

(2) Any period of incapacity due to pregnancy or prenatal care;

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;

(4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or

(5) Any period of absence to receive multiple treatments by a health care provider 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. (Under Wisconsin FMLA, the more than three (3) calendar days of incapacity requirement does not apply.)

(6) What is not considered “continuing treatment”? —The term treatment includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave. (Title 29, Subtitle B, Chapter V, Subchapter C, Part, §825.113(c))

VII. HOW DO I REQUEST FMLA JOB-PROTECTED LEAVE?

Leave Request and Authorization Process:

1. Notify your supervisor and the HR Department of your need for FMLA
2. Obtain a copies of:
 - a. “Green County FMLA, Employee Request Form” and;
 - b. “Physician Certification for FMLA” Form.~ Both forms can be found on the Green County HR Department website.
3. Submit completed forms and medical certification to the HR Department
4. HR Department will work with your department head to determine eligibility
5. You will be informed of your eligibility by the HR Department

Whenever possible, employees must give at least 30 days’ written notice of the need for FMLA leave. When 30 days’ notice is not possible, employees are expected to give as much written notice as is practical. All requests for leave must be made on Green County FMLA Employee Request Form, approved by the employee’s Department head /or designated representative, and submitted to the Human Resources Department. The normal call-in and benefited time off procedures must also be followed for all FMLA absences.

Employees must give sufficient information to the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees must also inform Green County if the requested leave is for a reason for which FMLA leave was previously taken or certified.

Green County requires an employee who is requesting FMLA leave to provide medical certification for the leave. Employees will have 15 days in which to provide the certification, except in extenuating circumstances. If an employee fails to provide adequate certification in a timely manner, the employee's leave request or continuation of leave may be delayed or denied altogether. Green County may require a second medical opinion at the employer's expense regarding a serious health condition from a health care provider of the employer's choice. If the first two opinions differ, employee may obtain a third opinion at Green County's expense from a mutually agreed upon health care provider. The third opinion shall be binding on the parties. Recertification and periodic reports regarding the employee's status and intent to return to work may also be required as allowed by law.

The Green County Human Resources Department will: inform employees who have requested leave whether they are eligible for leave, request any additional information as needed, and inform the employee of his/her rights and responsibilities. If the employee is not eligible for leave, a reason for the ineligibility will be provided.

Green County may also designate any qualifying absences as FMLA usage. The employee will be notified of this designation.

VIII. CAN FMLA BE TAKEN TO COVER INTERMITTENT DAYS OF LEAVE?

Intermittent Job-Protected Leave under Federal FMLA —An employee does not need to use FMLA leave entitlement in one block. An employee may be eligible to take intermittent leave or reduced schedule leave if medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as to not unduly disrupt the employer's operations. In certain circumstances, Green County may transfer an employee taking intermittent FMLA leave temporarily to a position with equivalent pay and benefits if the new position better accommodates the leave. Leave due to qualifying exigencies may also be taken on an intermittent basis. An Employer may deny the use of intermittent FMLA leave for the birth, adoption or foster placement of a child during the federal-only portion of their FMLA leave. (Under Wisconsin FMLA, the last increment of intermittent leave for the birth, adoption or foster placement of a child must begin within 16 weeks after the birth, adoption or placement of the child.) If spouses are employed by Green County, their combined total leave for the birth, adoption or foster care placement is 12 weeks.

IX. DO I HAVE TO USE MY PAID LEAVE WHILE ON FMLA?

During the portion of an FMLA leave covered by Wisconsin law, employees may elect to, or not to, utilize available benefit time off. This includes the ability to utilize partial days of benefit time to cover benefit premiums if applicable.

During the federal-only portion of an FMLA leave, the County shall require employees to utilize all accessible benefit time (available: vacation, sick, personal, and/or compensatory times) until no more than one week of total paid leave remains available. If the employee is covered by short-term or long-term disability, such benefit time must be utilized to make the employee whole until no more than one week of total paid leave remains available.

In order to use paid leave in conjunction with FMLA leave, employees must comply with our normal paid leave policies. However, if an employee does not meet qualifications to use paid leave, or has no remaining balance of paid leave benefits, that will not affect the employee's ability to use qualified FMLA with no pay.

X. HOW WILL MY BENEFIT PREMIUMS BE PAID DURING MY FMLA LEAVE?

An employee's coverage under our group health plan will be maintained during the period of an FMLA leave as required by the Wisconsin and federal FMLA laws and in accordance with the applicable terms of the plans.

Employees who normally pay a portion of the premium for insurance coverage must continue to do so during the period of FMLA leave. If the employee has benefit time off is utilized during FMLA leave, the employee's portion of the premium will be deducted from the employee's paycheck. If the employee elects to preserve benefit time or take no pay, but fails to make timely premium contributions, benefit time available will be utilized to make premium contributions. For those employees on unpaid leave, payment arrangements must be made prior to the start of the leave, or as soon as practicable. A 30-day grace period will apply to premium payments, however, if payment has not been made timely, the employee's group insurance policies may be terminated.

If Green County maintains the employee's insurance during an FMLA leave, and the employee does not return from FMLA leave, under certain circumstances, Green County will have the right to recover the total cost of the insurance premiums paid during the employee's leave, as allowed by law.

Use of FMLA cannot result in the loss of any employment benefit that accrued prior to the start of the employee's leave. Other benefit accruals may be suspended during the period of the leave and will resume upon return to active employment. Check with the Human Resources Department regarding other benefit continuation provisions.

XI. HOW DO I RETURN TO WORK AT THE END OF MY FMLA LEAVE?

Employees who return to work from FMLA leave within the timeframes protected by the FMLA laws will be returned to their former position or, equivalent position to the extent of the law. If an employee wants to return to work before his/her leave is to end, and work is available, the employee must notify Green County at least 2 days prior to the desired return date. If the employee

took FMLA leave for his/her own serious health condition, a fitness for duty certification will be required before the employee may return to work. In such cases, an employee's return will be delayed until such a certification is received.

XII. CAN AN ACCOMODATION BE MADE FOR ME WHEN RETURING TO WORK?

Green County may consider allowing employees to return to work in a light duty or modified position for a maximum of 30 calendar days in order to assist the employee with recuperation. Work accommodations will be determined on a case-by-case basis. These determinations shall be made by the employee's department head with counsel provided by the HR Department. If an employee is allowed to return to work with accommodations, the time worked in that capacity does not count towards the utilization of their FMLA entitlement.

XIII. WHAT HAPPENS TO BENEFIT ACCRUALS WHILE ON FMLA LEAVE?

Under both the federal and state versions of the Family and Medical Leave Acts, longevity, benefits and holiday pay entitlement will be accrued in accordance with the Green County Handbook and department work rules.

XIV. WHAT IF I FAIL TO MEET THE FMLA POLICY REQUIREMENTS?

If the employee fails to meet the requirements of this policy for family or medical leave, the request for leave will be denied until the requirements are met.

XV. WHAT IF I FAIL TO RETURN TO WORK AT END OF FMLA-PROTECTED LEAVE.

If the employee does not return to work at the end of his/her FMLA protected leave, the employee's rights under the federal and state FMLA laws, including the right to reinstatement, will no longer be in effect. In such a case employment may be terminated.

At the discretion of the Department Head, an employee may be granted a leave of absence beyond the employee's maximum FMLA entitlement. The employee's rights to reinstatement under FMLA do not extend into such granted leave beyond FMLA entitlement.

XVI. WHERE CAN I FIND THE EMPLOYEE FMLA REQUEST FORM AND PHYSICIAN CERTIFICATION FORM?

The Green County Employee FMLA request form and Physician Certification form can be found on the Green County Human Resources Department website at: <http://www.co.green.wi.gov> or requested from the Human Resources Department.

XVII. REVISION HISTORY

Adoption/Revision Date	Overview of Adoption/Revision	Adoption/Revision Reference
27 February 2019	Adoption of Policy	Personnel Labor Relations Committee Action, Committee Meeting — 27 February 2019

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