

SOUTHERN ILLINOIS UNIVERSITY EDWARDSVILLE

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT (FMLA)

WHAT IS FAMILY MEDICAL LEAVE?

Family Medical Leave is a federally protected leave that protects an employee's job. This is not a paid leave. FML guarantees that an employee may be away from work. Whether this absence is paid or unpaid depends on if an employee has available sick and/or vacation time to cover the time away from work.

EMPLOYEE ELIGIBILITY

Employees are eligible for Family Medical Leave (FML) if they have been employed by the University

- for at least 12 months, and
- worked a minimum of 1,250 hours during the 12 months preceding the leave.

An employee may be entitled up to 12 weeks of FML in a rolling 12-month calendar period. This leave is calculated looking at the 12 months prior to the request for FML. Employees must apply for FML when they have missed more than three consecutive work days, even if they have accumulated sick/vacation days to cover the absence.

An employee may take up to the following weeks of leave when all of the eligibility criteria are met. FML is granted for the following reasons:

1. 12 weeks - For leave taken for the birth or placement of a child for adoption or foster care. (FML expires at the end of the twelve-month period following the date of the birth or adoption placement.)
2. 12 weeks - To care for an immediate family member (child, spouse, civil union partner, or parent) with a serious health condition
3. When an employee is unable to perform the functions of his or her position due to a serious health condition
4. 12 weeks - Because of a qualifying exigency when a family member (child, spouse, civil union partner, or parent) is on active duty or called to active duty status in support of a contingency operation and as a member of the National Guard, Reserves, or regular Armed Forces
5. 26 weeks - To care for an immediate family member (child, spouse, civil union partner, parent, or next of kin) who is a covered service member with a serious injury or illness

FORESEEABLE AND UNFORESEEABLE LEAVE

If the leave is foreseeable and can be planned in advance (for example, a birth of a child or an elective surgery), the employee must notify the supervisor at least 30 days in advance. If the employee fails to provide a 30-day notice, FML may not be approved until 30 days have elapsed after the date of the employee's notice.

When a leave is unforeseeable, the employee is required to provide the supervisor with notice as soon as possible. This means, generally, that notice is provided within one or two business days. The timing of the notice is dependent upon the nature of the circumstances. Examples of unforeseeable leave could be when circumstances have changed regarding planned leave or due to a medical emergency. During a medical emergency, is it also appropriate for the employee's family members or designee to notify the employee's supervisor or Human Resources if they do not know who to contact.

APPLICATION PROCEDURES

- Employees must complete the FML Application Form and submit it to their supervisor within the appropriate time notice as outlined.
- The supervisor or department designee must review and sign the form, returning the original to the employee. A copy of the signed form should be retained in the employee's department.
- FML forms should be submitted to the Office of Human Resources at:
Rendleman Bldg., Room 3210
Campus Box 1040
Edwardsville, IL, 62026-1040

MEDICAL CERTIFICATION

A Medical Certification is required to support an FML request. The Medical Certification must be completed by the employee's or family member's health care provider and sent to the Office of Human Resources. **If a complete and**

accurate Medical Certification is not provided within 15 calendar days after the university's request for such required documentation, the leave could be denied. If this occurs, an employee may be placed on leave without pay.

CERTIFICATION OF QUALIFYING EXIGENCY FOR MILITARY FAMILY LEAVE

An employee needing to use FML for a qualifying exigency for military family leave must provide certification to support this specific type of FML. This certification must include written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation.

RETURN FROM FAMILY AND MEDICAL LEAVE

When FML is granted, the employee must return to work at his/her documented expiration date. If an employee does not return to work on the FML expiration date and does not notify the supervisor in advance, the absence shall be deemed an unauthorized and unexcused absence, which is subject to the University disciplinary process.

If the employee returns to work at the specified date at the end of the Medical Certification, a Release to Return to Work is **not** required. However, if an employee does not return to work on the day following the Medical Certification end date or if no end date was provided, university policy requires a Release to Return to Work statement from the health care provider.

Employees are expected to notify the Office of Human Resources and the department at least 30 calendar days in advance of the anticipated date of return if possible. An employee who has been absent for FML shall be restored to the position of employment held when the leave commenced, or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

USE OF PAID AND UNPAID LEAVE

Employee's Serious Health Condition: If the FML request is for the employee's own illness and own pregnancy/birth, all available sick leave must be used prior to leave without pay per the applicable bargaining agreement; vacation leave may be used at the employee's discretion. If an employee needs to use FML, runs out of sick leave, and decides not to use vacation time, his/her time away from work will be without pay.

Birth and Placement of a Child for Adoption or Foster Care: Employees may use FML protected leave for the birth and placement of a child for adoption or foster care. Sick leave will be granted based upon university policy or the applicable bargaining agreement. All available sick leave must be used prior to leave without pay; vacation leave may be used to remain in pay status. If the employee decides not to use vacation time, his/her time away from work will be without pay. For maternity and paternity leave, sick time may be used for the birth, care, and bonding during the 12-month period following the birth or placement of a child for adoption or foster care.

Serious Health Condition, Family Member of Employee: University policy or the applicable collective bargaining agreement will determine the amount of sick leave that can be used when FML is used to care for an immediate family member. If the FML request is for a covered family member, all available vacation leave must be used prior to leave without pay.

If the employee is at risk of losing vacation time at the end of the fiscal year and wishes to use vacation time in lieu of sick time, the employee must provide a written request to the Office of Human Resources. Human Resources will review each written request on a case-by-case basis to determine approval.

SURS Disability Option: Employees with a serious health condition who exhaust their available sick leave balances may be eligible to receive disability benefits through SURS if they are away from work 60 days or longer, as required by SURS. Employees may request an Application for Disability Benefits from the Office of Human Resources.

INSURANCE COVERAGE DURING UNPAID LEAVE

While out on unpaid leave, the employer portion of health and dental insurance coverage shall continue to be paid by the University at the employee's same coverage level as if the employee had remained in continuous pay status. Employees are responsible for the employee-paid portion of any insurance premiums previously paid through payroll deduction and will be billed directly by Central Management Services (CMS) for the premium during the period when they are not on payroll. While out on FML and off payroll, the employee is responsible for timely payment of the employee's portion of any insurance premiums, or it may be cancelled by CMS. If the employee does not make the required payments during the leave period, the CMS Group Insurance Division (GID) will terminate the member's coverage.

EFFECT ON SURS RETIREMENT SERVICE TIME AND BENEFITS

To determine the effect of FML on the accumulation of service time for retirement and to assure continuation of contributions, the employee should contact SURS at 1-800-ASK-SURS.

