

TOWN OF MARSHFIELD FAMILY AND MEDICAL LEAVE OF ABSENCE POLICY

It is the policy of the Town of Marshfield to provide leave in accordance with the Family and Medical Leave Act of 1993. The Family and Medical Leave Act (FMLA) is a federal law that provides unpaid leave for eligible employees who need extended time away from work due to their own or a family member's serious health condition(s) or the birth or adoption of a child. Eligible employees may take up to 12 weeks of FMLA leave during any 12-month period.

Eligible Employee:

Individuals who have worked for the Town for at least 12 months and provided at least 1,250 hours of service during the twelve months before the leave commences.

Qualified Reasons for FMLA leave:

- Serious Health Condition: A "serious health condition" which prevents the employee from performing the functions of his/her job.
- Birth, Adoption or Foster Care:
- The birth of a child and to care for the child or the adoption or placement for foster care of a child under 18 or over 18 if the child has a physical or mental disability and is unable to care for him/herself).
- Family Illness: To care for a child, parent or spouse who has a serious health condition.

Definitions:

Child: Biological, adopted or foster children, stepchildren or the child of a person with legal guardianship or who has day-to-day responsibilities to care for and financially support a child, even if there is no biological or legal relationship.

Concurrent Leave: State and federal mandated leave entitlements normally run concurrently with each other and with leave provisions under any applicable collective bargaining agreement or policy.

Health Care Provider: A doctor of medicine or osteopathy authorized to practice medicine or surgery by the State in which the doctor practices; a clinical social worker or a Christian Science practitioner or any other person determined by the Secretary of Labor, to be capable of providing health care services as defined under FMLA regulations.

Intermittent Leave: Time away from the job taken in separate blocks of time due to a serious health condition.

Parent: The biological parent, or persons who have day-to-day responsibility to care for and financially support a child. Parents-in-law are NOT included.

Reduced Leave Schedule: Reduction in the number of hours per work day or work week.

Serious Health Condition: An illness, injury, impairment or physical or mental condition that involves:

- Treatment as an inpatient – in a hospital, hospice or residential medical care facility; or

- A health condition that requires continuing treatment by a health care provider. Continuing Treatment includes:
 - Two or more treatments by a health care provider; or
 - Two or more treatments by a health care practitioner on referral from, or under the direction of a health care provider; or
 - A single visit to a health care provider that results in a regimen of continuing treatment under the supervision of a health care provider, or
 - A health condition that requires continuing treatment by or under the supervision of a health care provider for a chronic or long term health condition that is incurable or so serious, that if untreated, would likely result in an absence from work of more than three days.

Examples of serious health conditions include: Heart attacks, heart conditions requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, diabetes, epilepsy, asthma, alcoholism, emphysema, severe arthritis, severe nervous disorders, injuries caused by serious accident on or off the job, the need for prenatal care, childbirth and recover from childbirth.

Twelve Month Period: The “rolling” twelve month period measured backward from the date any employee uses any FMLA leave.

Spouse: Defined in accordance with applicable State law, including common law marriages as recognized by the Commonwealth of Massachusetts. Unmarried domestic partners do not qualify for FMLA leave to care for their partner. Also married couples that work for the Town are limited to a combined total of 12 work weeks during the 12 month period if leave is taken for birth or placement for adoption or foster care of a child or to care for a sick parent. Such leave to care for birth or placement for adoption or foster care of a child must be taken within 12 months beginning on the date of birth or placement for adoption or foster care.

Procedure:

Notice of Intent to Use Leave:

Eligible employees will provide written notice of their intent to use FMLA leave to the Town Manager or Human Resources Director, thirty days in advance when the leave is foreseeable. For example, the birth or placement of a child for adoption or foster care, or planned medical treatment. When unforeseen events occur that require FMLA leave the employee or representative of the employee must, provide written notice as soon as both possible and practical but in no event later than one or two working days of learning the need for the leave except in extraordinary circumstances. The notice will include the reason for the leave, the date the leave shall begin and the intended date of return.

While planning medical treatments, employees should “consult” with the Town when giving notice and make reasonable efforts to schedule the leave so as not to unduly disrupt the Town’s operations.

Medical Certification:

Leave to care for an employee’s seriously-ill family member, or leave due to a serious health condition that makes the employee unable to perform the functions of the employee’s job, must be supported by

certification by a health care provider. Employees must provide the certification within fifteen calendar days. If the need for leave was not foreseeable, the employee must still provide the certification as soon as both possible and practical thereafter. Certification shall include;

- Identification of the practitioner and the type of medical practice.
- The date of the serious health condition commenced and the probable duration of the condition.
- Diagnosis of the serious health condition.
- Statement of the regimen of treatment prescribed for the condition (including estimated number of visits, nature frequency and duration of treatment, including referred or ordered treatment to other health care providers and whether inpatient hospitalized is required) for intermittent leave or leave on a reduced leave schedule, a statement of the medical necessity for such leave.
- In instances of the employee's serious health condition: statement that the employee is unable to perform work of any kind,

Or

- Statement that employee is unable to perform the essential functions of his/her position (as determined by the Town)

In instances of care for a family member:

- Statement that the family member is in need of the employee's assistance for basic medical, hygiene, nutritional needs, safety or transportation, or
- Statement that the employee's presence would be beneficial or desirable for the care of the family member.

Medical certification forms are available in the Town Manager's office. If the Town has reason to doubt the validity of a medical certification, the employee may be required to obtain a second opinion from a health care provider designated by the Town at the Town's expense. If the two opinions differ, the Town may require a third opinion, which will be final and binding, from a health care provider mutually agreed upon by the employee and the Town and at the Town's expense.

Recertification by the health care provider is required every thirty days. Recertification must include the same information contained in the initial certification.

Recertification may also be required in the following instances:

- The employee requests an extension of leave;
- Changed circumstances occur regarding the illness or injury;
- The Town's reception of information which casts doubts upon the continuing validity of the certification.

Notice of Intent to Return to Work:

An employee will be required to report periodically to the Town on his or status and intent to return to work.

Intermittent Leave/Reduced Schedule:

FMLA leave may be taken on an intermittent or reduced leave schedule. Employees requesting an intermittent or reduced leave schedule must make a reasonable effort to schedule treatment so as not to unduly disrupt the Town's operations and administration, especially when the leave is foreseeable. The Town may require a temporary transfer to an alternative position with equivalent pay and benefits. If the employee is qualified for the position, to better accommodate the reoccurring periods of leave.

Leave for birth or placement of a child may not be taken on an intermittent or reduced leave schedule basis.

Paid Leave and Benefits:

In all circumstances, accrued vacation and personal leave as well as compensatory time must be used for qualified FMLA leave. In addition, sick leave must also be used to care for the employee's own serious health condition. Upon depletion of the available accrued paid leave, FMLA leave becomes unpaid leave. It is the total of this time which will equal the twelve weeks of FMLA leave. During any portion of FMLA leave which is unpaid, the employee will not accrue benefits and seniority.

The Town will continue the contribution to the employee's group health plan during the FMLA leave unless the employee advised that he/she will not be returning to work. The employee will have his/her contribution deducted from the applied paid leave. Upon the depletion of said leave, the employee must make arrangements to pay his/her contribution to the health premiums. These arrangements must be made in advance of the leave, especially if the leave is foreseeable.

If the employee's premium payment is more than 30 days late, his/her health coverage will be canceled. Employees experiencing severe financial hardship may petition the Town Manager for consideration of alternatives for payment of employee premium. This may include but not limited to; payment of employees health insurance premiums by the Town while on unpaid leave and subsequent double deductions of health insurance premiums upon the employee's return to work. This petition must be made within the thirty days noted previously. The Town Manager will make a recommendation to the Board of Selectmen or their designee for final determination.

The Town will recover from the employee premiums paid during any period of unpaid FMLA leave if the employee fails to return to work after the FMLA leave entitlement has expired, except in the instances of continuation, reoccurrence, or onset of qualifying FMLA leave circumstances or other circumstances beyond the control of the employee.

When circumstances allow for the Town to recover health insurance premium payments made from a non-returning employee, the Town may deduct the amount due from any sums owed to the employee. Examples of such sums owed could include vacation or final paychecks.

Restoration to Position:

An eligible employee who takes FMLA leave is entitled to be restored to the same position that the employee held when the leave started, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment, provided the employee returns to work at the conclusion of leave of 12 work weeks or less.

Employees on FMLA leave due to their own serious health condition must submit certification from the health care provider that the employee is able to resume work, i.e.; is fit for duty, before they can return to work.

Denial:

Conditions under which FMLA leave and/or reinstatement may be denied including, but not limited to:

- Ineligibility of employee;
- Unqualified for leave under the FMLA;
- Employee fails to give timely advance notice for foreseeable leave (temporary denial up to thirty days after employee provides notice of need);
- Employee fails to provide in a timely manner, requested medical certification (temporary denial up to time of submittal);
- Employee fails to supply fitness-for-duty certification (up to time of submittal);
- If employee's job is eliminated during period of leave;
- Employee unequivocally advised Town of Intent not to return to work;
- Fraudulent acquisition of FMLA leave, and
- Employment with another employer while on FMLA leave.

All notifications, certifications and questions relating to this policy, must be submitted to the Town Manager or Human Resource Director.