

**FAMILY AND MEDICAL LEAVE  
SUMMARY OF REVISIONS**

08-02-93	New policy on Family and Medical Leave
12-01-93	<p>12-01-93</p> <p>Serious Health Condition additions and clarifications:</p> <p>Added any period of incapacity requiring absence from work of more than three workdays that also involves continuing treatment by a health care provider.</p> <p>Added continuing treatment by a health care provider for conditions so serious that, if not treated would likely result in an absence of more than three workdays.</p> <p>Prenatal care is also included. The period of actual physical disability associated with childbirth is considered a serious health condition and must be taken as family/medical leave, whether as paid or unpaid leave.</p> <p>Reduced Work Schedule and Intermittent Work Schedule: Defined.</p> <p>12-Month Period: Redefined. (Originally the 12 month period was computed by counting back 12 months from the date the leave began.)</p> <p>Eligible Employee:</p> <p>Defined functions as “essential” functions of the job employee is unable to perform in position.</p> <p>Clarified that regulations on temporary employees also apply to any other type of appointment that is not permanent, including intermittent, if the employee worked at least 1250 hours during the previous 12-Month Period.</p> <p>Leave Charges:</p> <p>Clarified that it is the responsibility of the agency to designate leave paid or unpaid, as FMLA leave, based on information provided by the employee. Added that if an employee on paid leave has not provided sufficient information, agency is required to make a determination after a period of 10 workdays. Information may be requested sooner. Leave not designated by employer cannot be counted against the employee’s entitlement.</p> <p>Intermittent Leave or Reduced Work Schedule: Added that there is no minimum limitation on the amount of leave taken intermittently. That only time taken as leave counts toward 12 weeks. Identified when Form PD-105 needed.</p> <p>Employee Responsibility: Clarified that the employee must explain reasons for the need of leave so as to allow agency to make a</p>

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<p>12-01-93 continued</p>	<p>determination that the leave qualifies under the Act. Added medical emergency – written advance notice cannot be required.</p> <p>Health Benefits: Clarified that employee must pay health plan premium paid prior (such as family coverage) to leave period. If insurance lapse, employer must still restore the equivalent coverage.</p> <p>Posting Requirement and Notice Provisions: new</p> <p>Added to the definition of spouse – wife or husband recognized by the State of North Carolina.</p>
<p>10-01-95</p>	<p>Serious Health Condition:          Added any period of incapacity or treatment due to a “chronic serious health condition” even when the employee or family member does not receive treatment from a health care provider during the absence and even if the absence does not last more than three days. This is defined as (1) one requiring periodic visits or treatment by a health care provider, or by a nurse or physician’s assistant under the direct supervision of a health care provider; (2) continuing over an extended period of time (including recurring episodes of a single underlying condition); and (3) which may cause episodic rather than continuing period(s) of incapacity (e.g., asthma, diabetes, epilepsy, etc.).</p> <p>Added incapacity for a permanent or long-term condition for which treatment may not be effective (Alzheimer, a severe stroke or terminal stages of a disease)</p> <p>Added multiple treatments for restorative surgery or incapacity for serious conditions that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment (chemotherapy, radiation, dialysis, etc.).</p> <p>Health Care Provider: defined</p> <p>Eligible Employee:          Clarified employee appointment type eligibility.</p> <p>For entitlement, changed the requirement of having worked to in pay status at least 1040 hours.</p> <p>Advised that an expectant mother may also take FMLA leave before the birth of the child for prenatal care or if her condition makes her unable to work</p>

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<p>10-01-95 continued</p>	<p>Added foster care and advised that FLMA must also be granted before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed.</p> <p>Spelled out that unable to perform essential functions of the employee's position is considered unable to perform one or more of the essential roles.</p> <p>Leave Charges: Added that if an employee is out on Worker's Compensation Leave drawing temporary disability, the time away from work is not considered as a part of the FMLA 12-week enrollment.</p> <p>Added that the Agency cannot require an employee to use Compensatory Time for unpaid FMLA leave.</p> <p>Added an option of a maximum of 30 days sick leave for the Adoption of a child.</p> <p>Intermittent Leave or Reduced Work Schedule: There is no minimum limitation on the amount of leave taken intermittently and revision added that the agency may not require leave to be taken in increments of more than one hour.</p> <p>Agency Responsibility: Added that agency must include the FMLA provisions in all written publications, such as handbooks, etc.</p> <p>Added "written" notice detailing the specific expectations and obligations of the employee, etc.</p> <p>Clarified Employee responsibility</p>
<p>10-01-02</p>	<p>Revised to conform to statute that allows State employees, except policy-making, to file a contested case for violation of the FMLA.</p>
<p>09-01-02</p>	<p>Revised to clarify use of sick leave for child birth and employee's illness</p>
<p>09-30-02</p>	<p>Revised to include reference to Family Illness Leave (Permanent rule eff 12-1-03)</p> <p>Added provisions for bonus leave.</p>
<p>01-01-03</p>	<p>Revised to include Advisory Note for clarification: "This leave is provided for both spouses even if employed in the same agency."</p>

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01-01-03 continued	Statement added to clarify RIF issues: "Reinstatement is not required if an employee is reduced in force during the course of taking FMLA leave. The agency has the burden of proving that the reduction would have occurred had the employee not been on FMLA leave"
02-01-04	Clarify who is eligible to grieve denial of leave
10-01-05	Revised to clarify that compensatory leave cannot be counted towards the 12-week FMLA entitlement.
04-01-06	Revised paragraph on Intermittent Leave/Reduced Work Schedule to clarify that leave after childbirth or for adoption/foster care may be taken intermittently or on a reduced scheduled only if the agency agrees.
10-01-07	<p>Changed the definition of 12-month period to be the 12-month period measured forward from the date any employee's family and medical leave begins.</p> <p>Added sentence to end of paragraph Procedure to clarify that the agency is responsible for paying for health insurance when an employee is working a reduced or intermittent schedule</p>
01-28-08	<p>Revised to conform to changes in the Federal law.</p> <p>(1) An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the service member. The leave shall only be available during a single 12-month period.</p> <p>(2) An eligible employee is entitled to a total of 12 workweeks because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation. <i>(The definition of "exigency" will be included when the DOL completes it. In the interim, DOL encourages employers to grant this type of leave.)</i></p> <p>Note: Service member family leave may be taken only once and does not again become available with the start of a new FMLA year. An employee may not take more than a combined total of 26 workweeks of leave in any year in which he or she uses service member family leave. In other words, an employee who has used 26 weeks of service member family leave is not entitled to an additional 12 weeks of leave even if he or she develops a serious health condition later in the same year</p>
10-01-08	<p>(1) In paragraph <i>What counts towards the 12 or 26 weeks?</i></p> <p>(a) Added clarification that holidays occurring during the FMLA period count toward the FMLA leave unless the agency is closed for one or more weeks, in which case, the time does not count toward the FMLA leave entitlement.</p> <p>(b) Added Advisory Note: In the BEACON HR/Payroll System, if</p>

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<p>10-01-08 continued</p>	<p>an employee chooses to exhaust vacation leave, the compensatory time bucket is automatically charged first. For FLSA subject employees, agencies may choose to pay out the compensatory time in a lump sum or manually credit back the compensatory time and charge the vacation leave bucket.</p> <p>Under <i>Leave Charges Options</i> added Advisory Note: In the BEACON HR/Payroll system, if an employee chooses to exhaust vacation/bonus leave in any of the following situations, it shall be used after on-call compensatory time, holiday compensatory time, and travel compensatory time</p>
<p>01-16-09</p>	<ol style="list-style-type: none"> <li>(1) Defines “qualifying exigency” by referring to a number of broad categories for which employees can use FML. Also, defines key terms related to “qualifying exigency” leave.</li> <li>(2) Clarifies the provisions of Military Caregiver Leave related to the amount of leave and qualifying reasons for leave</li> <li>(3) Incorporates and outlines separate certification requirements that should be used by agencies to facilitate the certification process for the use of “qualifying exigency” leave and Military Caregiver Leave.</li> <li>(4) Clarifies the definition of Serious Health Condition related to continuing treatment by a health care provider.</li> <li>(5) Clarifies how to handle holidays during a partial week of FML.</li> <li>(6) Compensatory time used can now be counted toward the 12/26 weeks of FML.</li> <li>(7) Clarifies and strengthens the employer notice requirements to better inform employees and allow for a better exchange of information between agencies and employees. The policy extends the time for agencies to provide various notices from two business days to five business days.</li> <li>(8) Changes the employee notification process for unforeseen absences from two business days to require the employee to follow the agency’s usual and customary call-in procedures for reporting an absence, absent unusual circumstances.</li> <li>(9) Adds a provision for recertification to allow an agency to request recertification of an ongoing condition (lifetime or unknown) every six months in conjunction with an absence.</li> <li>(10) Adds a provision to allow an agency to require that fitness-for-duty certification specifically address the employee’s ability to perform the essential function’s of the employee’s job. An agency can now also require a fitness-for-duty certification before an employee may return to work when the employee takes intermittent leave.</li> </ol>
<p>04-01-09</p>	<p>Advisory Note added to paragraph on “Leave Charges Options” to clarify that an employee may not change their work schedule in order to extend the period of paid leave.</p>

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10-28-09	<p>(1) Expanded law to extend eligibility for qualifying exigency leave to families of <i>all</i> active duty service members deployed to foreign countries. Previously only families of service members in the Reserves, National Guard and certain retired members of the Armed Forces could take advantage of qualifying exigency leave.</p> <p>(2) Clarified the Military Caregiver portion of the law to allow for leave to care for an employee's qualifying family member who is undergoing medical treatment, recuperation or therapy for a serious illness or injury that occurred any time during the five years preceding the date of treatment</p>
03-08-13	<p>On February 5, 2013, the U. S. Department of Labor (USDOL) issued a final rule implementing provisions of the FMLA changes made by the National Defense Authorization Act for FY 2010. These specific rules relate to employees who have family members in the military and went into into effect on March 8, 2013. The law requires employers to update their internal policies to reflect the changes. The following are highlights of the final rule expanding military family leave protections:</p> <ul style="list-style-type: none"> <li>• Expansion of the definition of a covered service member to include certain veterans.</li> <li>• Clarification of the definition of a covered veteran.</li> <li>• Definition of serious injury or illness of a covered veteran.</li> <li>• Inclusion of pre-existing injuries or illnesses aggravated in the line of duty on active duty.</li> <li>• Expansion of health care providers authorized to certify a current service member's or veteran's serious injury or illness.</li> <li>• Expansion of qualifying exigency leave for employees with family members in the Regular Armed Forces.</li> <li>• Implementation of the foreign deployment requirement.</li> </ul> <p>The final rule also increased the length of time an eligible family member may take for the qualifying exigency leave reason for Rest and Recuperation from five days to up to a maximum of 15 days to match the military member's Rest and Recuperation leave order, and created a new qualifying exigency leave category for parental care. To better clarify the different types of FML, the policy is being separated into three different sections as follows:</p> <ul style="list-style-type: none"> <li>• Family Medical Leave (Regular)</li> <li>• Family Medical Leave-Qualifying Exigency</li> <li>• Family Medical Leave-Military Caregiver</li> </ul> <p>In addition, clarifying information has been added to the FML (Regular) policy section as follows:</p> <ul style="list-style-type: none"> <li>• Definitions have been clarified for parent, incapable of self-care,</li> </ul>

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03-08-13 continued	<p style="text-align: center;">physical or mental disability, incapacity and treatment.</p> <ul style="list-style-type: none"><li>• Under Covered Employees and Eligibility, clarifying information was added concerning State government service related to temporary service with a State agency.</li><li>• Employment periods prior to a break in service of seven or more years was changed from <u>need not to shall not</u> be counted in determining whether the employee has been employed by the State for at least 12 months. This change will ensure consistent treatment of employees when determining eligibility.</li></ul>
03-27-15	<ul style="list-style-type: none"><li>• Definition of spouse was amended to reflect the change in the definition in the federal FMLA code. Now covers same sex and common law marriages if recognized in another State,</li><li>• Advisory notes were incorporated into the policy.</li></ul>