

KENOSHA COUNTY
FAMILY & MEDICAL LEAVE ACT POLICY

(Revised May 2008)

POLICY STATEMENT

It is the policy of Kenosha County to provide job protected, unpaid leave to eligible employees as required by the Wisconsin and Federal Family & Medical Leave Acts. This policy sets forth the guidelines for eligibility and use of such leaves.

ELIGIBILITY

Eligibility requirements and entitlements are different under state and federal law. Where an employee is entitled to leave under both laws, the leave shall be applied concurrently. In the case of Family & Medical Leave which is provided for in a labor agreement, such family & medical leave will also run concurrently with State and Federal Leave.

STATE

To be eligible for the leave provisions of this law, employees must have been employed by Kenosha County for at least twelve (12) months and have worked at least 1000 hours during the twelve (12) months immediately preceding the beginning of a requested leave (hours worked includes hours paid pursuant to vacation, A&S benefit time, or other paid leave).

FEDERAL

To be eligible for the leave provisions of this law, employees must have been employed by Kenosha County for at least twelve (12) months and have worked at least 1250 hours during the twelve (12) months immediately preceding the beginning of a requested leave (hours worked is actual hours at work; hours paid pursuant to vacation, A&S benefit time, or other paid leave will not be counted toward hours worked).

REASONS FOR LEAVE

The Acts provide four (4) situations in which an eligible employee is entitled to Family or Medical Leave:

1. The birth of a child and to care for the employee's newborn child;
2. To care for the employee's child who has been placed with the employee for adoption or foster care;
3. To care for the employee's spouse, child, parent, or parent-in-law (State only), who has a *serious health condition*;
4. For a *serious health condition* that makes the employee unable to perform his/her job duties and responsibilities.

LEAVES AVAILABLE

STATE

An employee is entitled to up to six (6) weeks of unpaid Family Medical Leave in a calendar year for:

1. Birth of employee's child or placement of child for adoption or as a precondition to adoption.

An employee is entitled to a maximum of two (2) weeks of unpaid Family Leave and two (2) weeks unpaid Medical Leave in a calendar year to:

1. Care for the employee's spouse, child, parent, or parent-in-law, who has a *serious health condition*.
2. For a *serious health condition* that makes the employee unable to perform his/her job duties and responsibilities.

FEDERAL

An employee is entitled to up to twelve (12) weeks of unpaid Family Medical Leave in a calendar year for any of the following events listed below:

1. Birth of employee's child or placement of child for adoption or as a precondition to adoption or placement of a child in foster care. Leave must be taken within twelve (12) months of birth, adoption, or placement.
2. To care for employee's spouse, child or parent who has a *serious health condition*.
3. For an employee's *serious health condition* that renders that employee unable to perform his/her job duties and responsibilities.

PROCEDURE TO REQUEST LEAVE

A Family & Medical Leave request form must be submitted to the Division of Personnel Services prior to the start of the leave: emergencies will be considered on an individual basis. An eligible employee must give written notice to the immediate supervisor as soon as the necessity for the leave arises. Any documentation required to process this request must also be submitted to the Division of Personnel at that time.

The Division of Personnel Services will determine if the requested leave qualifies as Family & Medical Leave based upon the information submitted by the employee. If the County has sufficient information that the employee qualifies for Family and/or Medical Leave the absence will be so classified unless notice is provided otherwise. The employee will be notified, in writing, if the leave is being denied.

An employee shall be required to periodically report his/her status to the Division of Personnel. The employee shall advise the department and the Division of Personnel Services of his/her intentions to return to work and any status changes that may affect his/her ability to return to work. The employee shall submit a doctor's certification concerning release to return to work and work restrictions, if any, to the Personnel Division. Failure to provide the required information can result in the denial of Family & Medical Leave under these policies.

If the County questions the validity of a medical certification a second opinion will be arranged and paid for by the County. If this opinion differs from the first, then the County and the employee will mutually select a third party medical provider to render a third opinion at the County's expense. The third opinion will be binding on both the employee and the County.

Intermittent, or reduced leaves, may be taken for the birth or adoption of a child if the arrangement is agreed to by the County. However, leave for a *serious health condition*, either of a family member or the employee, may be taken intermittently or on a reduced basis if medically necessary with the required notice to management. If possible, the employee must attempt to schedule their leave so as not to disrupt the County's operations. There may be circumstances where the County will assign the employee to an alternative position which better accommodates the intermittent leave schedule.

SUBSTITUTION

The County will not require that employees first use their paid vacation, casual, or personal paid leave before taking time off without pay as part of the Family & Medical Leave. In accordance with the State Family & Medical Leave Act, an employee may elect to substitute any other paid leaves which have accrued to the employee, for all or a portion of State Family or Medical Leave. Employees who elect to substitute such leave will have such leave charged accordingly. Employee substituted leave will be counted as leave taken under the Act.

ACCIDENT & SICKNESS BENEFIT AND FAMILY & MEDICAL LEAVE

The County will require that an employee receiving pay under the Accident & Sickness (A & S) benefit whose accident or illness qualifies as Family & Medical Leave, be charged Family & Medical Leave while receiving A & S benefit pay. The designation will be noted on the employee pay stub (pay check) or remittance advise (direct deposit).

WORKER'S COMPENSATION AND FEDERAL FAMILY & MEDICAL LEAVE

The County will require that an employee on worker's compensation, whose injury qualifies as Federal Family & Medical Leave, be charged Family & Medical Leave while on such worker's compensation. No substitution is permitted while on worker's compensation, since the absence is not "unpaid leave."

During the period when the employee receives worker's compensation benefits, the employee may be offered a "light duty" position. If the employee is placed on "light duty," the period when the employee is on "light duty" does not count against the employee's Family or Medical Leave entitlement; the employee retains rights to restoration for a cumulative period of 12 weeks. If the employee chooses to decline the "light duty" job and continues on Medical Leave, the employee may forfeit worker's compensation benefits.

HEALTH INSURANCE BENEFITS

Health benefits will continue during a leave granted under the Family & Medical Leave Act. Employee contributions/premiums (where applicable) toward the cost of coverage are required to be paid by the employee during the leave. The County will charge an employee for

the County's portion of the cost of coverage during the leave period if the employee fails to return from the leave.

FLEXIBLE SPENDING ACCOUNTS

Flexible spending accounts will continue during a leave granted under the Family & Medical Leave Act as follows:

1. If receiving A&S benefit pay, the employee must authorize the County to continue to make the deductions as elected.
2. If granted an UNPAID leave, the County shall notify the flexible spending account plan administrator that the employee is ineligible for deductions for a specified time period. During this period of time, the employee will not be eligible for reimbursement of any eligible expenses.

MAINTENANCE OF OTHER BENEFITS

An employee who takes unpaid Family & Medical Leave will accrue seniority and employment benefits in the same manner and fashion as any other unpaid leave provided by County policy or labor agreements.

Such benefits will be available to the employee upon return from leave in the same manner and at the same level as provided when leave began, subject to any changes that may have taken place during the period of Family & Medical Leave, without any requirement that the employee requalify for the benefit. (If the employee's position was eliminated as a part of a workforce reduction, or if the employee would have been laid off during the time of the leave, the employee does not have to be returned to the same position, notwithstanding any applicable labor agreement. If the employee would have been terminated or laid off had they not taken leave, they can be terminated or laid off when the leave expires).

For the purposes of vesting and eligibility to participate in pension plans or other retirement plans, any period of Family & Medical Leave is treated as continuous service. However, unpaid time will not count as credited service.

RETURN TO WORK

In accordance with the County's A & S benefit procedures, an employee on Family & Medical Leave due to the employee's own serious health condition must submit a doctor's certification concerning release to return to work and work restrictions, if any, to the Department and the Division of Personnel.

The County may require a fitness for duty evaluation upon release to work from a Family Medical Leave.

If an employee fails to return to work following the expiration date of a Family Medical Leave, he/she shall be subject to the Kenosha County Unified Work Rules, under Attendance, which reads, "Absence of two (2) consecutive work days without notifying the appropriate department/division head or supervisor shall constitute a quit without notice."

DEFINITION OF A SERIOUS HEALTH CONDITION:

A serious health condition means, "an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing care by a health care provider."

RECERTIFICATION:

An employee will be required to provide the County with recertification on a periodic basis that the serious health condition still prevents he/she from performing their job functions or that he/she is still needed to care for a family member with a serious health condition.

Should the provisions of the FMLA(s) be changed at any time, this policy will be considered modified to the extent that it complies with the new FMLA(s).

This policy is NOT intended to be all inclusive; the County may refer to the Family Medical leave Acts for further clarification.