

**ALLEGAN COUNTY  
POLICY**



**TITLE: FAMILY AND MEDICAL LEAVE ACT (FMLA)  
POLICY NUMBER: 512**

**APPROVED BY: Board of Commissioners**

**EFFECTIVE DATE: November 9, 2023**

1. **GENERAL:** The County will provide eligible employees with unpaid leave for covered family and medical reasons, in compliance with the Family and Medical Leave Act (FMLA). In all respects, this policy shall be administered consistent with the FMLA and its regulations as they may be amended from time to time.
2. **ELIGIBILITY:** Employees are eligible for FMLA leave only if they have been employed for at least one year, have worked at least 1,250 hours over the previous 12 months, and work at a covered location. A location is covered if at least 50 employees of the County work within a 75-mile radius.
  - 2.1 **Basic Leave Entitlement:** Eligible employees may take up to a total of 12 workweeks of leave in any 12-month period for the following reasons:
    - 2.1.1 For the employee's own serious health condition (defined below) that makes him or her unable to perform the essential functions of the employee's job.
    - 2.1.2 To care for the employee's spouse, child, or parent with a serious health condition.
    - 2.1.3 For incapacity due to pregnancy, prenatal medical care or child birth.
    - 2.1.4 To care for the employee's child after birth, placement for adoption, or foster care placement.
    - 2.1.5 For an employee's "qualifying exigency" resulting from the fact that the employee's spouse, parent, son or daughter (1) is a member of a regular component of the Armed Forces and is deployed (or has been notified of an order of deployment) with the Armed Forces to a foreign country; or (2) is a member of a reserve component of the Armed Forces and is deployed (or has been notified of an order of deployment) with the Armed Forces to a foreign country under a call or order to active duty. 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 and reintegration briefings.The amount of FMLA leave time an employee has available (for the above reasons) on any given date is equal to 12 weeks minus the amount the employee has used in the preceding 12 months.
3. **SERVICE MEMBER FAMILY LEAVE:** An eligible employee may request up to 26 weeks of FMLA leave in a single FMLA year to care for the employee's spouse, son,

daughter, parent, or next of kin who is a covered service member. A covered service member is either:

- 3.1 a current member of the Armed Forces who
  - 3.1.1 incurred or aggravated a serious illness or injury in line of duty on active duty;
  - 3.1.2 may be medically unfit to perform the duties of his office, grade, rank or rating because of the serious illness or injury; and
  - 3.1.3 is undergoing medical treatment, recuperation or therapy, or is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness;
- or**
- 3.2 a veteran of the Armed Forces who
  - 3.2.1 incurred or aggravated a qualifying injury or illness in line of duty on active duty;
  - 3.2.2 is undergoing medical treatment, recuperation or therapy for a serious injury or illness; and
  - 3.2.3 was a member of the Armed Forces at any time during the five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

In a year in which an employee uses leave to care for a covered service member, 26 weeks is the maximum amount of FMLA leave that the employee may use in total for all types of FMLA leave.

- 4. **DEFINITION OF A SERIOUS HEALTH CONDITION:** A “serious health condition” is an illness, injury, impairment, or physical or mental condition that involves either:
  - 4.1 an overnight inpatient stay in a medical care facility, or
  - 4.2 continuing treatment by a health care provider for a condition that either prevents the employee from performing the essential functions of the employee’s job, or prevents the qualified family member from participating in work, school, or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by:
    - 4.2.1 A period of incapacity of more than three consecutive full calendar days combined with either (a) at least two visits to a health care provider within certain time frames, or (b) one visit to a health care provider within a certain time frame and a regimen of continuing treatment;
    - 4.2.2 Incapacity due to pregnancy or prenatal care;
    - 4.2.3 Incapacity due to a chronic condition that continues for an extended period and requires at least two visits to a health care provider per year for treatment; or
    - 4.2.4 Permanent or long-term incapacity, or conditions requiring multiple treatments.
- 5. **USE OF LEAVE:** When medically necessary, leave may be taken on an intermittent basis or by arranging a reduced work schedule. Employees must make reasonable efforts to

schedule leave for planned medical treatment so as not to unduly disrupt the County's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.\

**6. EMPLOYEE'S RESPONSIBILITY TO GIVE NOTICE OF THE NEED FOR LEAVE:**

Employees must notify their supervisor and the Human Resources Department of any need to take FMLA leave (including any absence, late arrival, or early leaving related to FMLA leave). Employees must give this notice at least 30 days in advance of a foreseeable need for FMLA leave. If it is not possible to give 30 days' advance notice, employees must notify their supervisor and the Human Resources Department as soon as practicable. Employees must follow all County rules for calling in to report absence, tardiness, or early leaving.

- 6.1 Whenever requesting FMLA leave, employees must provide sufficient information for the County to determine whether the leave qualifies as FMLA leave and the anticipated timing and duration of the leave. Employees must also inform their supervisor and the Human Resources Department if the requested leave is for a reason for which FMLA leave was previously taken or certified.
- 6.2 Once an employee has requested FMLA leave, the County will inform the employee whether he or she is eligible to take FMLA leave and explain the employee's rights and responsibilities under FMLA. After the employee returns all required forms, the County will inform the employee whether or not the leave will be designated as FMLA leave.
- 6.3 If an employee does not comply with the above notice requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied.

**7. MEDICAL CERTIFICATION:** When the County requests it, an employee must provide complete and sufficient certification from a health care provider verifying the need for leave (at the employee's expense). The County will provide a form for this purpose. The employee must return the completed certification form to the County within 15 days. Failure to do so may result in the delay and/or denial of FMLA leave. The County may require subsequent opinions from a different health care provider (at the County's expense). The County may also require periodic re-certifications of the need for leave.

**8. WAGES AND BENEFITS DURING FMLA LEAVE:** Wages are not paid during FMLA leave. The County will maintain the employee's health coverage (including dental and vision if available) under any group health plan for covered FMLA leave as long as the employee maintains his or her contributions during the leave. To maintain such contributions an employee must make arrangements to do so with the Human Resources Department. Under certain circumstances the County may recover its share of health plan premiums during unpaid FMLA leave from an employee if the employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires.

- 8.1 Use of FMLA leave will not result in the loss of any benefit that accrued prior to the start of the leave. Employees will not continue to accrue benefits while taking FMLA leave unless provided otherwise under another County policy. PTO accrual will not accrue when an employee is on an unpaid leave of absence. (See Paid Time Off Policy 506 under Leave of Absence for further details.)

9. **USING PAID LEAVE TIME DURING FMLA LEAVE:** The County requires that an employee on FMLA leave use Paid Time Off (PTO) to cover all hours not compensated under the Short-Term Disability program until the employee's PTO bank reaches a balance of 80 hours, after which the employee is required to use enough PTO to cover deductions from pay to cover the employee's share of health insurance premiums. In addition to this requirement, an employee taking FMLA leave may elect to use paid leave that the employee has available under County policies. In order to use paid leave during FMLA leave, the employee must comply with the County's policies concerning paid leave. Whether or not paid leave is available or used, all time off which is covered by the FMLA will be charged against the employee's FMLA entitlement.
  
10. **CONTACT WITH THE COUNTY DURING THE LEAVE:** While on FMLA leave, employees are required to report to the Human Resources Department regarding their status and intention to return to work. Likewise, it may be necessary for the County to contact an employee for those reasons. If the employee cannot be reached at the phone number on file with the County and the leave is in excess of five working days, the employee must provide a telephone number and address at which they can be contacted.
  
11. **RETURNING TO WORK:** Before returning to work from a leave due to the employee's own serious health condition, the employee must provide medical verification of his or her fitness for duty. The County will provide a list of the essential functions of the employee's job for that purpose. If the employee is taking leave intermittently or on a reduced work schedule, the County may require a certification of fitness to return to duty under certain circumstances.
  - 11.1 Upon return from FMLA leave, most employees will be returned to their original position or an equivalent one, with equivalent pay, benefits and other employment terms.
  
12. **TERMINATION OF FMLA LEAVE:** An employee's FMLA leave and accompanying benefits will cease under the following circumstances:
  - 12.1 The employment relationship would have terminated if the employee had not taken FMLA leave;
  - 12.2 The employee informs the County of his or her intent not to return from leave;
  - 12.3 The employee fails to return a medical certification as required;
  - 12.4 The employee fails to return to work at the end of an approved FMLA leave and is not approved for additional leave;
  - 12.5 The employee continues on unapproved leave after exhausting his or her FMLA leave entitlement;
  - 12.6 The County honestly believes that the employee fraudulently obtains FMLA leave or misuses FMLA leave;
  - 12.7 While on FMLA leave, the employee engages in conduct that is inconsistent with the need for leave; or
  - 12.8 The employee engages in employment with another employer or in self-employment without the County's approval during FMLA leave.

13. **ENFORCEMENT:** Any employee who believes that his or her rights under the FMLA have been violated is to report this immediately to their supervisor and the Human Resources Department. Any complaint will be investigated thoroughly and promptly. No employee will be retaliated against for making a good faith complaint. The FMLA also states that employees can file a complaint with the U.S. Department of Labor or in an appropriate court.

14. **REFERENCES:**

14.1 Employee Handbook Policy #506 - Paid Time Off (PTO)