FMLA: The Leave Process

What happens when an employee is absent from work due to a serious health condition or other qualifying circumstances?
Benefits Leave Advisor Contact Information:

Last Names (A-L)  Beth Tominski   884-0188
Last Names (M-Z)  Sheila Chorey   884-3652
Supervisor      Rosemary Huguelet  884-0162
Background on the FMLA

What is FMLA?

- The Family and Medical Leave Act of 1993 is a federal law
- Requires employers to provide employees job-protected unpaid leave for employees with qualifying life circumstances
  - To care for a new child (either birth or adoption)
  - To care for a seriously ill family member (spouse, child, or parent)
  - To recover from a qualified serious health condition
  - To care for an injured military service member in one’s family
  - To address qualifying exigencies arising out of a family member’s deployment

- Allows 480 hours of job-protected leave
  - MSU calculates available FMLA hours and hours used over the fiscal year
  - The 480 hour allotment is prorated for part-time employees
Background on the FMLA

- Who is eligible for FMLA leave?
  - Employees must have worked for MSU for a minimum of 12 months
    - Service can be non-consecutive
  - Employees must have worked a total of 1,250 hours within the 12-month period immediately preceding the date that the employee’s leave commences
Background on the FMLA

What does FMLA do for the Employee?

- Allows benefits to be maintained for the duration of the employee’s qualifying leave (up to 480 hours)
- Protects an employee from disciplinary action for using approved FMLA leave
- Holds the employee’s position during an absence for up to 480 hours
- Allows the employee flexibility in absences from work:
  - Consecutive Leave—taken continuously for an extended period of time
  - Intermittent Leave—taken on an “as needed” basis for short periods of time*
  - Reduced Leave—allows the employee’s normal schedule to be adjusted to accommodate the employee’s limited ability to work*

*Employee must be able to perform the essential functions of their position in order to take these types of FMLA leaves.
Departmental FMLA Leave Request Process

Beginning the process—What if an employee needs a leave of absence?

- Step 1: The employee’s department receives notification that the employee may need leave from work for a potential FMLA qualifying reason
Departmental FMLA Leave Request Process

Beginning the process—What if an employee needs a leave of absence?

Step 2: The employee’s department directs the employee to MSU’s HR Total Compensation and Wellness Leaves Office to speak with a Benefits Leave Advisor regarding their request for a leave of absence.

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Departmental FMLA Leave Request Process

Processing FMLA through HR—what happens after the employee has been directed to HR?

Step 3: The Benefits Leave Advisor will consult with the employee (in person, over the phone or through email) to determine whether or not the employee’s leave qualifies for FMLA.

Together, the Benefits Leave Advisor and the employee will:
- Determine if the employee is eligible for FMLA
- Discuss the employee’s rights & responsibilities under FMLA
- Complete required documentation (Form 1 and proper medical certification)
Departmental FMLA Leave Request Process

What “Qualifies” under FMLA?

Illness, injury, impairment, physical or mental condition that involves:
- Inpatient care (overnight stay)

Continuing treatment including any one or more of the following:
- Incapacity of more than three consecutive calendar days
- Treatment of two or more times (must occur within thirty days of incapacity)
- Treatment at least once with continuing treatment (required in-person visit within seven days of incapacity)
Departmental FMLA Leave Request Process

What “Qualifies” under FMLA (cont’d)

- Pregnancy or prenatal care
- Permanent or long-term conditions for which treatment may not be effective (terminal stages of a disease)
- Multiple treatments (physical therapy or severe arthritis)

Chronic condition that:

- Requires periodic visits to a Health Care Provider (two or more visits per year)
- Continues over an extended period
- May cause episodic incapacity (asthma, diabetes, epilepsy)
Family Medical Leave Act Forms (FMLA)

http://www.hr.msu.edu/timoffleave/supportstaff/FMLAforms.htm
Form 1: Notice of Eligibility; Rights and Responsibilities and Designation Notice
Step 4: The Benefits Leave Advisor will give the employee a medical certification form that must be completed by the treating health care provider.

The employee benefits leave advisor will attach a copy of the job description to the medical certification form, that must remain attached throughout the process.

The employee will be notified that this completed certification form is to be returned to HR within fifteen days or their request for FMLA may be denied.
Form 2: Certification by Health Care Provider for Employee’s Serious Health Condition

Available from your Leave Advisor.

*Job Description Must Be Attached*
Form 3: Certification of Health Care Provider for Family Member’s Serious Health Condition
Form 4 and 5 Military Family Leave

Form 4: Certification of Qualifying Exigency for Military Family Leave
- If you are seeking FMLA leave due to a qualifying exigency, MSU requires you to submit a certification

Form 5: Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave
- If you are seeking FMLA protections because you need to care for a qualifying covered service member with a serious health condition, MSU requires you to submit a medical certification issued by the health care provider of your family member
Military Caregiver Leave Certification

- If department receives Invitational Travel Orders/Authorization (ITOs/ITAs), no additional information required
- If not, use Form 5 –Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave
Military Caregiver Leave Certification

Definition of Qualifying Exigency

Exigency leave may include:

- Short-notice deployment
- Military events and related activities
- Childcare and school activities
- Financial and legal arrangements
- Counseling leave
- Rest and recuperation
- Post-deployment activities
- “Additional activities”
Departmental FMLA Leave Request Process

Processing FMLA through HR—Who approves or denies FMLA requests?

Step 5: Upon receiving the completed medical certification from the employee’s health care provider, the Benefits Leave Advisor will review the forms and determine if:

- The certification is complete and sufficient to approve or deny the FMLA request
- Additional information or clarification is necessary
- Medical certification is valid
Departmental FMLA Leave Request Process

Certification Questions

- **Authentication**: Verifying the information on FMLA Form was signed by the health care provider (employee’s permission is not required)

- **Clarification**: Refers to requests to decipher handwriting or to understand the meaning of a response
Departmental FMLA Leave Request Process

Processing FMLA through HR—Medical certification complete! What’s next?

Step 6: After the medical certification has been reviewed, the Benefits Leave Advisor will notify the employee and the employee’s department by email of:

- Approval or denial of the FMLA request
- Qualifying reason for FMLA
- Type of FMLA leave that the employee will be using
- Amount of permitted FMLA leave expected, including frequency and duration of absences
- Employee’s restrictions (if any)
Departmental FMLA Leave Request Process

Reasons that Qualify for FMLA leave:

- Parental Leave after the Birth of a Child
- Pregnancy Leave
- Adoption or Foster Care
- Medical Leave to Care for a Family Member with a Serious Health Condition
- Medical Leave for Your Own Serious Health Condition
Departmental FMLA Leave Request Process

FMLA Processing Completed—What else needs to be done for employees who are FMLA approved?

- Employees who are on a consecutive FMLA leave are required to furnish a return-to-work note also referred to as a fitness-for-duty certificate from their health care providers 5 days before they will be allowed to return to work.

- If the need arises for an employee to extend their consecutive FMLA leave, they will be required to furnish a note from their health care provider or may require a new certification if condition has changed which gives the dates for the leave extension.

- MSU policy requires all employees using FMLA to recertify or renew their medical information every 6 months.
Departmental FMLA Leave Request Process for Faculty and Academic Staff

Faculty and Academic Staff are required to use paid leave provided by Short Term disability leave of absence policy and count it toward the twelve weeks of leave permitted under the FMLA.

Faculty and academic staff may choose to use vacation leave for all or part of any otherwise unpaid FMLA leave, e.g., for the "serious health condition" of a family member. Vacation leave for such purposes is counted toward the twelve weeks of leave permitted under the FMLA.

Short term absences that are not "serious health conditions" do not count toward the twelve weeks of FMLA leave.

Faculty and academic staff who have regular appointments of nine months or longer at 50% time or more and have been employed by MSU for at least twelve months are eligible under FMLA. Faculty and academic staff with fixed-term appointments of less than nine months or less than 50% time who have been employed by MSU for at least 12 months and have at least 1,250 hours of service during the twelve months immediately preceding the commencement of FMLA leave are also eligible.
Departmental FMLA Leave Request Process for Faculty and Academic Staff

Maternity Leave also falls under Short Term Disability

The combination of Short Term Disability and Parental leave replaces the 12 weeks normally provided by the Maternity Leave policy, which has been discontinued.

- If both parents work for the University, then the total parental time is split between the two parents

In cases where a faculty/academic staff member provides medical certification that she is unable to work due to a disability related to pregnancy, childbirth and/or recovery, such absences will be covered by the Short Term Disability Policy for faculty and academic staff. Normally, short term disability leave related to pregnancy, childbirth and/or recovery is for 6 weeks but may be longer with proper medical certification.
Departmental FMLA Leave Request Process

FMLA Processing Completed—What options are available to employees who do not qualify for FMLA?

After notifying the Support Staff/Faculty and Academic Staff employee of the denial of their FMLA request, the Benefits Leave Advisor will discuss what contractual options or policies & procedures are available:

- **Required Accruals for Support Staff only:** Family Sick Time to care for a qualified family member with a serious health condition or Sick Time for your own qualified serious health condition
- **Optional Accruals for Support Staff:** Vacation Time or Personal Time
- **Other Contractual Options for Support Staff:** Medical/Sickness or Unpaid Time
- **Optional Time to use for Faculty and Academic Staff:** Vacation Time or Unpaid Time
- **Other Contractual Options for Faculty and Academic Staff:** Medical/Sickness or Unpaid Time, Maternity Leave and/or Parental Leave
Departmental FMLA Leave Request Process

When FMLA is approved and Support Staff employees are gone for more than 10 consecutive days:

- A Support Staff Request for Leave of Absence, Extension and Return form needs to be submitted through SAP with beginning and estimated end date
- The first 10 days the department will be entering the employees time
- Once the form is received by the Benefits Leave Team then the leave team will be responsible to track employees time until the employee returns to work
Departmental FMLA Leave Request Process

When FMLA is approved and Faculty and Academic Staff employees are gone for more than 30 consecutive days (4 weeks):

- A Faculty and Academic Staff request for Leave of Absence, Extension and Return form needs to be submitted through SAP with beginning and estimated end date

  - The "regular faculty" of Michigan State University shall consist of all persons appointed under the rules of tenure and holding the rank of professor, associate professor, assistant professor, or instructor, and persons appointed as librarians. In addition, the principal administrative officer of each major educational and research unit of the University shall be a member of the "regular faculty".

  - The "fixed term faculty" of Michigan State University shall consist of all persons holding the rank of professor, associate professor, assistant professor, or instructor, but not appointed under the rules of tenure.
Leave Extensions Process

All leave extensions will be processed through the HR Total Compensation and Wellness Leaves Office

- Employees must notify HR that their leave needs to be extended, 5 days prior to the end of current leave
- HR will determine necessary paperwork required for an extension (i.e., healthcare providers’ note or a new certification form)
- HR will notify the department of the required documentation for the extension and will let the department know of approval or denial of extension
Leave Extensions Process

When the leave extension has been approved:

- The Leave Team will adjust the estimated end date on the existing Leave of Absence in SAP.
- If the extension causes the employee to go on an unpaid status, a new Support Staff Request for Leave of Absence, Extension and Return form or Faculty and Academic Staff Request for Leave of Absence, Extension and Return form (without pay) needs to be submitted through SAP.
Leave Return Process

Employee must submit to HR a release to return to work from their healthcare provider, five days prior to their return date

- This release must address whether the employee can perform the essential functions of their position (i.e., restrictions)
Leave Return Process

Once the Health Care Provider releases the employee to return to work:

- The Leave Team requires a Support Staff Request for Leave of Absence, Extension and Return form or Faculty and Academic Staff Request for Leave of Absence, Extension and Return form with the appropriate return date.
- When the return form is received, the Leave Team will enter the leave of absence return date in SAP and end the FMLA leave of absence for the employee.
Leave Return Process

If the healthcare provider releases the employee with restrictions:

- Employee may be delayed by 2 days if HR is questioning the return to work restrictions that may limit the employee from performing the essential functions of their job;
  - Employee may be referred to Resource Center for Persons with Disabilities
  - Requesting a release through the University Physician’s Office
  - Requesting an employee to take a Physical Demands Test (if approved by HR)
Leave Return Process

If the employee is delayed by more than 2 days and the employee is on a paid leave of absence:

- The employee will have an active status by the department submitting the Support Staff Request for Leave of Absence, Extension and Return form as if they were back to work
- The department will not use any of the employees accruals for this absence (Support Staff Only)
Leave Return Process

If the employee is delayed by more than 2 days and the employee is on an **unpaid** leave of absences;

- The employee will be placed on an active status as if they were back to work
- The employee will begin to receive pay and accruals (Support Staff only)
Leave Return Process

HR will notify and provide the appropriate documentation to the department of when the employee can officially return to work.
Benefits Leave Advisor Contact Information:

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