

**CALHOUN COUNTY
BOARD OF COMMISSIONERS
POLICY STATEMENT**

SUBJECT: FAMILY MEDICAL LEAVE	DATE APPROVED:	EFFECTIVE: Immediately	POLICY NO. 371
	9/19/19	REPLACES: 371 of 6/4/09	

PURPOSE:

It is the policy of Calhoun County to fully comply with all provisions of the Family and Medical Leave Act (“FMLA” or the “Act”) and related regulations. The policy described below is to be interpreted and applied so as to comply with the Act and related regulations. In the event of conflict, the Act and related regulations shall be followed.

In the case of conflicting language between the provisions of this policy and the provisions of a collective bargaining agreement, the provisions of the collective bargaining agreement prevail. Requesting or receiving Family Medical Leave does not relieve the employee of any obligations to follow departmental notification policies and procedures, except as stated herein.

I. SCOPE:

This policy applies to all employees of Calhoun County excluding Elected Officials or others who are not “employees” as defined in the Act.

II. ADMINISTRATION:

The interpretation and administration of this policy shall be the responsibility of the Administrator/Controller through delegation to the Human Resources Department.

III. ELIGIBILITY:

An employee is eligible for Family Medical Leave (“FML”) as required by the Act. Eligibility includes:

- A. The employee must have been employed by Calhoun County for at least 12 months at the time the leave commences.
- B. The employee must have completed 1,250 hours of service with Calhoun County during the 12 month period preceding the first day of the requested leave.

An employee who is not eligible for and is denied FML will not be excused of an absence unless it is excusable under an alternative policy.

IV. AMOUNT OF LEAVE:

Eligible employees may take up to 12 work weeks of FML during a rolling 12 month period measured backwards from the time that the employee uses FML. The rolling 12 months requires that each time an employee takes FML, there must be a calculation of how much FML the employee already has used in the preceding 12 months. Where two (2) spouses are both employed by Calhoun County, their aggregate leave will be limited to 12 work weeks during any rolling 12 month period when the leave is for the birth, adoption, or foster care placement of a child.

An employee caring for a covered military service member with a serious illness or injury is eligible for up to 26 weeks of FML in a single 12-month period. The 12-month period commences on the date an employee first takes leave to care for the covered service member.

V. CATEGORIES OF FAMILY MEDICAL LEAVE:

A. FAMILY: Birth, Adoption, or Foster Care Placement of a Child:

Leave for the birth of an employee's child, care of a newborn and or placement of a new child for adoption or foster care with the employee will be counted as FML.

1. This category of leave may be taken by the mother, father, or both. If both spouses are employed by Calhoun County, their aggregated leave will be limited to 12 work weeks.
2. This category of leave must be taken within 12 months after the birth or placement of the new child.
3. An employee may take leave intermittently or on a reduced leave schedule only if the employer agrees.

B. MEDICAL: Care of Child, Spouse, Parent or Self due to a Serious Health Condition:

1. Employee Serious Health Condition Leave: Leave because of the employee's own "serious health condition" that prevents the employee from performing one or more essential functions of their job.
2. Parent, Child or Spouse Serious Health Condition Leave: Leave because the employee is needed to provide care for their parent, son, daughter, (does not include in-laws) or spouse, because of the family member's "serious health condition."

C. MILITARY: Qualifying Exigency or Serious Health Condition of Service Member: Employees that can take such leave are the spouse, son, daughter, or next of kin of a covered service member.

1. Qualifying Exigencies: Leave because of circumstances related to a covered military service member's active duty or call to active duty status.
2. Serious Health Condition of Service Member: Leave to care for a covered service member with a serious injury or illness that is incurred in the line of duty.

VI. DEFINITION OF SERIOUS HEALTH CONDITION:

"Serious health condition" means an illness, injury, impairment or physical or mental condition that:

- A. Requires overnight in-patient care at a hospital, hospice, or residential care facility, including any period of incapacity or subsequent treatment in connection with such inpatient care.
- B. Incapacitates a person for more than three (3) consecutive, full calendar days and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
 - treatment two or more times by or under the supervision of a health care provider (in-person visits, the first visit within 7 days and both within 30 days of the first day of incapacity); or
 - one treatment by a health care provider (in-person visit, within 7 days of the first day of incapacity) with a continuing regiment of treatment (i.e prescription medication, therapy).
- C. Involves a chronic or long-term health condition that continues over an extended period of time, requires periodic visits to a "health care provider," at least twice a year and may involve occasional episodes of incapacity;
- D. Involves a permanent or long-term condition for which treatment may not be effective and the person is under the continuing supervision of a health care provider;
- E. Involves multiple treatments and/or recovery from treatment for a restorative surgery or for a condition that would likely cause an incapacity of more than three (3) consecutive days if not treated; or
- F. Results from pregnancy or involves pre-natal care.

"Health care provider" includes a doctor of medicine or osteopathy, podiatrist, dentist, clinical psychologist, clinical social worker, optometrist, chiropractor (only when treating a subluxation as demonstrated by x-ray by manual manipulation of the spine), nurse practitioner, physician's assistant, midwife authorized to practice in Michigan, and Christian Scientist practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

VII. COMPUTATION OF LEAVE:

- A. The employee's leave hours will be computed based on normal work hours and scheduled overtime hours missed.
- B. The Human Resources Department will be responsible for the computation and tracking of leave hours.

VIII. NOTICE OF LEAVE:

Employees must give at least 30 days written notice to Human Resources of a foreseeable Family Medical Leave. If the employee does not give 30 days advanced notice when the need for FML is foreseeable, the County may delay the FML coverage until 30 days after the date the employee provides notice. If the leave is not foreseeable 30 days in advance, and there is an immediate need, the employee must give written notice as soon as practicable under the circumstances, usually within the same or next business day. Failure to provide timely notice of an un-foreseeable leave may result in a delay in the commencement of leave or in the denial of FML.

IX. NOTICE OF EMPLOYEE RESPONSIBILITIES:

All employees seeking a Family Medical Leave, or those who are absent due to circumstances known by Human Resources to be potentially eligible under FML, will receive a FML packet which will contain information about the employee's rights and responsibilities under the FMLA, eligibility for FML, and required certification paperwork if necessary.

An employee requesting FML is responsible to promptly notify both their immediate supervisor and the Human Resources Department of their absence and expected return to work date.

The employee must also provide the Human Resources Department with enough information to determine if the requested leave is covered under the Act. This includes answering appropriate questions about the reason, purpose, and use of any unpaid or paid time off from work, and promptly notifying their supervisor and the Human Resources Department of any change in their return to work date. Failure or refusal to provide required information may result in delay or denial of FML.

An employee granted FML shall maintain contact with his or her immediate supervisor weekly in writing or as otherwise agreed, to keep the employer informed of the employee's status and intention to return to work. An authorized FML shall automatically terminate at the end of any work week during which an employee fails to maintain required contact.

A posting summarizing employee rights under the FMLA is posted in all County buildings.

X. CERTIFICATION OF NEED FOR LEAVE:

- A. For FML requests related to a serious health condition, the employee will be notified of the need for medical certification and provided with the appropriate certification form depending on the nature of the leave. Completed certification forms must be returned to Human Resources within 15 calendar days after the employee has been notified of the certification requirement. The employee will be notified in writing as to whether or not the leave has been designated as FML. If additional information is needed to complete the certification process, the employee will be notified in writing and will have seven calendar days to provide the necessary information. If the employee fails to submit a complete and sufficient certification, the FML may be delayed or denied.
- B. Employees will be required to provide updated medical certification to the Human Resources Department as needed to continue the leave.
- C. Employees must also update the certification if there is a significant change in the circumstances described in the original certification (i.e. change in anticipated duration of leave, nature of serious health condition, or complications).
- D. If an employee requests intermittent or reduced schedule leave, the employee must provide medical certification to the Human Resources Department that the leave is medically necessary and that the medical need can best be accommodated by the proposed intermittent or reduced schedule leave. Such leave may be taken in increments of one (1) hour. The employee must make a reasonable effort to schedule treatments so as not to disrupt the employer's operations. Intermittent leave must be re-certified on an annual basis, except as otherwise provided by the Human Resources Department.
- E. The Human Resources Department may request that an employee and/or their family member obtain a second opinion regarding a certification for a serious health condition. If the first and second medical provider opinions do not agree, the employer and the employee shall mutually agree on a third medical provider who shall provide a final and binding opinion.

XI. RELATIONSHIP OF FAMILY MEDICAL LEAVE TO PAID TIME:

Family Medical Leave is unpaid, except that an employee must first substitute the following earned and accrued paid time in the listed sequence order for otherwise unpaid leave. After exhaustion of all applicable earned and accrued paid time, all remaining FML time will be unpaid.

- A. If eligible, Sickness & Accident (S&A) and worker's compensation wage loss benefits will run concurrently with FML (hours paid under such benefits will be charged against FML).
- B. An employee who retains a grandfathered sick bank will be required to use all unused

sick time as of the date leave commences if on FML for the employee's own Serious Health Condition. It is the employee's option to use this time when caring for a family member with a Serious Health Condition, the birth of a child, or the placement of a child for adoption or foster care.

- C. Upon request an employee may use any available paid time off, however, it is not required.

XII. MEDICAL BENEFITS:

- A. The employee's existing medical coverage in effect at the start of the FML will continue during the leave, provided the employee continues to timely pay their normal contribution (if any) for such coverage. All arrangements and payments should be handled through the Human Resources Department. If utilizing FML concurrently with S&A, payments will be automatically deducted from S&A benefits. Failure to make timely payments may result in loss of coverage for the remainder of the leave.
- B. If an employee does not return to work at the end of the FML, the employee will be required to reimburse Calhoun County for its share of the medical benefit premiums paid by the County during the employee's leave, unless the failure to return is due to a serious health condition or other circumstance beyond the employee's control.

XIII. OTHER BENEFITS:

- A. Basic Life Insurance and Accidental Death and Dismemberment will continue at no cost to the employee for the duration of the FML.
- B. Dental and Vision Insurance, S&A and Long Term Disability coverage will continue on the same basis as if the employee was working for the duration of the FML provided the employee had coverage at the start of the FML.
- C. Each retirement plan offered by the County has specific rules for determining whether unpaid FML will be counted in determining an employee's eligibility, vesting and benefit accruals. Employees should check on the specific rules for each plan to determine how unpaid FML will be counted for their specific circumstances.
- D. Unless otherwise stated in an existing collective bargaining agreement the employee will retain all seniority and benefits accrued prior to the leave. Non-exempt employees will stop accruing paid time off when he/she is no longer receiving a regular salary. Regular salary includes, use of paid time off, but would exclude worker's compensation, short-term disability, long-term disability, unpaid personal leave, unpaid periods of FML, unpaid periods of military leave, etc.
- E. If applicable, employees will receive longevity pay in the pay period of their anniversary date.

XIV. RETURN FROM LEAVE:

- A. The employee is required to notify Human Resources of their intent to return to work. At the end of a leave, an employee will be returned to his or her position held prior to the leave or an equivalent position, as if the employee had continued working without leave.
- B. If leave is due to an employee's serious health condition, the employee is required to present Human Resources with a certification of fitness for duty before returning to work. Failure to provide such certification will result in delay of return to work.
- C. The employee must provide the Employer with at least two (2) days notice prior to returning to work.

XV. NON-DISCRIMINATION:

Calhoun County will not discharge or discriminate against or otherwise interfere with, restrain, or deny an employee from exercising rights under FML. Any employee who believes that he or she has been denied leave, other rights, or benefits under the Act or this policy, are encouraged to immediately notify the employee's supervisor or Human Resources. Any complaint will be promptly investigated and, if appropriate, corrective action will be taken as soon as possible.

XVI. FRAUD:

Any employee who fraudulently obtains FML will forfeit all rights to those benefits and will be subject to disciplinary action, up to and including discharge.