

FAMILY AND MEDICAL LEAVE 601*Effective Date: 02/01/2016***A. General Provisions**

It is the policy of Cass County to grant up to 12 weeks (or 26 weeks, if leave is taken to provide care for qualifying family member injured during active military service) of family and medical leave during any 12-month period to eligible employees, in accordance with the Family and Medical Leave Act (FMLA).

B. Eligibility

In order to qualify to take family and medical leave under this policy, the employee must meet all of the following conditions:

1. The employee must have worked for Cass County at least 12 months (these 12 months need not have been consecutive);
2. The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave would begin; and
 - This calculation includes only actual hours worked, and will not include any holiday, annual leave, or other forms of paid leave that may occur during the relevant 12-month review period, regardless of whether such time is counted as hours worked for overtime purposes
 - This calculation includes all periods of absence from work due to or necessitated by military service (active duty and reserve) under Cass County's Military Leave policy.
3. The employee must work in an office or worksite where 50 or more employees are employed and work at a location where the County employs 50 or more employees within 75 miles. (Remote employees with no fixed office or who work out of their home, will be treated as though they work in the office to which they report.)

C. Reasons for Leave

In order to qualify as FMLA leave under this policy, the employee must be taking the leave for one of the reasons listed below:

1. The birth of a child;
2. The adoption of a child, or the placement of a child with the employee for foster care;
3. The employee's own serious health condition (a "serious health condition" is a condition that requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition that requires continuing care by a licensed health care provider as defined in applicable Department of Labor regulations, and in the case of an employee, makes the employee unable to perform the functions of the employee's position.);

4. To care for a spouse, child or parent with a serious health condition;
5. Due to a “qualifying exigency” for the spouse, children, or parents of individuals who are on, or are about to be on, “covered active duty”;

(A “*qualifying exigency*” includes attending certain military events, arranging for alternative child care, addressing certain financial and legal arrangements, attending certain counseling sessions, attending post-deployment reintegration briefings, and care for a military member’s parent who is incapable of self-care when the care is necessitated by the member’s covered active duty, as defined in applicable Department of Labor regulations)

(“*Covered active duty*” means members of either the regular or reserve components of the Armed Forces and National Guard who have been deployed to a foreign country)

6. To provide care for a “covered servicemember” with a serious injury or illness incurred or aggravated in the line of duty while on active duty (employees eligible to take military caregiver leave include the spouse, children, parents and next of kin of military personnel).

Leave that qualifies for annual leave, sick leave, workers’ compensation, short-term disability, or other wage replacement benefits may also qualify as FMLA leave and, if so, the time off will also be counted as FMLA leave. Employees with questions about whether their leave needs may be covered under this FMLA policy are encouraged to consult with the Human Resource Department.

D. Duration of Leave

12 Weeks

For all FMLA covered leaves other than leave taken to provide care for wounded military personnel, eligible employees can take up to 12 weeks of leave under this policy during any 12-month period. Cass County will use a rolling 12-month period measured backward from the date an employee uses any leave under this policy to determine whether an employee has exhausted his or her 12 weeks of leave. Each time an employee takes leave, Cass County will compute the amount of leave the employee has taken under this policy for any form of FMLA leave in the last 12 months and subtract that amount from the employee’s 12 weeks of available leave; the balance remaining is the amount the employee is entitled to take at that time.

26 Weeks

For all FMLA covered leaves taken to provide care for wounded military personnel, eligible employees can take up to 26 weeks of leave under this policy during any single 12-month period. This single 12-month period begins on the first day the employee takes FMLA leave to provide care for wounded military personnel. Any FMLA time taken for any other reason listed in paragraph C. during this single 12-month period shall count against the 26 weeks of leave available to care for wounded military personnel. Similarly, any FMLA time taken to care for wounded military personnel shall count against the 12 weeks of leave available to the employee for any other reason under paragraph C.

Spouses

Spouses who both work for Cass County are limited to a combined total of 12 weeks of leave for the birth of a child, adoption or placement of a child in foster care, to care for a parent with a serious health condition. Similarly, spouses who both work for Cass County are limited to a combined total of 26 weeks of leave to care for a covered member of the military who is injured in the line of duty.

E. Employee Benefits During Leave

While an employee is on leave Cass County will continue the employee's medical, dental, and other benefits (except life insurance, cancer insurance and retirement benefits) during the leave period at the same level and under the same conditions as if the employee had continued to work. While on a paid leave, Cass County will continue to make payroll deductions as normal to collect the employee's share of the premium. Life insurance and cancer insurance benefits may continue, but the employee becomes responsible for the entire premium. Employees must pay the premium by the 1st of each month. Failure to continue paying the premium may result in cancellation and the employee will have to reapply for life or cancer insurance (and undergo any medical underwriting) when eligible upon return. All retirement contributions stop during FMLA.

Cass County will continue to provide health insurance benefits until the employee ceases to be eligible under the terms, conditions, and limitations of the applicable plans. Employees will continue to be responsible for their share of the insurance premiums, and will be required to make monthly payments while out on unpaid leave. Premium payments must be received in the Human Resources Department by the 30th day of each month. If the payment is more than 30 days late, the employee's health and other coverage may be dropped for the duration of the leave.

If the employee chooses not to return to work, for reasons other than a continued serious health condition, Cass County may require the employee to reimburse Cass County the amount it paid for the employee's health insurance premium during the leave period.

F. Use and Accrual of Paid and Unpaid Leave

FMLA leave is unpaid. However, Cass County requires that employees use sick leave and all annual leave during any FMLA leave, except where the employee is receiving worker's compensation, short-term disability, or similar wage replacement benefits.

Benefit accruals, such as annual leave, sick leave and holiday pay, will be suspended after 30 calendar days of continuous unpaid leave, and will resume upon return to active employment.

G. Intermittent Leave or a Reduced Work Schedule

In addition to taking leave in consecutive blocks of time, eligible employees may be allowed to take time off intermittently (i.e., reduced workweeks or reduced workdays) if needing leave for one of the following reasons:

1. The employee's serious health condition;

2. The serious health condition of a spouse parent or child;
3. To provide care for a “covered service member” with a serious injury or illness incurred or aggravated in the line of duty while on active duty; or
4. Due to a “qualifying exigency” for the spouses, children, or parents of individuals who are on, or are about to be on, covered active duty.

To qualify for intermittent leave, the employee must show that the intermittent leave is medically necessary or related to a “qualifying exigency.” If leave is taken on an intermittent or reduced leave schedule due to foreseeable leave needs (other than qualifying exigencies), Cass County may temporarily transfer an employee to an alternative position with equivalent pay and benefits.

H. Certification of the Need for Leave

Cass County may ask for certification to verify the need for leave for the reason requested by the employee. The employee must respond to such a request within 15 days of the request, or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of the leave. Cass County may also require recertification during the leave to verify the status of the need for leave.

Cass County may directly contact the health care provider or other third-party to verify and clarify information contained in the certification. Employees are responsible for signing or obtaining any authorization necessary to permit the health care provider or other third party to provide Cass County with the required information.

Cass County has the right to ask for a second opinion of a certification of a serious health condition. Should we choose to do so, we will pay for the employee to get a certification from a second health care provider, which we will select. If it is necessary to resolve a conflict between the original certification and the second opinion, we will require the opinion of a third health care provider. Cass County and the employee will jointly select the third doctor, and we will pay for the opinion. This third opinion will be considered final.

I. Returning From Leave

Employees taking leave under this policy will be returned to the same jobs they held when their leaves began. If this is not feasible, employees will be returned to a position that entails substantially equivalent skill, effort, responsibility and authority as the position they had previously held. The only exceptions to this rule will be in circumstances of layoffs or reorganizations, where the employees’ positions would have been eliminated even if they had not been on leave. Employees returning from a leave of absence for their own serious health condition may be required to provide a fitness for duty assessment.

J. Procedure for Requesting Leave

When an employee plans to take leave under this policy, the employee must give Cass County 30 days notice. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to Cass County’s operations.

If an employee fails to provide 30 days notice of foreseeable leave, the leave request may be denied until at least 30 days from the date we received notice.

All employees requesting leave under this policy must submit the request in writing to their immediate supervisors, with a copy to the Human Resources Department. Where the need for leave is not foreseeable, employees must verbally notify their supervisors of the need for leave as soon possible, and follow Cass County's normal call-in procedures for unexpected absences. Failure to follow our normal call-in procedures under such circumstances will be treated like any other violation of our call-in procedures, and may result in discipline or termination, even though the leave itself may be covered by the FMLA. Employees may be required to confirm their need for FMLA leave in writing after giving verbal notice.

While on leave, employees may be required to periodically report to Cass County regarding the status of their intent to return to work.

K. Rights, Remedies, and Additional Information

Cass County fully complies with the provisions of the FMLA. Accordingly, any employee who has questions regarding this policy is encouraged to contact the Human Resources Department. Further information on your rights and remedies under the FMLA can be located on our FMLA poster (which can be found in break areas), or online on the Department of Labor's website at: <http://www.dol.gov/esa/whd/fmla/>.