

# YOUTH SERVICES POLICY

<b>Title:</b> Family and Medical Leave of Absence	<b>Type:</b> A. Administrative <b>Sub Type:</b> 2. Personnel <b>Number:</b> A.2.5
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<b>References:</b> The Family and Medical Leave Act of 1993 (Public Law 103-3 as amended by the National Defense Authorization Act (NDAA) and the Airline Flight Crew Technical Corrections Act (AFCTCA) for FY 2008 Public Law 110-181) Section 585(a); FMLA 29 U.S.C. §2615; Title 29, Part 825 of the Code of Federal Regulations; United States Code, Title 10, Subpart A, Section 101(a) (13) (B); as amended for FY 2010 and the FMLA Final Rule of the U.S. Department of Labor, Wage and Hour Division (WHD) in 2013; Americans with Disabilities Act; U.S. Department of Labor, Wage and Hour Publication 1420 revised April 2016; Fair Labor Standards Act; Department of Defense (DOD) 7000.14-R Financial Management Regulation, Volume 9; La. Employment Discrimination law (La. R.S. 23:301et seq.); Civil Service Rules, Chapter 11; Civil Service General Circular #2013-006; YS Policies A.2.1 "Employee Manual", A.2.3 "Outside Employment, Second Jobs", A.2.13 "Americans with Disabilities Act – (Employees, Applicants, Candidates, Visitors)", A.2.28 "Return to Work", A.2.49 "Worker's Compensation" and A.2.55 "Time and Attendance"	
<b>STATUS: Approved</b>	
<b>Approved By:</b> <i>James Bueche, Ph.D., Deputy Secretary</i>	<b>Date of Approval:</b> 01/10/2020

**I. AUTHORITY:**

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

**II. PURPOSE:**

To outline the conditions under which an employee may request leave from work for a limited period of time with job protection, group health and life coverage, and no loss of accumulated service in accordance with requirements described in the federal "Family and Medical Leave Act" (FMLA) of 1993, as amended in 2008, 2010 and 2013 under Section 585 of the "National Defense Authorization Act", the U.S. Department of Labor (DOL), Wage and Hour Division (WHD) and in Civil Service Rules. (YS Policy No. A.2.55 describes procedures regarding employee leave and attendance.)

For further clarification, the FMLA was amended in 2008 to provide employees with family members serving in the Armed Forces, National Guard and Reserves with FMLA leave for reasons related to their family members' military service.

In 2010, the FMLA was again amended, expanding the military related leave protections, as well as to include a special eligibility provision for airline flight crew employees.

In announcing the Final Rule of 2013, the U.S. DOL, WHD—provided expanded protections for military families and airline flight crew employees.

Final Rule updates are available on WHDs website: <http://www.dol.gov/whd>.

The FMLA optional-use forms and the poster have been removed from the regulations and are available on the above-mentioned website, as well as the local Wage and Hour district offices.

### **III. APPLICABILITY:**

Deputy Secretary, Assistant Secretary, Undersecretary, Deputy Undersecretary, Chief of Operations, Executive Management Advisor, General Counsel, Regional Directors, Facility Directors, Regional Managers, all other personnel who are authorized to approve leave for employees under their jurisdiction, and all employees eligible for leave under the Family Medical Leave Act, as amended.

It is the responsibility of each Unit Head to ensure that all necessary procedures are in place for proper management and administration of this policy.

### **IV. DEFINITIONS:**

**Child** – A biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing *in loco parentis*, who is under age 18 or age 18 or older and is “incapable of self-care because of a mental or physical disability.”

**COBRA** – (Consolidated Omnibus Budget Reconciliation) allows workers and their families who lose their health benefits the right to purchase group health coverage provided by the plan under certain circumstances.

**Continuing Treatment** – A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health conditions; a regimen of continuing treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines or salves; or bed-rest, drinking fluids, exercise, and similar activities that can be initiated without a visit to a health care provider.

**Covered Active Duty** – Duty under a call or order to active duty under Title 10, Section 101(a) (13) (B) of the United States Code and requires deployment to a foreign country.

**Covered Veteran** - An individual who was discharged or released other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. (The period between enactment of FY 2010 NDAA in 2009 and the effective date of the 2013 Final Rule is excluded in the determination of the five-year period for covered veteran status.)

**Essential Functions Form (EFF)** - A form generated by YS' HR Liaisons that lists the fundamental job duties of a position. Before an applicant can be hired and before an employee can return to work after an illness or injury, they must have the EFF filled out completely and signed by their physician.

**Equivalent Position** – An equivalent position has the same pay, benefits and working conditions, including privileges, perquisites and status. Intangible, immeasurable aspects of the job (i.e., the perceived loss of potential for future promotional opportunities) are not guaranteed. Equivalent positions will be at the same or a geographically proximate work site as that to which the employee had previously been assigned.

**Fair Labor Standards Act (FLSA)** – The federal law that sets the minimum wage and requires the payment of overtime under certain conditions.

**FMLA** - Family and Medical Leave Act of 1993.

**GINA** - “Genetic Information Non-Discrimination Act” – Prohibits genetic information discrimination in employment.

**Health Care Provider** -

- A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices;
- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in the State and performing within the scope of their practices as defined under State law;
- Nurse practitioners, nurse-midwives, and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practices as defined under State law;
- Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts;

- Any health care provider from whom an employer or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits;
- A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulation of that country; or
- For a covered military member, the list of health care providers who are authorized to complete a certification for military caregiver leave has been expanded to include health care providers, as defined in Title 29, Part 825.125 of the Code of Federal Regulations, who are not affiliated with DOD, VA, or TRICARE.

***Human Resource (HR) Liaison*** – The staff person designated by the Unit Head with the responsibility for collecting and retaining documents pertaining to employee's personnel records.

***Incapable of Self-Care*** - The individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" or "instrumental activities of daily living" (i.e., caring appropriately for one's grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones, using post office, etc.).

***Incapacity*** - The inability to work, attend school, perform the duties of military office/grade, rank or rating, or perform other regular daily activities due to the treatment or recovery of a serious health condition.

***Intermittent Leave*** - Leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from a half-hour or more to several weeks [i.e., leave taken on an occasional basis for medical appointments or several days at a time spread over a period of six (6) months].

***In Loco Parentis*** - Those individuals with day-to-day responsibilities to care for and financially support a child. A biological or legal relationship is not necessary; however, documentation of the responsibility shall be required, i.e., an affidavit signed by a notary and/or two (2) witnesses, income tax returns, etc.

***ITA/ITO – (Invitational Travel Authorization/Invitational Travel Orders)*** - Authorization for travel of a person, not a government employee, in connection with certain assignments directly related to activities and in the interests of the Department of Defense.

**Military Member** – Includes a member of the National Guard or Reserves, or the Regular Armed Forces, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, has a condition that was incurred in the line of duty while on active duty which prevents the performance of military duties, or is otherwise on the temporary disability retired list for a serious injury or illness. This also includes a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. Serious injury or illness includes injuries or illnesses that existed before the beginning of the member's active duty in the Armed Forces.

**Military Member Family Leave** – An eligible employee who is the spouse, son, daughter, parent, or next of kin of a military member shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the service member. The leave shall only be available during a single 12-month period.

**NDAA** – “National Defense Authorization Act” for FY 2008 (Public Law 110-181), which permits a “spouse, son, daughter, parent, or next of kin” to take up to 26 workweeks of leave to care for a member of the Regular Armed Forces and provide employees with family members serving in the Armed Forces, National Guard and Reserves with FMLA leave for reasons related to their family members' military service, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness.

**Next of Kin** – The closest blood relative, as defined for this policy under the “National Defense Authorization Act” for FY 2008.

**Outpatient Status** – With respect to a covered service member, the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command control of members of the Armed Forces receiving medical care as outpatients.

**Outside or Supplemental Employment** – Full-time or part-time employment other than the employee's job with YS, whether or not that other employment has been previously disclosed and approved of in accordance with YS Policy No. A.2.3.

**Parent** - The biological parent of an employee or an individual who stands or stood *in loco parentis* to an employee when the employee was a child. The term does not include parents "in-law."

**Physical or Mental Impairment** - An impairment that substantially limits one or more of the major life activities of an individual as defined by the “Americans with Disabilities Act” (ADA).

**Qualifying Exigency** – A number of broad categories for which military employees can use FMLA leave are as follows:

- (a) Short-notice deployment;
- (b) Military events and related activities;
- (c) Childcare and school activities;
- (d) Financial and legal arrangements;
- (e) Counseling;
- (f) Rest and recuperation;
- (g) Post-deployment activities;
- (h) Parental Care; and
- (i) Additional activities not encompassed in the other categories, but agreed to by the employer and employee.

The qualifying exigency leave related to a military member's Rest and Recuperation (R&R) leave is a maximum of 15 calendar days. Information which is required includes a copy of the military member's R&R leave orders or other documentation issued by the military, setting forth the dates of the military member's leave.

**Reduced Work Schedule** - Leave that reduces the usual number of hours per workday or workweek of an employee.

**Serious Health Condition** - An illness, injury, impairment, or physical or mental condition that involves one of the following:

- Hospital Care - Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
- Absence Plus Treatment - A period of incapacity of more than three (3) consecutive calendar days (including any subsequent treatment period of incapacity relating to the same condition), that also involves:
  - a. Treatment two (2) or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of or on referral by a health care provider, or
  - b. Treatment by a health care provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- Pregnancy - Any period of incapacity due to pregnancy or for prenatal care. Ongoing pregnancy, severe morning sickness, prenatal care, childbirth and recovery from childbirth are considered serious health conditions.

- Chronic Condition Requiring Treatment - A chronic condition which:
  - a. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
  - b. Continues over an extended period of time (including episodes of a single underlying condition); and
  - c. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc).
  
- Permanent/Long-term Conditions Requiring Supervision - A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's disease, a severe stroke or the terminal stages of a disease.
  
- Multiple Treatment (Non-Chronic Conditions) - Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity or more than three (3) consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).
  
- Serious Health Conditions may include the following:
  - a. Appendicitis;
  - b. Back conditions requiring extensive therapy or surgical procedures;
  - c. Emphysema;
  - d. Heart attacks, conditions requiring bypass surgery and valve operations;
  - e. Injuries caused by accidents including restorative dental surgery after an accident;
  - f. Most cancers and removal of cancerous growths;
  - g. Ongoing pregnancy, severe morning sickness, prenatal care, childbirth and recovery;
  - h. Pneumonia;
  - i. Severe arthritis, nervous disorders and respiratory conditions;
  - j. Severe illness but not receiving continuing active care from a doctor such as Alzheimer's disease and late-stage cancers;
  - k. Strokes;

- l. Treatment for a serious, chronic health condition which, if left untreated, would likely result in an absence of more than three (3) days;
  - m. Treatment for substance use disorder if inpatient treatment is required; and
  - n. In the case of a member of the Armed Forces, National Guard or Reserves, an injury or illness incurred by the member in line of duty on activity duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
- Examples of Serious Health Conditions for Intermittent or Reduced Leave Schedule When Medically Necessary:
- a. A course of medication or therapy to resolve a condition;
  - b. Treatment for early stage cancer (chemotherapy);
  - c. Physical therapy after a hospital stay or because of severe arthritis; and
  - d. Prenatal care.

***Serious Injury or Illness for a Covered Veteran*** – An injury or illness that was incurred or aggravated by the member in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran.

***Spouse*** - A husband or wife as defined or recognized under State law for purposes of marriage.

***Treatment*** - For the purpose of this policy, medical care that includes examination to determine if a health condition exists and evaluation of the condition, and does not include routine physical examinations, eye examinations, or dental examinations.

***Unit Head*** - Deputy Secretary, Facility Directors and Regional Managers.

**YS Central Office** - Offices of the Deputy Secretary, Assistant Secretary, Undersecretary, Deputy Undersecretary, Chief of Operations, Executive Management Advisor, General Counsel, Regional Directors, and their support staffs.

## V. **POLICY:**

It is the Deputy Secretary's policy to grant family and medical leave to those employees whose family and/or individual medical needs require their absence from work and who are eligible for such leave. Due to the sensitive and personal

nature of FMLA requests, all related information shall only be shared with those employees who have a business need to know, and shall be confidential at all levels. It is the policy of YS:

- A. To provide up to 12 workweeks, or 26 workweeks in a case under the “National Defense Authority Act” for FY 2008, of job-protected, paid or unpaid leave during any 12-month period to eligible employees for certain specified family and medical reasons;
- B. To maintain eligible employees' group health and life insurance coverage at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave;
- C. To restore eligible employees to their same or equivalent positions at the conclusion of their leave as provided by the “Family and Medical Leave Act” of 1993, as amended; and
- D. That an employee on FMLA leave for self shall not participate in any form of outside or supplemental employment while on FMLA, regardless of whether or not that other employment has been previously disclosed and approved of pursuant to YS Policy No. A.2.3.
- E. That an employee on FMLA leave for self shall not participate in any form of work related duties (i.e. answering emails, telephone calls, reviewing / signing paperwork, etc.) while on FMLA, regardless of the duration of the activity or from whom the request for such activity is being made. Work-related activity while in FMLA status is prohibited under U.S. DOL laws.

**VI. PROCEDURES:**

In order for YS to consistently administer the FMLA regulations, the following procedures have been developed for managers, supervisors, and all individuals charged with the responsibility of FMLA leave administration.

If the need for FMLA leave *is foreseeable*, an employee should provide their supervisor at least 30 days advance notice before FMLA leave is to begin based on the expected birth, placement of child with employee for adoption or foster care, or planned medical treatment for a serious health condition of the employee or a family member.

If the need for FMLA leave *is not foreseeable*, an employee should give notice of the need for FMLA leave as soon as practical under the facts and circumstances of the particular case. The employee is expected to give written notice within two (2) working days of learning of the need for leave.

- A. Employees wishing to request FMLA shall consult with the unit's Human Resource (HR) Liaison, who shall provide the employee with the following:
1. A copy of YS Policy No. A.2.5;
  2. The "FMLA Employee Request Form" [see Attachment (a)]; and
  3. The appropriate medical certification form listed below, which is to be completed and returned to the Public Safety Services –Human Resources (PSS/HR) located at the Department of Public Safety (DPS) within 15 calendar days of receipt:
    - a. "Certification of Health Care Provider for Employee's Serious Health Condition" (Form WH-380-E Expires August 31, 2021);
    - b. "Certification of Health Care Provider for Family Member's Serious Health Condition" (Form WH-380-F August 31, 2021);
    - c. "Certification of Qualifying Exigency for Military Family Leave" (Form WH-384 Expires August 31, 2021);
    - d. "Certification for Serious Injury or Illness of a Current Service Member for Military Family Leave" (Form WH-385 Expires August 31, 2021); or
    - e. "Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave" (Form WH-385-V Expires August 31, 2021).

The completed form may be faxed to the PSS/HR at DPS at 225-925-3970, or mailed to the following address:

PSS/HR at DPS Human Resources  
P.O. Box 66614  
Baton Rouge, LA 70896-6614

Questions regarding the form should be directed to PSS/HR at DPS at 225-925-6067.

4. "FMLA Release to Return to Work" form [see Attachment A.2.5 (b)], to be completed by the employee's health care provider in order for the employee to return to work at the conclusion of FMLA.
  5. Employee's "Position Description" (SF-3) and/or "Essential Functions Form" (EFF), to be reviewed by the health care provider when completing the "FMLA Release to Return to Work" form.
- B. The employee must complete either the leave request screen in LEO or the hardcopy "SF-6 Application for Leave" (leave slip). This will provide the necessary basic information needed to determine the reason(s) for FMLA leave.

If the employee refuses to sign the “FMLA Employee Request Form”, the “SF-6 Application for Leave” will serve as the FMLA request. The employee’s supervisor shall make notation that the leave is FMLA in the remarks section of the SF-6 and initial the comments.

- C. If the requested leave appears to meet the criteria of FMLA, the Unit’s HR Liaison must complete the following within three (3) business days of the request, and forward a copy of all three (3) documents to PSS HR at the time of completion:

1. “FMLA Eligibility Checklist” [see Attachment A.2.5 (c)];
2. “Verification of FMLA Entitlement” form [see Attachment A.2.5 (d)];
3. “The “Memorandum of FMLA Status” form [see Attachment A.2.5 (e)] notifying the employee of their current status pending confirmation from the PSS/HR at DPS.

A copy of all three (3) documents noted shall be forwarded to the PSS/HR at DPS at the time of completion by the HR Liaison.

If an employee specifically requests leave under FMLA, and after completing Section VI. As of this policy, the leave request is determined as not qualifying or the employee is determined ineligible, the PSS/HR at DPS shall notify the employee in writing that the requested leave is not an FMLA Qualifying Event.

- D. If the employee did not request FMLA prior to beginning FMLA leave, the Unit’s HR Liaison shall tentatively designate the employee as being on FMLA leave after the employee has been out three (3) consecutive days, by mailing or providing the employee with the documents listed in VI.A above. The employee is required to provide the requested medical certification, included in the documents provided, within 15 calendar days of receipt to the PSS/HR at DPS.

- E. Once the medical certification form is received from the health care provider, the PSS/HR at DPS shall review and determine whether the certification meets the FMLA criteria. If so, the PSS/HR at DPS shall immediately confirm to the employee that the leave shall be designated as FMLA.

If medical certification was requested but not received within 15 days of the request made by the unit’s HR Liaison, the PSS/HR at DPS shall make a determination as to what action shall be taken.

- F. Any aforementioned documents received by the unit’s HR Liaison shall be immediately forwarded to the PSS/HR at DPS.

- G. Upon exhaustion of any unpaid FMLA entitlement, the unit's HR Liaison shall issue the "FMLA Alert Form" [see Attachment A.2.5 (f)], notifying the employee of their placement in "Leave of Absence Without Pay" (LWOP) status, and their responsibility to reimburse the agency for their portion of premiums for health and life insurance coverage paid by the agency, upon their return to work, as well as the recoupment process through the PSS/HR at DPS.

Upon exhaustion of the 12-workweek FMLA entitlement or the 26-workweek entitlement under NDAA, the unit's HR Liaison shall issue the "FMLA Alert Form" notifying the employee that the FMLA entitlement has ended and that any additional leave must be applied for, and shall be evaluated pursuant to standard Civil Service rules and regulations, and YS policy and procedures.

It is critical that a copy of the completed "FMLA Alert Form" is forwarded to the PSS/HR at DPS immediately to ensure the appropriate entries are made in the LaGOV HCM System to maintain the employee's benefits.

The PSS/HR at DPS shall maintain the official FMLA medical files on all YS employees to comply with the record-keeping requirements established by the U.S. DOL.

**VII. EMPLOYEE ELIGIBILITY:**

To be eligible to request FMLA, an employee must meet the following criteria:

- A. Have been employed by the State of Louisiana for at least 12 months. The 12 months of employment need not be consecutive months. If an employee is maintained on the payroll for any part of a week, that week counts as a week of employment; and
- B. Have worked at least 1,250 in state hours during the 12-month period immediately preceding the commencement of the leave. "Fair Labor Standards Act" (FLSA) hours-worked principles shall be applied in determining whether an employee has worked 1,250 hours. Therefore, all hours, including overtime and on-call time, meet the FLSA hours-worked requirements.

**VIII. LEAVE ENTITLEMENT:**

Employees may request up to a total of 12 workweeks or 26 workweeks of FMLA under the NDAA, in accordance with the following.

- A. An eligible employee shall be entitled to a total of 12 workweeks of leave during any 12-month period for one (1) or more of the following reasons:

1. The birth of a son or daughter, and to care for the newborn;
  2. Placement with the employee of a child for adoption or foster care;
  3. To care for the employee's spouse, child or parent with a serious health condition;
  4. A serious health condition that makes the employee unable to perform the functions of the employee's position;
  5. To deal with deployment or return of a family member on Active Duty under NDAA, under the term "qualifying exigency" in the NDAA, for non-medical demands or circumstances as defined and outlined in the amended FMLA of 1993; or
  6. To care for a parent who is incapable of self-care as outlined in the Final Rule of 2013, necessitated by the covered active duty of a military member.
- B. An eligible employee shall be entitled to a total of 26 workweeks of leave during any 12-month period to care for a spouse, son, daughter, parent or next of kin, who is a member of the National Guard or Reserves or the Regular Armed Forces and who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or on the temporary disability retired list for a serious injury or illness.
- C. The right to take FMLA leave applies equally to male and female state employees, as indicated in Section XI.A of this policy. A father, as well as a mother, can take leave for the birth, adoption or foster care placement of a child.
- D. Employees working a reduced workweek shall be granted FMLA leave on a pro-rated basis when working less than 40 hours per week. (Example: 32 hrs/wk x 12 weeks = 384 hours; 32 hrs/wk x 26 weeks = 832 hours)

**IX. GENERAL PROVISIONS:**

- A. The 12-month FMLA entitlement period is measured forward from the date of first use.
- B. YS requires the use of accrued paid leave (annual, sick and, whenever applicable, hour-for-hour compensatory leave and time and a half compensatory leave) for FMLA leave purposes.
- C. Accrued paid leave shall run concurrently with any FMLA leave granted to an eligible employee.
- D. Rules under Title 29, Part 825.207 of the Code of Federal Regulations allow government employers to use time and a half compensatory leave (1.5K) for an FMLA absence, and count that absence against the employee's FMLA leave entitlement.

- E. An employee who has exhausted all sick leave but is unable to return to work cannot be terminated for that reason if the employee has not used all of the employee's 12-workweek FMLA entitlement or the 26-workweek leave allowed under NDAA.
- F. Leave in excess of the FMLA entitlement may be granted by the Appointing Authority pursuant to Civil Service Rules and YS Policy No. A.2.55.
- G. The Appointing Authority or the PSS/HR at DPS may require an employee on FMLA leave to report every 30 days on the employee's status and intent to return to work. The employee may also be required to present a current medical certification. Failure to adhere to this process may result in disciplinary action.
- H. When accrued paid leave balances are insufficient to meet the FMLA leave entitlement, unpaid leave shall be granted.

**X. DESIGNATING FMLA LEAVE:**

- A. It is the PSS/HR at DPS' responsibility, in all circumstances, to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee. The designation must be based on information received from the employee or the employee's spokesperson (spouse, adult child, parent, doctor). A copy of the designation shall be forwarded to the unit's HR Liaison by the PSS/HR at DPS.
- B. If the employee has provided advance notice as required, the PSS/HR at DPS shall designate the leave prior to beginning FMLA if possible, but no later than five (5) business days after the employee begins FMLA leave, with written notification to the employee. The employee shall consult with their supervisor prior to scheduling of leave so as not to disrupt the operations of the unit.
- C. An employee absent from work for a non-qualifying FMLA event shall be placed in the appropriate leave status.
- D. The PSS/HR at DPS may not designate FMLA leave after an employee has returned to work except for the two (2) conditions listed below.
  - 1. If an employee was absent for an FMLA reason and the PSS/HR at DPS did not learn the reason for the absence until the employee's return, the PSS/HR at DPS may designate [within two (2) business days of the employee's return to work] the leave retroactively with appropriate written notice to the employee. Similarly, an employee

may request retroactive designation within two (2) business days; otherwise the employee may not assert FMLA protection for the absence.

2. If the PSS/HR at DPS knows the reason for the leave, but has not been able to confirm that the leave qualifies under FMLA, or the requested medical certification is delayed or a second or third medical opinion has been requested, the PSS/HR at DPS shall make a preliminary designation and so notify the employee. Upon receipt of the requisite information, the PSS/HR at DPS shall confirm in writing the preliminary designation as FMLA-qualifying. If the requisite information fails to confirm that the reason was FMLA-qualifying, the PSS/HR at DPS must withdraw the designation.

**XI. SPECIAL PROVISIONS BY LEAVE ENTITLEMENT:**

**A. Birth of Child -**

1. Ongoing pregnancy, severe morning sickness, prenatal care, childbirth and recovery from childbirth are considered serious health conditions, and leave taken for these conditions is counted toward the total 12 workweek entitlement.
  - a. FMLA leave for the birth of a child expires at the end of the 12-month period beginning on the date of the birth; and
  - b. FMLA leave taken in relation to pregnancy, severe morning sickness and prenatal care prior to the birth of the child is included in the 12-workweek entitlement.
2. Sick leave shall be granted for the conditions described in A.1.a and A.1.b Annual leave, hour-for-hour compensatory leave, time and a half compensatory, and/or leave without pay shall be granted for the care of a child after the recovery process to meet the 12-workweek FMLA entitlement.

Accrued time and a half compensatory leave shall be taken prior to accrued compensatory leave earned at the hour-for-hour (straight time) rate, annual leave or leave without pay.

Time and a half compensatory leave and hour-for-hour compensatory leave may be taken in lieu of sick leave if requested by the employee and approved by the Appointing Authority.

3. A medical certification from a health care provider is required to substantiate the anticipated date of delivery and the duration of the recovery process.

4. Unless the employee's supervisor agrees, leave may not be utilized intermittently or on a reduced leave schedule for FMLA entitlement due to a birth of a healthy newborn child.
5. If both the father and the mother are state employees, the father and mother are limited to sharing a combined total of 12 workweeks for the birth of the child. The father shall be granted time and a half compensatory leave, hour-for-hour compensatory leave, annual leave, or leave without pay.

**B. Placement of Child with the Employee for Adoption and Foster Care**

An eligible employee shall be entitled to 12 workweeks for placement of a child for adoption or foster care.

1. FMLA leave for the placement of a child with an employee for adoption or foster care expires at the end of the 12-month period beginning on the date of the placement.
2. FMLA leave may begin before actual placement if an absence from work is required for placement to proceed. Leave taken to attend counseling sessions, appear in court, consult with an attorney or the doctor representing the birth parent, or submitting to a physical examination is counted toward the total 12-workweek entitlement.
3. Except for medical reasons involved in the placement of a child for adoption or foster care, annual leave, hour-for-hour compensatory leave, and leave without pay shall be granted to meet the 12-workweek entitlement. Accrued compensatory leave earned at time and a half and the straight-time rate shall be taken prior to the granting of leave without pay.
4. If both parents are employed by the state, the total entitlement for both parents combined is 12 workweeks, as noted in Section XI.A.5.
5. Unless the employee's supervisor agrees, leave shall not be utilized intermittently or on a reduced leave schedule after the placement of a child with the employee for adoption or foster care.
6. There is no age limit on a child being adopted or placed for foster care for determining leave eligibility.

7. The source of an adopted child is not a factor in determining leave eligibility.
8. Foster care must involve a state action in the removal of a child from parental custody rather than just an informal arrangement for care of another person's child.

C. Care for Spouse, Child or Parent, and "Next of Kin" under NDAA

1. Leave shall be granted under the FMLA to an eligible employee who is needed to care for a spouse, son, daughter or parent with a serious health condition and/or who qualifies as next of kin under "Military Member Family Leave" as defined herein under Section IV.
2. The term "needed to care for" encompasses both physical and psychological care, to include the following situations which are counted toward the total 12-workweek entitlement or 26-workweek under NDAA.
  - a. The family member is incapable of self care;
  - b. Providing psychological comfort and reassurance which are deemed beneficial to a seriously ill child, spouse or parent receiving inpatient care;
  - c. The employee is needed to fill in for others who are caring for a family member or to make arrangements for changes in care, such as transfer to a nursing home;
  - d. The employee is needed intermittently, such as instances where other care is normally available, or care responsibilities are shared with another member of the family or a third party; and/or
  - e. A covered military member is otherwise on the temporary disability retired list.
3. Medical certification from a health care provider is required to substantiate the need for such care.
4. Annual leave, hour-for-hour compensatory leave, time and a half compensatory leave, and leave without pay shall be granted to care for a family member, with the exception that any accrued hour-for-hour compensatory leave shall be taken prior to the granting of annual leave or unpaid leave to meet the 12-workweek entitlement or 26-workweek under NDAA.
5. Leave shall be granted under the FMLA to an eligible employee to care for a spouse, child, parent or next of kin as follows:

- a. To care for a spouse, 12 workweeks (or 26 under NDAA) are allowed for each employee regardless of whether or not the spouse is employed by the state;
- b. To care for a child, 12 workweeks are allowed for each parent (FMLA entitlement does not cover the care of a son-in-law/daughter-in-law);
- c. Twelve (12) workweeks combined shall be allowed to care for a parent if both employees (siblings) work for the state (FMLA entitlement does not cover the care of a mother-in-law/father-in-law); and
- d. When two state employees utilize a portion of the total 12-workweek entitlement for the birth of a child, adoption, foster care or to care for a parent, each shall be entitled to the difference between the amount that either has taken individually for the above purposes, and the 12 workweeks FMLA leave allows for purposes of personal illness or to care for a spouse or sick child.

6. When medically necessary, leave may be taken intermittently or on a reduced work schedule. Employees must try to schedule their intermittent leave so as not to unduly disrupt the employer's business.
7. The employee's supervisor may require the employee to report every 30 calendar days on the status and intention of the employee to return to work. He may also request a current medical certification.
8. Unmarried domestic partners do not qualify for FMLA leave to care for their partners.

**D. Employee Serious Health Condition -**

1. FMLA entitlement shall be granted to an eligible employee for their own "serious health condition" as defined in Section IV of this policy.
2. Medical certification from a health care provider is required to substantiate the serious health condition.
3. A serious health condition does not cover short-term conditions for which treatment and recovery are for a short period of time. Therefore, leave taken for a non-serious health condition is not counted toward the 12-workweek entitlement.

4. Sick leave shall be granted to an employee with a serious health condition. Also, accrued time and a half compensatory leave, accrued hour-for-hour compensatory leave, annual leave, and LWOP, shall be granted to meet the 12-workweek FMLA entitlement. Accrued time and a half compensatory leave shall be taken prior to the granting of hour-for-hour compensatory leave, annual leave or unpaid leave.
5. As stated in Section XI.C.6 of this policy, intermit and/or a reduced leave schedule may be used during an employee's serious health condition absence. Supervisors may change the employee's shift, reassignment or may require planned treatment around work schedule.
6. Spouses who are both employed by the state are both entitled to 12 workweeks of FMLA leave each for their own illnesses.
7. As stated in Section XI.C.7 of this policy, the employee's supervisor/PSSHR may require the employee to report every 30 days on the status and intention of the employee to return to work.

For conditions certified as having a minimum duration of more than 30 days, YS must wait until the specified time period has past to request recertification.

Leave code rolls in the ISIS system are as follows:

FMLA Self = LB (sick) > 1.5 K > ST K (straight comp.) > Annual>LWOP

FMLA Family = 1.5 K > ST K (straight comp.) > Annual>LWOP

FMLA Workers Comp = LB (sick) > 1.5 K > ST K (straight comp.) > Annual>LWOP

## **XII. FITNESS-FOR-DUTY STATEMENT:**

- A. As a condition of restoring an employee whose FMLA leave was initiated by the employee's own serious health condition, YS requires an employee to obtain and present the completed "Release to Return to Work" form from the employee's health care provider that the employee is able to resume work.

The fitness-for-duty certification shall contain only information regarding the particular condition that caused the employee's need for FMLA leave.

An "Essential Functions Form" furnished by YS must be completed by the health care provider at the same time the "Release to Return to Work" (a.k.a. "fitness-for-duty) form is obtained.

For those employees who qualify as disabled under the "Americans with Disabilities Act" (ADA) (refer to YS Policy No. A.2.13), fitness-for-duty examinations must be job-related and consistent with business necessity. The FMLA does not allow second or third fitness-for-duty certifications.

- B. The DOL's Final Rule amended the fitness-for-duty to allow an employer to require that the certification specifically address the employee's ability to perform the essential functions of the employee's job. Where reasonable job safety concerns exist, an employer may require a fitness-for-duty certification before an employee may return to work when the employee takes intermittent leave.
- C. Information concerning an employee's return to work following an injury or illness is covered in YS Policy No. A.2.28.

### **XIII. REINSTATEMENT RIGHTS:**

- A. An employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.
- B. The right to reinstatement exists even if the employee's position has been restructured to accommodate the employee's absence or the employee was replaced. However, an employee is entitled to no greater right to reinstatement than he would be if he were not on leave. For example, if the employee's position is affected by a layoff, the employee is subject to the same layoff provisions as employees not on leave.
- C. If an employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no rights to restoration to another position, subject to any overriding requirements of the ADA.

### **XIV. BENEFITS:**

- A. During FMLA leave, YS shall maintain the employee's group health plan coverage under the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.
- B. If a new health plan, benefits or changes in health benefits or plans are provided while an employee is on FMLA leave, the employee is entitled to the new or changed plan/benefits to the same extent as if the employee

was not on leave. It is the employee's responsibility to contact the PSS/HR at DPS to make changes to their plan or benefits should changes to either occur by the provider during their absence.

- C. Except as required by the "Consolidated Omnibus Budget Reconciliation Act" (COBRA), YS' obligation to maintain health benefits during leave under FMLA ceases if the following occurs:
  - 1. The employment relationship would have terminated if the employee had not taken FMLA leave;
  - 2. The employee informs YS of their intent not to return from leave; or
  - 3. The employee fails to return from leave or continues on leave after exhausting their FMLA leave entitlement in the 12 month period.
  
- D. In cases where employees are on unpaid FMLA leave (LWOP), YS shall continue to pay the following insurance premiums:
  - 1. Both the employer's and employee's share of health insurance premiums, including employee + child/children, employee + spouse or family; and
  - 2. The employee's life insurance premium.
  
- E. Prior to exhausting unpaid FMLA entitlement, the HR Liaison shall notify the employee of their responsibility to resume payment of such premiums, and that failure to comply could result in loss of health insurance coverage by issuing the "FMLA Alert Form". The FMLA requires that an employee on FMLA leave must reimburse their employer for any insurance premiums the employer paid while he was on FMLA leave.

**XV. EMPLOYER NOTICES:**

All YS statewide offices and facilities, are required to post, and keep posted on the premises, a notice explaining the FMLA provisions, and to provide information concerning the procedures for filing complaints of violations of the FMLA with the U.S. DOL "Wage and Hour Division". The notice must be posted prominently where it can be readily seen by employees and applicants for employment. (See attached WHD Publication 1420 – Revised February 2013.)

**XVI. MEDICAL CERTIFICATION REQUIREMENTS:**

- A. An employer may require that-
  - 1. Leave for a qualifying exigency be supported by a copy of the covered military member's active duty orders, a certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party.

2. Leave to care for a covered military member with a serious injury or illness be supported by a certification completed by an authorized health care provider or by a copy of an “Invitational Travel Order” (ITO) or “Invitational Travel Authorization” (ITA) issued to any member of the covered service member’s family.

- B. YS may require the employee to obtain a second opinion at YS' expense, if there is reason to doubt the validity of the original medical certification. The Appointing Authority or designee is permitted to designate the health care provider to furnish the second opinion, but the selected health care provider cannot be employed on a regular basis by the state.

If the second opinion differs from the first opinion, the Appointing Authority may require the employee to obtain certification from a third health care provider at YS' expense.

The third opinion shall be final and binding. The third health care provider must be agreed upon jointly by the Appointing Authority and the employee. If the Appointing Authority does not attempt in good faith to reach agreement on who to select for the third opinion, the Appointing Authority shall be bound by the first certification.

If the employee does not attempt in good faith to reach agreement on who to select for the third opinion, the employee shall be bound by the second certification.

- C. If an employee fails to provide a requested medical certification in a timely manner to substantiate the need for FMLA due to a serious health condition, the employee’s supervisor shall consult with Legal Services.

If an employer deems a medical certification to be incomplete or insufficient, the employer must specify in writing what information is lacking, and give the employee 15 calendar days to cure the deficiency.

If an employer has not received the required certification on the 16<sup>th</sup> calendar day following the request, Legal Services shall request the required information from the health care provider in writing, with a copy to the PSS/HR at DPS.

The employee may be placed on LWOP until such time as the certification is produced. Failure to produce said certification may result in disciplinary action, up to and including termination.

**XVII. RECORDS:**

- A. FMLA provides that the PSS/HR at DPS shall make, keep, and preserve records pertaining to their obligation under the Act pursuant to the record keeping requirements of Section 11 (c) of the "Fair Labor Standards Act" (FLSA). Records must be maintained no less than three (3) years and be available for inspection, copying and transcription by representatives of the U. S. DOL upon request.
- B. Medical certifications, recertification, or medical histories of employees or employees' family members shall be maintained in separate files and be treated as confidential.
- C. Federal regulations require employers to maintain records that disclose the following:
  - 1. Basic payroll and identifying employee data, including name, address, occupation, rate or basis of pay and terms of compensation, daily and weekly hours worked per pay period, additions to or deductions from wages, and total compensation paid;
  - 2. Dates FMLA leave is taken by employee;
  - 3. The hours of leave, if FMLA leave is taken in increments of less than one (1) full day;
  - 4. Copies of employee notices of leave (application for leave shall indicate FMLA in "Remarks" section);
  - 5. Any documents describing employees' benefits or employer policies and practices regarding the taking of paid and unpaid leave;
  - 6. Premium payments of employee benefits;
  - 7. Records of any dispute between the employer and an employee regarding designation of leave as FMLA leave; and
  - 8. Records showing compliance with the confidentiality requirements of the "Genetic Information Non-Discrimination Act" (GINA).

**XVIII. FMLA AND OTHER LAWS:**

FMLA does not supersede any state or local law that provides greater family or medical leave rights than those provided by FMLA, nor does it modify or affect other federal or state laws such as the ADA and Workers' Compensation (refer to

YS Policy No. A.2.49). Leave taken under other federal or state laws which meets the criteria of FMLA shall run concurrently with FMLA leave.

The "Louisiana Employment Discrimination Law" (LA R.S.23:301 et seq.) requires employers with more than 25 employees to allow a female employee affected by pregnancy, childbirth or related medical conditions to take leave on account of pregnancy for a "reasonable period of time" not to exceed four (4) months. "Reasonable period of time" means that period during which the employee is disabled on account of pregnancy, childbirth or related medical conditions.

The U.S. DOL is not responsible for enforcing state laws, nor may a state enforce the federal FMLA.

The employee who believes that YS has violated the FMLA may either file a complaint pursuant to YS Policy No. A.2.1, or file a private lawsuit in federal court.

The PSS/HR at DPS should be consulted when encountering these situations.

**Previous Regulation/Policy Number:** A.2.5

**Previous Effective Date:** 10/02/2018

**Attachments/References:** A.2.5 (a) FMLA Employee Request Form June2018  
A.2.5 (b) FMLA Return to Work June2018  
A.2.5 (c) FMLA Eligibility Checklist June2018  
A.2.5 (d) Verification of FMLA Entitlement June2018  
A.2.5 (e) Memo of FMLA Status June2018  
A.2.5 (f) FMLA Alert Form June2018  
WH-380-E Certification of Health Care Provider - Employee's Serious Health Condition  
WH-380-F Certification of Health Care Provider - Family Member's Serious Health Condition  
WH-384 Certification of Qualifying Exigency  
WH-385 Certification for Serious Injury or Illness of a Current Service Member  
WH-385-V Certification for Serious Injury or Illness of a Veteran  
WHD Publication 1420 Revised Apr 2016



**YOUTH SERVICES  
FMLA RELEASE TO RETURN TO WORK**

Employee: \_\_\_\_\_

Job Title: \_\_\_\_\_

Position Number: \_\_\_\_\_

**TO: HEALTH CARE PROVIDER**

Please review the above noted employee's Position Description and/or Essential Functions Form indicating the required physical conditions required in order to perform his/her job, and certify that he/she is or is not medically fit to return to work with / without restrictions.

(Check One)

\_\_\_\_\_ may return to work on \_\_\_\_\_  
(date) with no restrictions.

\_\_\_\_\_ may return to work on \_\_\_\_\_  
(date) with the following restrictions.

Restrictions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ may not return to work at this time.  
Anticipated date employee should be medically fit to return to work: \_\_\_\_\_.

***Employee may not return to work until health care provider certifies that he/she is medically fit to return to work. If the health care provider indicates the employee may only return to work with restrictions, the Agency will consider the restrictions and determine whether reasonable accommodations can be afforded to the employee.***

\_\_\_\_\_  
Signature of Health Care Provider

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name of Health Care Provider

**YOUTH SERVICES  
FMLA ELIGIBILITY CHECKLIST**

**EMPLOYEE NAME:** \_\_\_\_\_

**JOB TITLE:** \_\_\_\_\_ **POSITION#:** \_\_\_\_\_

Instructions: To determine employee eligibility, the unit's HR Liaison shall complete the following checklist. If the answer is "Yes", go to the next question. If the answer is "No", the employee does not qualify for FMLA leave.

1.  The employee works for the State of Louisiana.
2.  The employee has worked for the State of Louisiana for at least 12 months prior to leave request (need not be consecutive). The 12 months is defined as 52 weeks, and any part of a week is counted as a full week.
3.  The employee has worked at least 1,250 hours over the 12 months preceding the date of commencement of FMLA leave. Annual leave, sick leave and compensatory leave are not counted as hours worked.
4.  The employee is requesting FMLA for one (1) or more of the following reasons (circle all applicable):
  - a. For the birth of a child of the employee and to care for such son or daughter.
  - b. Placement of a son or daughter with the employee for adoption or foster care.
  - c. To care for the employee's spouse, son, daughter or parent with a serious health condition.
  - d. Because of a serious health condition that makes the employee unable to perform the functions of the job.
5.  The employee does have leave available from the 12-week entitlement. The 12-month period is measured from the date of first use.

**If all answers are yes, the employee is entitled to FMLA.**

\_\_\_\_\_  
HR Liaison Signature

\_\_\_\_\_  
HR Liaison Name (Printed)

\_\_\_\_\_  
Date

c: PSS/HR Employee FMLA File

**YOUTH SERVICES  
VERIFICATION OF FMLA ENTITLEMENT  
(To Be Completed by Unit's HR Liaison)**

DATE: \_\_\_\_\_

EMPLOYEE: \_\_\_\_\_

POSITION NUMBER: \_\_\_\_\_

PERSON COMPLETING FORM: \_\_\_\_\_

*To determine the 12-month employment period:*

The HR Liaison should review the employee's personnel record to determine if the employee has been employed by the State of Louisiana (not just YS) for at least 12 months prior to the leave request. (Employment does not need to be consecutive.)

\_\_\_\_\_ to \_\_\_\_\_

*To determine if the employee has physically worked at least 1,250 hours:*

The HR Liaison should review the payroll leave registers in ISIS for the 12 months immediately preceding the date of the FMLA leave request to determine that the following hours were not worked:

Annual	_____
Sick	_____
Holidays	_____
LWOP	_____
Special Closure	_____
Other	_____
<b>TOTAL</b>	_____

*During the pay periods reviewed, the employee has worked the following hours in excess of regularly scheduled work hours:*

Compensatory	_____
Paid Overtime	_____
<b>TOTAL</b>	_____

*FMLA Formula: 2080 hours (80 hours x 26 pay periods)*

Leave Taken - \_\_\_\_\_

Compensatory/  
Paid Overtime  
Hours worked + \_\_\_\_\_

Total Hours Worked \_\_\_\_\_



If you have questions concerning the form, please call 225-925-6067.

- 4.  You are tentatively being placed on FMLA pending approval by the OSHCM at the Department of Public Safety.
  
- 5.  This leave  may  will be counted against your FMLA entitlement and will begin, or began on, \_\_\_\_\_. You have indicated that you expect this need for leave to continue until, on, or about \_\_\_\_\_.

Provided you comply with the conditions listed below, you have a right under the FMLA for up to 12 workweeks of leave in a 12-month period for the reason indicated above. You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave.

- 6.  You must first use your available paid leave balances for FMLA leave. Leave Without Pay (LWOP) will only be granted after you have exhausted your paid leave (annual, sick or straight compensatory balances). If LWOP is used, YS shall continue to pay the employer and employee's share of the insurance premiums, but the employee will be required to pay back to the agency the employee's share of those premiums upon returning to work. Please circle your choice of a. or b. below.

- a. Upon my return to work, I agree to repay the employee share of my insurance premiums that YS paid while I was on FMLA/LWOP.

\_\_\_\_\_  
(Employee signature)

- b. I will send payments to YS for the employee share of my monthly insurance premiums while I am on FMLA/LWOP. (Checks must be made payable to Youth Services.)

**NOTE: If payment is not received, the recoupment process will start upon my returning to work through the OSHCM at the Department of Public Safety.**

\_\_\_\_\_  
(Employee signature)

- 7.  For leave due to your own serious health condition, pregnancy complications or a chronic condition, you are required to furnish the "FMLA Request to Return to Work" form completed by your health care provider upon your return to work. This form was provided to you on the date of your FMLA request to the unit's HR Liaison.8.  While on leave, you are required to furnish the unit's HR Liaison with periodic reports every 30 calendar days of your status and intent to return to work.

**A.2.5 (e)**

9.  Please note that in accordance with U.S. DOL FMLA laws, work-related duties must not occur while you are in FMLA status (i.e. answering emails, telephone calls, reviewing / signing paperwork, etc.). Should such activity take place while on FMLA status, you are required to contact your immediate supervisor and the unit's HR Liaison to report such activity and document your time appropriately. Work activity during FMLA status is required to be coded as "annual" leave in the LaGOV OSHCM system, therefore annual leave must be applied for through LEO or a hard-copy SF-6 "Application for Leave" form. Your FMLA status will be adjusted accordingly following these events. However, it is highly recommended that these activities do not occur during FMLA status.
10.  Comments or questions regarding FMLA request, or issues concerning the request, should be directed to the OSHCM at the Department of Public Safety at 225-925-3970.

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HR Liaison Signature

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Unit Head's Signature

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HR Liaison Name (Print or Type)

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Unit Head's Name (Print or Type)

C: PSS/HR Employee FMLA File

**YOUTH SERVICES  
FMLA ALERT FORM**

This form is being provided to you by the unit's HR Liaison to advise you of the issue noted below regarding your FMLA status.

EMPLOYEE: \_\_\_\_\_ Position #: \_\_\_\_\_

HR LIAISON NAME: \_\_\_\_\_

PHONE #: \_\_\_\_\_ FAX #: \_\_\_\_\_

Check and complete one of the following:

- 1. You have completely exhausted the FMLA quota of 480 hours of leave and are hereby required to return to work or apply for additional leave, effective: \_\_\_\_\_.
- 2. Although you have not reached the FMLA quota of 480 hours of leave, you have exhausted your leave balance and have been placed on "Leave Without Pay" (LWOP) status; you are now responsible for your portion of health and insurance premiums, effective: \_\_\_\_\_.
- 3. You have completely exhausted the FMLA quota and your leave balance, and have been placed on "Leave Without Pay" (LWOP) status; you are now responsible for the full premium of your health / insurance coverage, effective: \_\_\_\_\_.

Recoupment of your premiums will be set up through the OSHCM at the Department of Public Safety, who will be in contact with you to discuss your options, or you may contact their offices at 225-925-6067.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Employee Name: \_\_\_\_\_

-----  
**UNIT HR LIAISON USE ONLY**

Date FMLA Quota Entered: \_\_\_\_\_

Signature of Person Entering Quota: \_\_\_\_\_

Certification of Health Care Provider for  
Employee's Serious Health Condition  
(Family and Medical Leave Act)

U.S. Department of Labor  
Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003  
Expires: 8/31/2021

**SECTION I: For Completion by the EMPLOYER**

**INSTRUCTIONS to the EMPLOYER:** The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: \_\_\_\_\_

Employee's job title: \_\_\_\_\_ Regular work schedule: \_\_\_\_\_

Employee's essential job functions: \_\_\_\_\_

Check if job description is attached: \_\_\_\_\_

**SECTION II: For Completion by the EMPLOYEE**

**INSTRUCTIONS to the EMPLOYEE:** Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: \_\_\_\_\_  
First Middle Last

**SECTION III: For Completion by the HEALTH CARE PROVIDER**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b). Please be sure to sign the form on the last page.

Provider's name and business address: \_\_\_\_\_

Type of practice / Medical specialty: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_

**PART A: MEDICAL FACTS**

1. Approximate date condition commenced: \_\_\_\_\_

Probable duration of condition: \_\_\_\_\_

**Mark below as applicable:**

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

No  Yes. If so, dates of admission:

\_\_\_\_\_

Date(s) you treated the patient for condition:

\_\_\_\_\_

Will the patient need to have treatment visits at least twice per year due to the condition?  No  Yes.

Was medication, other than over-the-counter medication, prescribed?  No  Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

No  Yes. If so, state the nature of such treatments and expected duration of treatment:

\_\_\_\_\_

2. Is the medical condition pregnancy?  No  Yes. If so, expected delivery date: \_\_\_\_\_

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition:  No  Yes.

If so, identify the job functions the employee is unable to perform:

\_\_\_\_\_

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PART B: AMOUNT OF LEAVE NEEDED**

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? \_\_\_ No \_\_\_ Yes.

If so, estimate the beginning and ending dates for the period of incapacity: \_\_\_\_\_

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? \_\_\_ No \_\_\_ Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?  
\_\_\_ No \_\_\_ Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

\_\_\_\_\_

Estimate the part-time or reduced work schedule the employee needs, if any:

\_\_\_\_\_ hour(s) per day; \_\_\_\_\_ days per week from \_\_\_\_\_ through \_\_\_\_\_

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? \_\_\_ No \_\_\_ Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups?  
\_\_\_ No \_\_\_ Yes. If so, explain:

\_\_\_\_\_

\_\_\_\_\_

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency : \_\_\_\_\_ times per \_\_\_\_\_ week(s) \_\_\_\_\_ month(s)

Duration: \_\_\_\_\_ hours or \_\_\_ day(s) per episode

**ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_





**SECTION III: For Completion by the HEALTH CARE PROVIDER**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), or genetic services, as defined in 29 C.F.R. § 1635.3(e). Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider’s name and business address: \_\_\_\_\_

Type of practice / Medical specialty: \_\_\_\_\_

Telephone: ( \_\_\_\_\_ ) \_\_\_\_\_ Fax:( \_\_\_\_\_ ) \_\_\_\_\_

**PART A: MEDICAL FACTS**

1. Approximate date condition commenced: \_\_\_\_\_

Probable duration of condition: \_\_\_\_\_

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?  
\_\_\_ No \_\_\_ Yes. If so, dates of admission: \_\_\_\_\_

Date(s) you treated the patient for condition: \_\_\_\_\_

Was medication, other than over-the-counter medication, prescribed? \_\_\_ No \_\_\_ Yes.

Will the patient need to have treatment visits at least twice per year due to the condition? \_\_\_ No \_\_\_ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?  
\_\_\_ No \_\_\_ Yes. If so, state the nature of such treatments and expected duration of treatment:

\_\_\_\_\_  
\_\_\_\_\_

2. Is the medical condition pregnancy? \_\_\_ No \_\_\_ Yes. If so, expected delivery date: \_\_\_\_\_

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such as medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PART B: AMOUNT OF CARE NEEDED:** When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery?  No  Yes.

Estimate the beginning and ending dates for the period of incapacity: \_\_\_\_\_

During this time, will the patient need care?  No  Yes.

Explain the care needed by the patient and why such care is medically necessary:

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5. Will the patient require follow-up treatments, including any time for recovery?  No  Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

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Explain the care needed by the patient, and why such care is medically necessary: \_\_\_\_\_

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6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery?  No  Yes.

Estimate the hours the patient needs care on an intermittent basis, if any:

\_\_\_\_\_ hour(s) per day; \_\_\_\_\_ days per week from \_\_\_\_\_ through \_\_\_\_\_

Explain the care needed by the patient, and why such care is medically necessary:

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7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? \_\_\_ No \_\_\_ Yes.

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: \_\_\_ times per \_\_\_ week(s) \_\_\_ month(s)

Duration: \_\_\_ hours or \_\_\_ day(s) per episode

Does the patient need care during these flare-ups? \_\_\_ No \_\_\_ Yes.

Explain the care needed by the patient, and why such care is medically necessary: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Signature of Health Care Provider**

\_\_\_\_\_  
**Date**

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.**



**PART A: QUALIFYING REASON FOR LEAVE**

1. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

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2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military; a document confirming the military member's Rest and Recuperation leave; a document confirming an appointment with a third party, such as a counselor or school official, or staff at a care facility; or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached.

Yes       No       None Available

**PART B: AMOUNT OF LEAVE NEEDED**

1. Approximate date exigency commenced: \_\_\_\_\_

Probable duration of exigency: \_\_\_\_\_

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency?

Yes       No

If so, estimate the beginning and ending dates for the period of absence:

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3. Will you need to be absent from work periodically to address this qualifying exigency?    Yes     No

Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

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Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e., 1 deployment-related meeting every month lasting 4 hours):

Frequency: \_\_\_\_\_ times per \_\_\_\_\_ week(s) \_\_\_\_\_ month(s)

Duration: \_\_\_\_\_ hours \_\_\_\_\_ day(s) per event.

**PART C:**

If leave is requested to meet with a third party (such as to arrange for childcare or parental care, to attend counseling, to attend meetings with school, childcare or parental care providers, to make financial or legal arrangements, to act as the military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by your employer to verify that the information contained on this form is accurate.

Name of Individual: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

Describe nature of meeting: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PART D:**

I certify that the information I provided above is true and correct.

Signature of Employee \_\_\_\_\_ Date \_\_\_\_\_

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

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Certification for Serious Injury or  
Illness of a Current  
Servicemember - -for Military Family Leave  
(Family and Medical Leave Act)

U.S. Department of Labor

Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003  
Expires: 8/31/2021

**Notice to the EMPLOYER**

**INSTRUCTIONS to the EMPLOYER:** The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a serious injury or illness of a current servicemember to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 CFR 825.310. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 CFR 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 CFR 1635.9, if the Genetic Information Nondiscrimination Act applies.

**SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave**

**INSTRUCTIONS to the EMPLOYEE or CURRENT SERVICEMEMBER:** Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a servicemember. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 CFR 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

**SECTION II: For Completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD") HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veterans Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a current member of the Regular Armed Forces, the National Guard, or the Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a current servicemember's serious injury or illness includes written documentation confirming that the servicemember's injury or illness was incurred in the line of duty on active duty or if not, that the current servicemember's injury or illness existed before the beginning of the servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that the current servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the servicemember's condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 CFR 1635.3(f), or genetic services, as defined in 29 CFR 1635.3(e).

**SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave:**

(This section must be completed first before any of the below sections can be completed by a health care provider.)

**Part A: EMPLOYEE INFORMATION**

Name and Address of Employer (this is the employer of the employee requesting leave to care for the current servicemember):

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Name of Employee Requesting Leave to Care for the Current Servicemember:

First

Middle

Last

Name of the Current Servicemember (for whom employee is requesting leave to care):

First

Middle

Last

Relationship of Employee to the Current Servicemember:

Spouse  Parent  Son  Daughter  Next of Kin

**Part B: SERVICEMEMBER INFORMATION**

- (1) Is the Servicemember a Current Member of the Regular Armed Forces, the National Guard or Reserves?  
Yes  No

If yes, please provide the servicemember's military branch, rank and unit currently assigned to:

---

Is the servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)?

Yes  No

If yes, please provide the name of the medical treatment facility or unit:

---

- (2) Is the Servicemember on the Temporary Disability Retired List (TDRL)?  
Yes  No

**Part C: CARE TO BE PROVIDED TO THE SERVICEMEMBER**

Describe the Care to Be Provided to the Current Servicemember and an Estimate of the Leave Needed to Provide the Care:

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**SECTION II: For Completion by a United States Department of Defense (“DOD”) Health Care Provider or a Health Care Provider who is either: (1) a United States Department of Veterans Affairs (“VA”) health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125. If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator).**

(Please ensure that Section I above has been completed before completing this section. Please be sure to sign the form on the last page.)

**Part A: HEALTH CARE PROVIDER INFORMATION**

Health Care Provider’s Name and Business Address:

\_\_\_\_\_

Type of Practice/Medical Specialty: \_\_\_\_\_

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; (4) a DOD non-network TRICARE authorized private health care provider, or (5) a health care provider as defined in 29 CFR 825.125:

\_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

**PART B: MEDICAL STATUS**

(1) The current Servicemember’s medical condition is classified as (Check One of the Appropriate Boxes):

**(VSI) Very Seriously Ill/Injured** – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

**(SI) Seriously Ill/Injured** – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

**OTHER Ill/Injured** – a serious injury or illness that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating.

**NONE OF THE ABOVE** (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a “serious health condition” under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380-F or an employer-provided form seeking the same information.)

(2) Is the current Servicemember being treated for a condition which was incurred or aggravated by service in the line of duty on active duty in the Armed Forces? Yes  No

(3) Approximate date condition commenced: \_\_\_\_\_

(4) Probable duration of condition and/or need for care: \_\_\_\_\_

(5) Is the servicemember undergoing medical treatment, recuperation, or therapy for this condition? Yes  No

If yes, please describe medical treatment, recuperation or therapy:

---

**PART C: SERVICEMEMBER'S NEED FOR CARE BY FAMILY MEMBER**

(1) Will the servicemember need care for a single continuous period of time, including any time for treatment and recovery? Yes  No

If yes, estimate the beginning and ending dates for this period of time: \_\_\_\_\_

(2) Will the servicemember require periodic follow-up treatment appointments? Yes  No

If yes, estimate the treatment schedule: \_\_\_\_\_

(3) Is there a medical necessity for the servicemember to have periodic care for these follow-up treatment appointments? Yes  No

(4) Is there a medical necessity for the servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)?  
Yes  No

If yes, please estimate the frequency and duration of the periodic care:

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**Signature of Health Care Provider:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years, in accordance with 29 U.S.C. 2616; 29 CFR 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE PATIENT.**

Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (Family and Medical Leave Act)

U.S. Department of Labor Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE EMPLOYEE

OMB Control Number: 1235-0003 Expires: 8/31/2021

Notice to the EMPLOYER

The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking military caregiver leave under the FMLA leave due to a serious injury or illness of a covered veteran to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 CFR 825.310. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 CFR 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 CFR 1635.9, if the Genetic Information Nondiscrimination Act applies.

SECTION I: For completion by the EMPLOYEE and/or the VETERAN for whom the employee is requesting leave

INSTRUCTIONS to the EMPLOYEE and/or VETERAN: Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for military caregiver leave under the FMLA leave due to a serious injury or illness of a covered veteran. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 CFR 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

(This section must be completed before Section II can be completed by a health care provider.)

Part A: EMPLOYEE INFORMATION

Name and address of employer (this is the employer of the employee requesting leave to care for a veteran):

\_\_\_\_\_

Name of employee requesting leave to care for a veteran:

\_\_\_\_\_
First Middle Last

Name of veteran (for whom employee is requesting leave):

\_\_\_\_\_
First Middle Last

Relationship of employee to veteran:

Spouse [ ] Parent [ ] Son [ ] Daughter [ ] Next of Kin [ ] (please specify relationship):

**Part B: VETERAN INFORMATION**

- (1) Date of the veteran's discharge:  
\_\_\_\_\_
- (2) Was the veteran **dishonorably** discharged or released from the Armed Forces (including the National Guard or Reserves)? Yes  No
- (3) Please provide the veteran's military branch, rank and unit at the time of discharge:  
\_\_\_\_\_
- (4) Is the veteran receiving medical treatment, recuperation, or therapy for an injury or illness?  
Yes  No

**Part C: CARE TO BE PROVIDED TO THE VETERAN**

Describe the care to be provided to the veteran and an estimate of the leave needed to provide the care:

\_\_\_\_\_  
\_\_\_\_\_

**SECTION II: For completion by: (1) a United States Department of Defense (“DOD”) health care provider; (2) a United States Department of Veterans Affairs (“VA”) health care provider; (3) a DOD TRICARE network authorized private health care provider; (4) a DOD non-network TRICARE authorized private health care provider; or (5) a health care provider as defined in 29 CFR 825.125.**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee named in Section I has requested leave under the military caregiver leave provision of the FMLA to care for a family member who is a veteran. For purposes of FMLA military caregiver leave, a serious injury or illness means an injury or illness incurred by the servicemember in the line of duty on active duty in the Armed Forces (or that existed before the beginning of the servicemember’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the servicemember became a veteran, and is:

- (i) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grade, rank, or rating; or
- (ii) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- (iii) a physical or mental condition that substantially impairs the covered veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
- (iv) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans’ Affairs Program of Comprehensive Assistance for Family Caregivers.

A complete and sufficient certification to support a request for FMLA military caregiver leave due to a covered veteran’s serious injury or illness includes written documentation confirming that the veteran’s injury or illness was incurred in the line of duty on active duty or existed before the beginning of the veteran’s active duty and was aggravated by service in the line of duty on active duty, and that the veteran is undergoing treatment, recuperation, or therapy for such injury or illness by a health care provider listed above. Answer fully and completely all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA military caregiver leave coverage. Limit your responses to the veteran’s condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 CFR 1635.3(f), or genetic services, as defined in 29 CFR 1635.3(e).

(Please ensure that Section I has been completed before completing this section. Please be sure to sign the form on the last page and return this form to the employee requesting leave (See Section I, Part A above). **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**)

**Part A: HEALTH CARE PROVIDER INFORMATION**

Health care provider’s name and business address:

\_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

Type of Practice/Medical Specialty: \_\_\_\_\_

Please indicate if you are:

a DOD health care provider

a VA health care provider

a DOD TRICARE network authorized private health care provider

a DOD non-network TRICARE authorized private health care provider

other health care provider

**PART B: MEDICAL STATUS**

Note: If you are unable to make certain of the military-related determinations contained in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as, DOD Recovery Care Coordinator) or an authorized VA representative.

(1) The Veteran's medical condition is:

- A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating.
- A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service Related Disability Rating (VASRD) of 50% or higher, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave.
- A physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment.
- An injury, including a psychological injury, on the basis of which the covered veteran is enrolled in the Department of Veterans' Affairs Program of Comprehensive Assistance for Family Caregivers.
- None of the above.

(2) Is the veteran being treated for a condition which was incurred or aggravated by service in the line of duty on active duty in the Armed Forces?    Yes     No

(3) Approximate date condition commenced: \_\_\_\_\_

(4) Probable duration of condition and/or need for care: \_\_\_\_\_

(5) Is the veteran undergoing medical treatment, recuperation, or therapy for this condition?    Yes     No

If yes, please describe medical treatment, recuperation or therapy:

\_\_\_\_\_

**PART C: VETERAN'S NEED FOR CARE BY FAMILY MEMBER**

"Need for care" encompasses both physical and psychological care. It includes situations where, for example, due to his or her serious injury or illness, the veteran is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport him or herself to the doctor. It also includes providing psychological comfort and reassurance which would be beneficial to the veteran who is receiving inpatient or home care.

(1) Will the veteran need care for a single continuous period of time, including any time for treatment and recovery?    Yes     No

If yes, estimate the beginning and ending dates for this period of time: \_\_\_\_\_

(2) Will the veteran require periodic follow-up treatment appointments?    Yes     No

If yes, estimate the treatment schedule: \_\_\_\_\_

- (3) Is there a medical necessity for the veteran to have periodic care for these follow-up treatment appointments?  
Yes  No
- (4) Is there a medical necessity for the veteran to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)? Yes  No

If yes, please estimate the frequency and duration of the periodic care:

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Signature of Health Care Provider: \_\_\_\_\_ Date: \_\_\_\_\_

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years, in accordance with 29 U.S.C. 2616; 29 CFR 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE EMPLOYEE REQUESTING LEAVE (As shown in Section I, Part "A" above).**

# EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

## LEAVE ENTITLEMENTS

Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within one year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave;\* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

\*Special "hours of service" requirements apply to airline flight crew employees.

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

## BENEFITS & PROTECTIONS

## ELIGIBILITY REQUIREMENTS

## REQUESTING LEAVE

## EMPLOYER RESPONSIBILITIES

## ENFORCEMENT

For additional information or to file a complaint:

**1-866-4-USWAGE**

(1-866-487-9243) TTY: 1-877-889-5627

**www.dol.gov/whd**

U.S. Department of Labor | Wage and Hour Division

