

FMLA Leave Notice Request & Approval

FMLA – Form #1A

Section 1: FMLA Request – to be completed by the EMPLOYEE:

This Family and Medical Leave of Absence is for the following **qualifying reason**:

- Due to the birth of a child and/or to care for a newborn child of the employee, spouse as defined by Tennessee Law, or placement of a child through adoption or foster care ***FORM 1B REQUIRED**
- Due to care of the employee's spouse, child parent who has a serious health condition ***FORM 1C REQUIRED**
- Due to the employee's serious health condition ***FORM 1B REQUIRED**
- Due to a covered servicemember with a serious injury or illness who is the spouse, child, parent, or next of kin of an employee ***FORM 1C**
- Due to a qualifying exigency arising out of the fact that your spouse, child, parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves ***FORM 1C REQUIRED**

A medical or qualifying exigency certification will be required for all FMLA leave requests except those for birth, care of a newborn, or placement of a child.

Name of Employee (Print): _____
LAST, FIRST MI

Employee Contact Information: _____ (phone) _____ (email)

Employee ID# _____ Employee's Division Name _____

Anticipated date FMLA leave is to begin _____ to end _____ (if known)

Employee Signature

Date

DATE STAMP WHEN FORM RETURNED FROM EMPLOYEE

Section 2: APPROVAL / DENIAL - to be completed by the DIVISION.

Name of Employee (Print): _____
LAST, FIRST MI

Leave of absence is **APPROVED** from _____ to _____ for:
Date Date

OR

_____ (days/weeks/hours) of Intermittent Leave of absence is **APPROVED**
from _____ to _____ for:
Date Date

Your Current Available:
_____ VACATION TIME
_____ SICK TIME
_____ BONUS TIME

birth of child or placement of child (FMLA eligibility met)

employee's health condition

A completed Form 3, Intent to Return and Fitness for Duty/Medical Release, will be required prior to the employee's return to work, Yes No

If yes, essential job functions are attached (REQUIRED for Serious Health Conditions)

Yes, it is attached

covered servicemember: spouse, child, parent, or next of kin of an employee

care of employee's: employee's spouse, child parent who has a serious health condition

qualifying exigency arising out of the fact that your spouse, child, parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves

Leave of absence conditionally approved pending receipt of certification (FMLA eligibility met)

Certification due by _____ (allow at least 15 calendar days)

Certification provided is not complete or sufficient to determine whether the FMLA applies. You must provide further information no later than _____ (allow at least 7 calendar days) or your leave may be delayed or denied. Information needed to make the certification complete and sufficient is: _____

Leave of absence is **DENIED** because:

Employee had not been employed by COM for 12 months (does not need to be continuous), only _____ months have been worked

Employee had not worked 1250 actual work hours in past 12 months prior to this leave, only _____ hours have been worked

Employee did not provide supporting certification

Employee's allotment of FMLA has been exhausted

Employee's leave request does not qualify for an FMLA leave

Division / Point of Contact (Name and number)

Signature

Date

Division Director Signature

Date

Section 3: FINAL APPROVAL / DENIAL - to be completed by the HUMAN RESOURCES DIVISION.

APPROVED DENIED

Signature

Date

FMLA Information, Rights and Responsibilities for the Employee:

Basic Leave Entitlement

The City of Memphis provides up to 12 weeks of unpaid, job-protected leave in a calendar year to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their

12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

You will be required to use accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA information may be attained at
www.cityofmemphis.org and www.wagehour.dol.gov

FMLA Intermittent Rules for Employees:

Intermittent absences are occasional or part-time absences that allow you to continue a partial schedule of work. Absences qualifying under FMLA may be taken, when necessary, intermittently, or on a reduced work schedule. However, there are 10 rules:

Rule #1: INFORM THE SUPERVISOR:

It is your responsibility to promptly inform the supervisor or designee when any of your absences is for a reason qualifying under FMLA. You must clearly provide this information. The key word here is “clearly”. It is not the responsibility of the supervisor to guess or to inquire about whether each and every absence was for an FMLA-qualifying reason.

Rule #2: TWO-DAY RULE:

It is your responsibility to promptly give the information from Rule #1 to your supervisor or designee within two business days of your return from the absence on the proper form. Informing the supervisor after two business days of your return will mean that the absence shall be considered as unprotected and not falling under FMLA. If your absences is unprotected by FMLA and your absence was for 3 or more days and you fail to provide the proper medical documentation, you shall not be paid for the absence.

Rule #3: ABSENCE FORM:

You must complete the proper leave forms by the deadline set forth in Rule #2.

Rule #4: CALL IN PROCEDURES:

Employees must follow the department’s procedures for requesting leave and calling in absences and provide sufficient information to allow the department to determine whether the leave request and absence qualifies for FMLA. Failure to do so may result in the time not being approved.

Rule #5: MINIMIZE DISRUPTION:

Employees must provide at least 30 days advance notice of an anticipated FMLA leave. If you do not give proper notice of a clearly foreseeable leave, the City can delay the leave for up to 30 days after receiving notice of the need for FMLA leave. In cases where 30 days’ notice is not practical, an employee must provide notice as soon as practicable – the same or next business day. When intermittent absences are taken to receive treatments by your health provider, you have the obligation to minimize disruption to your Division’s operations by scheduling the intermittent time off and treatments in a way that will reduce this disruption. If your Health Care Provider can accommodate a less disruptive scheduling, you must revise the time of the treatments. Your own preference as to time for the treatments is not a factor in the decision. The employer has the right to make a written request of you to have your health provider clarify when the treatments could be alternatively scheduled.

Rule #6: TRANSFER:

In most situations when you take intermittent absences or reduced schedule, in accordance with applicable laws, you can be required to temporarily transfer to an altogether different job if the new position has equivalent pay and benefits. FMLA permits this transfer to occur even if the transfer is to another job with different duties outside of your job classification.

Rule #7: BONDING:

For your bonding with a new child, the minimum length of time for leave is two (2) weeks.

Rule #8: CLARIFICATION:

If your supervisor or designee has doubts or questions about the frequency of the intermittent absences or about other unclear information provided by your Health Care Provider, the City can require you to obtain clarification from your Health Care Provider.

Rule #9: RECERTIFICATION:

The City may request recertification by your Health Care Provider at least once every year. For many employees, recertification will occur more frequently than one time per year for several different reasons. First, the City could have a legitimate business reason to double-check your Certification. Or the District could have received from you a new extension of leave. Additionally, your leave could extend beyond the date that the Health Care Provider identified as the expected duration of incapacity. If more leave beyond that provided in the Certification is required, the employee must submit a new Certification by the Health Care Provider. Recertification for intermittent absences can be required as frequently as once every month (but no more frequently than once each month, unless there is evidence to suspect abuse of FMLA).

Rule #10: SIXTY DAYS:

Regardless as to whether FMLA/CFRA is taken in separate periods of time or taken consecutively, these protections will not exceed a total of 60 workdays, assuming that you work 5 days per week (irregular weekly hours are averaged over 5 days/week). For those individuals utilizing time off in consecutive weeks, twelve work weeks are typically counted.