

7/09

FMLA NOTICE of ELIGIBILITY, & RIGHTS and RESPONSIBILITIES

Department of Human Resource Management

DHRM form 381

In general, to be eligible an employee must have worked for an employer for at least 12 months, have worked at least 1,250 hours in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. This form includes information found in federal form WH-381 and complies with C.F.R. 825.300(b)(c). This form must be provided to the employee within **five (5) business days** of the employee notifying the employer of the need for FMLA leave.

TO: _____ (Employee) EIN: _____

FROM: _____ (Employer Representative) DATE: _____

On _____, you informed us that you needed leave beginning from _____ to _____ for:

QUALIFYING REASON

- The birth of a child, or placement of a child with you for adoption or foster care.
- Your own serious health condition.
- Because you are needed to care for your ___ spouse; ___ child; ___ parent due to his/her health condition.
- Because of a qualifying exigency arising out of the fact that your ___ spouse; ___ son or daughter; ___ 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.
- Because you are the ___ spouse; ___ son or daughter; ___ parent; ___ next of kin of a covered servicemember with a serious injury or illness.

Part A- NOTICE OF ELIGIBILITY

This Notice is to inform you that you:

- Are **eligible** for FMLA leave (See Part B below for Rights and Responsibilities)
- Are **not eligible** for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):
 - You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately ___ months towards this requirement.
 - You have not met the FMLA's 1,250-hours-worked requirement.

If you have any questions, contact _____ at _____ or view Family and Medical Leave Act information posted at <http://employeegateway.utah.gov> under the "Benefits" tab.

Part B- RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA LEAVE

As explained in Part A, you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12-month period. **However, in order for us to determine whether your absence qualifies as FMLA, you must return the following information to us by _____.** (If a certification is requested, employers must allow at least **15 calendar days** from receipt of this notice; additional time may be required in some circumstances.) If sufficient information is not provided in a timely manner, your leave may be denied.

- Sufficient certification to support your request for FMLA leave. A certification form that sets forth the information necessary to support your request ___ **is/** ___ **is not** enclosed.
- Sufficient documentation to establish the required relationship between you and your family member.

___ Other information needed: _____

___ No additional information requested.

If your leave does qualify as FMLA leave you will have the following **responsibilities** while on FMLA leave (only checked blanks apply):

___ Make arrangements with Public Employees Health Program at 801 366-7577 (only if on unpaid leave) to pay your employee premium payments on your health insurance to maintain health benefits while you are on leave. You should have a minimum 30-day grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled.

___ You will be required to use your available paid ___ sick, ___ annual, ___ excess, and/or ___ converted sick leave during your FMLA absence. This means that you will receive your paid leave and the leave will also be considered protected FMLA leave and counted against your FMLA leave entitlement.

___ Due to your status within the company, you are considered a "key employee" as defined in the FMLA. As a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us. We ___ **have**/ ___ **have not** determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us.

___ While on leave you will be required to furnish us with periodic reports of your status and intent to return to work every _____ (Indicate interval of periodic reports, as appropriate for the particular leave situation)

If the circumstances of your leave change, and you are able to return to work earlier than the date indicated on the reverse side of this form, you will be required to notify us at least two workdays prior to the date you intend to report for work.

If your leave does qualify as FMLA leave you will have the following **rights** while on FMLA leave:

You have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as:

___ the calendar year (January – December).

You have a right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. This single 12-month period commenced on

_____.
Your health benefits must be maintained during any FMLA period of unpaid leave under the same conditions as if you continued to work.

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 FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)

If you do not return to work following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

IF we have not informed you above that you must use accrued paid leave while taking your unpaid FMLA leave entitlement, you have the right to have ___ sick, ___ annual, ___ excess, and/or ___ converted sick leave run concurrently with your unpaid leave entitlement, or take unpaid FMLA leave. The FMLA leave policy is found in Human Resource Management Rule R477-7-15 at <http://employeegateway.utah.gov> under the "Useful Tools" tab or <http://www.dhrm.utah.gov> under the policy tab.

___ Applicable conditions for use of paid

leave: _____

Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlement. If you have any questions, please do not hesitate to contact:

_____ at _____