



TOWN OF WELLESLEY FAMILY MEDICAL LEAVE (FMLA) POLICY

HR Board Approved:

Town Meeting Approved: October 26, 2020

Eligibility for FMLA Leave

Employees are eligible for FMLA leave if they have worked for Town of Wellesley for at least one year, and for 1,250 hours over the previous twelve (12) months.

Types of FMLA Leave

Eligible employees can take FMLA leave for the following reasons:

Parental Leave

Employees may take FMLA leave for incapacity due to pregnancy, prenatal medical care or childbirth. Such leave may also be used by male and female employees to care for the employee's child after birth, or placement for adoption or foster care.

Leave due to the Employee's Own or a Family Member's Serious Health Condition

Employees may take FMLA leave for a serious health condition that makes the employee unable to perform their job. Employees may also take FMLA leave to care for the employee's spouse, son, daughter, or parent who has a serious health condition.

Qualifying Exigency Leave

Eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in (a) the National Guard or Reserves in support of a contingency operation, or (b) the regular armed forces who are in or called to active duty in a foreign country may use FMLA leave to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial or legal arrangements, attending certain counseling sessions, and attending post deployment reintegration briefings.

Military Caregiver Leave

Eligible employees may take FMLA leave to care for a son, daughter, parent or next of kin who is a covered service member. A covered service member 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 service member medically unfit to perform their duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. Covered service members also include veterans who are undergoing medical treatment, recuperation or therapy for serious injuries or illnesses that were incurred or aggravated in the line of duty during the preceding five (5) years.

Length of FMLA Leave

Employees may take up to 26 weeks of Military Caregiver leave during a single 12-month period.

For all other types of FMLA leave, each employee may be granted leave for a period up to twelve (12) weeks during any twelve-month period. In determining eligibility for leave, a "rolling" twelve-month period is used, measuring backward from the date the employee uses any FMLA leave.

In circumstances where both spouses work for the Town of Wellesley, the employees may be limited to a combined total of 12 weeks of leave for parental leave or for leave to care for the employee's parent with a serious health condition, or to a combined total of 26 weeks of military caregiver leave.

If an employee is eligible for FMLA leave and takes time off for an FMLA-qualifying purpose, such leave shall be counted as FMLA leave. Leaves taken pursuant to other Town of Wellesley policies (for example, workers' compensation, parental leave, short-term disability) shall be deemed to run concurrently with FMLA leave.

Required Certifications

Different certifications are required depending on the reason for leave. Employees seeking leave due to a family member's serious health condition will be required to submit a completed "Certification of Health Care Provider for Family Member's Serious Health Condition" form. Employees seeking FMLA leave due to the employee's own serious health condition will be required to submit a completed "Certification of Health Care Provider for Employee's Serious Health Condition" form. Employees seeking Qualifying Exigency Leave will be required to submit a completed "Certification of Qualifying Exigency for Military Family Leave" form. Employees seeking Military Caregiver Leave will be required to submit a completed "Certification of Serious Injury or Illness of Covered Service member" form. In lieu of the form, the employee may provide invitational travel orders (ITOs) or invitational travel authorizations (ITAs). These forms are available from the Director of Human Resources.

In all cases of leave due to the employee's or a family member's serious health condition, the Town of Wellesley reserves the right to request a second medical opinion at the Town's expense and further medical opinion, where appropriate. Periodic recertification also may be required for requested extensions of medical leave, lengthy leaves of absence, and for such other appropriate circumstances.

The Town of Wellesley asks that employees not provide any genetic information when submitting the required certifications. Genetic information includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Compensation During FMLA Leave

Employees on FMLA leave are required to apply any accrued paid time off while taking FMLA leave. Employees must comply with the Town of Wellesley's existing policies for use of accrued paid time off.

If an employee does not have any accrued paid time and is not eligible for other benefits, such as workers' compensation payments, the FMLA leave will be unpaid.

Benefits During FMLA Leave

An employee on FMLA leave will be retained on the Town of Wellesley's health plan on the same condition as active employees, except that the employee must make arrangements with Human Resources for timely payment of the employee's portion of the premium in order to continue such coverage. If any premium payment is more than thirty (30) days late, coverage may be lost during the remainder of the leave. In circumstances where an employee is on paid leave, the appropriate deductions will be made in the same manner as the employee's regular paycheck.

Reduced Work Schedule/Intermittent FMLA Leave

For all types of FMLA leave except Parental leave, an employee does not need to use the 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 Town of Wellesley's operations. Further, where a reduced work schedule or intermittent leave is foreseeable based on planned medical treatment, the Town reserves the right to temporarily transfer the employee to a position that better accommodates the employee's recurring periods of leave.

Notifications Regarding FMLA Leave

Employees requesting leave will be notified regarding whether they are eligible under FMLA. If they are eligible, the notice will specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the Town will provide a reason for the ineligibility.

The Town will inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the Town determines that the leave is not FMLA-protected, the employee will be notified.

Return from FMLA Leave

Upon return from FMLA leave, an employee will be restored to their original or equivalent position with equivalent pay, benefits, and other employment terms, subject to the terms and conditions of the FMLA.

If an employee is unable to return from FMLA leave on the date set forth in the leave request and/or certification of healthcare provider, the employee is expected to contact the Town of Wellesley prior to the anticipated return to work date. If an employee fails to return from FMLA leave when scheduled and does not contact the Town in advance, the employee may be deemed to have resigned.