

University of Alaska

Family Medical Leave (FML)

Q1: What is Family Medical Leave?

Family Medical Leave is a University of Alaska regulation (UA Regulation 04.06.144) based on the Family & Medical Leave Act and the State of Alaska's Pregnancy, Childbirth, & Family Leave Act. The state and federal laws require employers to allow eligible employees to take leave and to provide certain benefits for specific qualifying events for a limited period of time. Upon return from FML, the employee will be reinstated to the same or equivalent position with the same pay, benefits, terms and conditions of employment.

Q2: Who is an eligible employee?

All employees of the University of Alaska are eligible to request family medical leave if they have been employed with the University of Alaska for the length of time required by federal or state law. State law requires that a person be employed by the University for at least 35 hours a week for at least six consecutive months **or** for at least 17 ½ hours a week for at least 12 consecutive months immediately preceding the leave. Federal law requires that a person be employed by the University for at least 12 months **and** work for at least 1,250 hours during the 12 month period immediately preceding the leave.

Q3: In what circumstances will Family Medical Leave be granted?

Eligible employees are entitled to family medical leave for the following reasons:

- A serious health condition which makes the employee unable to perform their job duties
- A serious health condition of certain family members which requires the employee's care
- Pregnancy and birth of a newborn child (if taken within the first 12 months after birth)
- Placement of a child for adoption or foster care (if taken within the first 12 months)

Q4: What is the definition of a serious health condition?

The determination of a "serious health condition" is made in accordance with federal and state law. A serious health condition includes an illness, injury, impairment, or physical or mental condition that involves:

- Inpatient care in a hospital, hospice, or residential medical care facility and any subsequent treatment in connection with an inpatient stay
- continuing treatment or continuing supervision by a health care provider; or
- any period of incapacity or treatment for such incapacity due to a chronic serious health condition
- any period of incapacity due to pregnancy, or for prenatal care

Q5: What conditions do not qualify as a serious health condition?

The common cold, the flu, ear aches, upset stomach, minor ulcers, headaches (other than migraine), routine dental or orthodontia problems, periodontal disease, and taking over-the-counter medications are examples of conditions that do not meet the definition of a serious health condition. Each request for FML is reviewed by the regional Human Resources office to determine if the condition qualifies for FML.

Q6: Is medical certification required during FML?

A request for FML for the serious health condition of the employee or a family member must be supported by a health care provider's certification on US Department of Labor form WH-380. Information requested on the certification form includes the date on which the condition commenced, the probable duration of the condition, and appropriate medical facts regarding the condition. If the FML request is to care for a family member, the certification must include a statement of the care that the employee will provide. The University requires monthly recertification during continuous FML leave. If FML is intermittent, the University may also require certification of the dates of treatment and duration of treatment.

Submit certifications directly to the regional Human Resources office. The certification form is available online at the university's human resources benefits Web site (www.alaska.edu/hr/benefits/forms/hr_leaveforms.xml). Please note: Medical information is confidential and is kept separate from the employee's personnel file.

Q7: What is the length of leave?

Upon approval of FML, an employee will be granted family medical leave as provided by law. Federal law allows 12 weeks per year. State law allows 18 weeks per 24 month period for serious health conditions, and 18 weeks within twelve months for pregnancy, childbirth and adoption.

Q8: Who is defined as a family member?

The state and federal laws have different definitions. Under state law, an employee may take FML in order to care for the employee's child, spouse, financially interdependent partner, or parent who has a serious health condition. "Parent" means a biological or adoptive parent, a parent-in-law, a parent of a financially interdependent partner, or a stepparent. "Child" means an individual who is under 18 years of age, or who is 18 years of age or older and incapable of self-care because of mental or physical disability. "Child" includes the employee's biological, adopted or foster child, stepchild, child of a financially interdependent partner, or ward.

Under federal law, an employee may take FML to care for the employee's child, spouse, or parent who has a serious health condition. "Spouse" means a husband or wife. "Parent" means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. "Child" of the employee means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a physical or mental disability.

Q9: When is an employee required to notify the University of an impending leave?

An employee expecting a new child (either by birth or placement) or taking foreseeable medical leave should provide at least 30 days notice to their supervisor. An employee who takes a foreseeable leave based on a planned medical treatment should make a reasonable effort to schedule the treatment, subject to the health care provider's approval, so as not to unduly disrupt their department's operations. If the leave must begin in less than 30 days, the employee must provide as much notice as possible.

Q10: When an employee is on FML what happens to their employment?

Employees taking FML are entitled to return to the same position or to another position which has equivalent benefits and pay. However, if an employee's term contract ends or their position is eliminated while they are on FML, there is no requirement to find the employee another position.

Q11: What if an employee's serious health condition requires intermittent leave?

Leave for a serious health condition may be taken on an intermittent or reduced schedule when medically necessary. This means leave may be taken on a schedule that reduces the employee's usual number of hours worked per week or per day.

If an employee is taking leave for pregnancy or treatment of a serious health condition on an intermittent basis, the University may temporarily transfer an employee to an alternative position during the period of intermittent or reduced-schedule leave to better accommodate the need for intermittent leave. The alternative position will have equivalent pay and benefits.

Q12: Can an employee take intermittent leave after the birth or placement of a child?

Leave for the birth or placement of a child may be taken on an intermittent or reduced schedule only with the approval of the employee's supervisor.

Q13: Does the Family Medical Leave Regulation require use of paid leave before leave without pay?

Employees who take FML must exhaust all accrued sick leave, annual leave, and personal holidays, if applicable, prior to going on leave without pay.

Q14: Can the University place an employee on FML if the employee does not request FML?

The University can place an employee on FML for absences which qualify and will notify the employee in writing that they have been placed on FML.

Q15: Will the University continue health insurance and other benefits during FML?

Employee health benefits will be maintained for 18 weeks of FML per year under the same conditions as if the employee continued to work. The University will continue an employee's basic life insurance and long-term disability insurance while an employee is on family medical leave. If the employee is in a paid status, the employee's share of benefit premiums will continue to be paid through payroll deductions.

If an employee begins unpaid FML or is on workers compensation, the employee must pay benefit premiums that normally come out of paychecks in order to continue the benefits during unpaid leave. Failure to pay appropriate payments will result in cancellation of health and supplemental coverages.

If an employee is eligible for more than 18 weeks of FML in a 12 month period for events covered separately under state and/or federal law, the employee may be required to pay all of the costs of maintaining benefits during unpaid leave after the eighteenth week of FML.

Q16: Can an employee change optional benefit elections, or add a dependent to health while on FML?

An employee who experiences a "Major Life Event" (such as a birth, death, divorce, etc.) during FML may elect to make changes to certain optional benefit elections, such as adding a new baby to the health plan, by submitting a Dependent Enrollment Form within the appropriate time frame. Additional information on making changes to other optional benefits is available at the University of Alaska's human resources benefits Web site at www.alaska.edu/hr/benefits.

Note: There are limited windows for making changes to benefit elections due to a Major Life Event: 60 days after the date-of-birth to add a new child to health insurance as a dependent, and 30 days after the event for any other optional benefit changes.

Q17: What happens to flexible spending accounts (FSA)?

Employees in a paid FML status who participate in a medical or dependent care FSA will continue to participate and make contributions from their paycheck as usual. FSA contributions will be adjusted for employees who exhaust paid leave while on FML.

Q18: What happens to retirement contributions?

Contributions to all retirement and pension plans cease during an unpaid FML or workers compensation period. However, PERS employees on workers compensation and TRS employees may be eligible to receive service credit by making the appropriate contributions.

Q19: What if an employee is receiving Worker's Compensation?

Employees receiving WC who are away from their job for a serious health condition are placed on FML. Because employees on WC do not receive a regular payroll check, they must make manual payments for their portion of benefit(s) normally deducted from their paycheck

Q20: What happens to union agency fees?

Union represented employees should contact the appropriate union/agency representative for information regarding the expectation of fees payment during FML.

Q21: Can an employee on FML receive donated leave?

Eligible employees who exhaust all personal leave may apply for donated leave under University Regulation 04.06.130. Leave share is not available for all FML events or to all FML-eligible employees. ACCFT faculty members may also qualify for leave from the ACCFT leave bank.

Q22: What happens to benefits if an employee is unable to return to work at the end of their leave?

If an employee is unable to return to work at the end of their FML absence, the University will notify the employee of the status of their benefits, including health insurance continuation rights. If an employee does not return to work for a reason other than (1) the continuation, recurrence or onset of a serious qualifying health condition; (2) other circumstances beyond the employee's control; or (3) retirement, the employee will be required to reimburse the university for health care coverage paid on the employee's behalf.

Q23: What if an employee needs time off to care for a sibling or an adult child?

Although care of a sibling or an adult child (who is not disabled) are not eligible events for FML, employees may use sick leave for this purpose, subject to supervisor approval.

Q24: Are employees required to report their status during leave?

The regional human resources office may require employees to report periodically on their status and intention to return to work.

Q25: How does an employee request Family Medical Leave?

- Submit an FML Request Form to notify immediate supervisor of the FML request
- If applicable, submit a Physician's Certification Form to the regional Human Resources office
- Contact Human Resources to discuss leave provisions & benefits
(Forms will be provided by Human Resources)

Q26: Where can employees find out more about Family Medical Leave?

Human Resources:

UAA: (907) 786-4608

UAF: (907) 474-7700

UAS: (907) 796-6473

Statewide: (907) 450-8227

UA Human Resources Benefits Web site: www.alaska.edu/hr/benefits

UA Regulation 04.06. /www.alaska.edu/bor/policy/04-06.doc

This document summarizes University Regulation, state law, and federal law and regulation. It does not modify or replace any provision of law or regulation.