



# Parental Leave Packet

Answers to Frequently Asked Questions about  
Parental Leave,  
FMLA and PFML

# ***Congratulations!***

**We hope you will find the information in this packet a helpful tool in planning your Parental Leave.**

Please Note: This summary is intended to be an aid in providing employees who will be on Parental Leave with possible leave options.

While every attempt is made to align this packet with current Washington and Federal Leave Laws, it is important to remember these laws are ever-changing and information within this packet is subject to change without notice.



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# Frequently Asked Questions

## 1. I just found out I'm pregnant – what should I do?

Let your site administrator or supervisor know so that preliminary planning for coverage of your position can begin. When you have an estimated date of delivery, please submit the **Application for Medical Leave (see page 10)** form to Human Resources. The purpose of this form is to provide the District with estimated dates for your Parental Leave.

## 2. How long can I keep working?

You may work as long as you and your doctor agree. This is a medical decision that will not be made by the District. After the 4<sup>th</sup> month, you may be required to submit notes from your doctor stating that you may continue to work.

## 3. I am not due for a few weeks, but my Doctor has placed me off work. What do I do?

If your date of release from work has changed, the District may request an updated doctor's note to Human Resources with your new release from work date.

## 4. What is FMLA?

FMLA stands for Family Medical Leave Act. FMLA allows qualified employees to take up to 12-weeks unpaid job-protected leave and runs concurrently with sick leave. Since not all employees qualify for FMLA, please check with the Payroll department for eligibility requirements. The District will send FMLA eligibility paperwork to you when you begin your parental leave. FMLA leave begins the first day you are placed off work for your pregnancy and/or delivery and runs concurrently with depletion of sick leave (and other available leave for classified employees). FMLA also allows you to have the employer paid benefits continue contributions to medical, dental and/or vision benefits. The employee will be responsible for his/her portion of the benefit cost. FMLA is limited to 12 workweeks every 12 months. The 12-month period is measured forward from the date of your first FMLA leave usage per fiscal year.

## 5. What is PFML?

PFML stands for Paid Family Medical Leave. Paid Family and Medical Leave is available to almost everyone working in Washington. You are able to receive the benefit when you:

1. Have worked 820 hours (about 165 hours a week) in employment in Washington during the "qualifying period."
2. Experienced a "qualifying event."

Full-time, part-time, temporary, and seasonal work counts. The benefit is also portable between jobs, which means all the reportable hours you work in Washington count toward eligibility, even if you work multiple jobs or switch employers.

Qualifying events are:

### Family leave

- Bonding with a new child coming into your family through birth, adoption or foster placement.
- Caring for a family member with a serious health condition or injury.
- Certain events for military families.

### Medical Leave (for yourself)

- Recovery or treatment for your own serious health condition or injury, including recovery from childbirth.

### How much time do I get?

- Up to 12 weeks of medical leave to recover from or get treatment for a "serious health condition," or family leave to take care of a qualifying family member who is ill or injured with a "serious health condition" or to bond with a new child or for certain military events.
- Up to 18 weeks of combined medical and family leave if you experience a condition in pregnancy that results in incapacity, like being put on bedrest, and then take bonding leave.
- Leave can be taken intermittently, as long as you are on leave for a minimum of eight consecutive hours each week.

**6. I have delivered my baby, now what?**

Please have your doctor complete the form entitled **“Certification of Health Care Provider”** (Page 11) and return the completed form to Human Resources as soon as possible. Please remember to contact the Payroll/Benefits department after the birth if you choose to add your baby to your health plan. The baby will only be covered under the mothers plan for the first 21 days.

**7. What is the normal length of time I would be allowed to be off work?**

Because every pregnancy is different, you and your doctor determine the length of time away from work. A routine parental leave is 6 weeks following a natural delivery and 8 weeks following caesarian. You and your doctor may determine that you need additional time before or after the delivery of your baby.

**8. When can I return to work?**

You may return as soon as your doctor releases you. Again, this is a medical decision that will not be made by the District.

**9. What if I want to stay out a little longer after my doctor releases me?**

Once you receive medical clearance to return to work, you may request to remain off work for the remainder of the 12-week allowance available under FMLA (if you meet eligibility requirements) and up to 18 weeks under PFML. The District does not pay for your salary under PFML .

**10. I want to stay out even longer. Are there any other options?**

You may request a Leave of Absence, but this time will be unpaid. Please be advised that you will not receive any salary or District-paid benefits during this leave. However, benefits may be purchased through the District.

**11. Do I deplete my sick leave when I am on parental leave?**

FMLA does not require that an employee deplete their sick leave (or any other available leave). FMLA requires, however, that the employer allow the employee to take available paid leave (i.e., an employer cannot bar any employee from taking their accrued paid leave). There are cases where Short Term or Long Term Disability plans may require and employee to use all of their available Sick Leave before they are eligible to receive Disability benefits. Please contact the agency directly to discuss your plan.

**12. What happens when I run out of leave?**

Once all available leaves are exhausted, employees are on leave without pay.

**13. Do I get paid during vacation and breaks, or for district in-service?**

Depending on your work calendar, the salary is divided over 12 months so that you are paid an equal amount, even though you may be on summer vacation or a holiday break (i.e. winter break, spring break, etc.). You are, in reality, only paid for actual days you work or when you are attending district in-service.

**14. Do holidays or non-duty days count against my time off?**

Non-duty days and holidays are not deducted from your sick leave balance or counted towards FMLA. If school is closed, for instance for a vacation period during the winter holidays or over the summer, and you are not expected to report to work for one or more weeks, those weeks may not be counted against FMLA leave.

**15. What about my benefits?**

A district employee on an approved leave under the federal Family and Medical Leave Act (FMLA) or the family and medical leave insurance program under chapter 50A.04 RCW (paid family and medical leave program) may continue to receive the employer contribution toward school employees benefits board (SEBB) insurance coverage in accordance with the federal FMLA or RCW 50A.04.245. Employees may also continue current supplemental life, supplemental accidental death and dismemberment (AD&D), and supplemental long-term disability insurance. The school employee's SEBB organization is responsible for determining if the school employee is eligible for

leave under FMLA and the duration of such leave. The employment security department is responsible for determining if the school employee is eligible for leave under the paid family and medical leave program.

If a school employee's monthly premium or applicable premium surcharges remain unpaid for sixty (60) days from the original due date, the school employee's SEBB benefits will be terminated retroactive to the last day of the month for which the monthly premium and applicable premium surcharges were paid.

If a school employee exhausts the period of leave approved under FMLA or paid family and medical leave, SEBB benefits may be continued by self-paying the premium and applicable premium surcharges set by the health care authority (HCA), with no contribution from the SEBB organization, as describe in WAC 182-31-100(1).

#### **Adding a dependent to SEBB benefits:**

##### **Medical, Dental, and Vision**

You have up to 60 days to add a dependent to your medical plan, but we highly recommend you do this in the first 30 days after date of birth or legal custody. It takes a couple of weeks for processing and you don't want to take the chance of missing the 60-day deadline.

You will need to set up a Special Open Enrollment in your SEBB My Account to add your dependent newborn to your insurance.

It is not necessary to wait until you have baby's social security card – here is a box that can be checked indicating we need to get baby enrolled as soon as possible, therefore, just plan to give us a call with the social security number when you receive it.

#### **Termining Coverage:**

If you are on a approved unpaid leave of absence and lose your benefit eligibility, you may choose to let your benefits lapse. You may possibly have other coverage (such as your spouse's medical plan) and do not want to pay for District medical premiums. The Benefits Office will talk to you about this and then will end your coverage at this time. When you return to work from your leave, it is imperative to contact the Payroll and Benefit Department to get your benefits reinstated. You will need to re-enroll in SEBB once Payroll and Benefits have updated you in the SEBB system.

#### **Optional Benefits**

**Leave Share:** The Leave Share program may apply to Maternity and Parental Leave entitlements and provisions. This includes pregnancy, birth and recovery as well as bond with child time. The District will automatically apply all available sick leave, personal leave and vacation before applying Leave Share donations, unless you request us to reserve. If you wish to reserve 40 hours of your sick leave during a Parental/Maternity Leave, please contact the Payroll and Benefits Department.

#### **16. How will my substitute be selected? Am I responsible for finding someone?**

The site administrator and Human Resources will assist with finding someone to temporarily fill your position. If you have a recommendation, please inform your site administrator. Every effort will be

made to grant your recommendation. Because our intent is to find the most qualified candidate, we cannot guarantee that your desired substitute will be chosen.

#### **17. Will my parental leave affect achieving full-time status?**

Time taken for parental leave is calculated as if you are still in your position. If you take extended periods of unpaid leave, it will affect your full-time status.

**18. If I take a long leave, will I be placed back in my same assignment?**

**• If I am a certificated employee:**

We try to place everyone in their first choice of school and grade but this is not a guarantee. On a short-term parental leave that does not involve PFML leave, you will most likely return to the same class. It is important to remember that although FMLA and PFML are “job-protected leaves,” this does not mean you will return to the exact position you occupied prior to your leave. It is the obligation of the District to place you in the same or a comparable position within the scope of your credential upon your return.

**• If I am a classified employee:**

We try to place everyone in their original position, but this is not a guarantee. On a short-term parental leave that does not involve PFML leave, you will most likely return to the same position you occupied prior to your leave. It is important to remember that although FMLA and PFML are “job-protected leaves,” this does not mean you will return to the exact position you occupied prior to your leave.

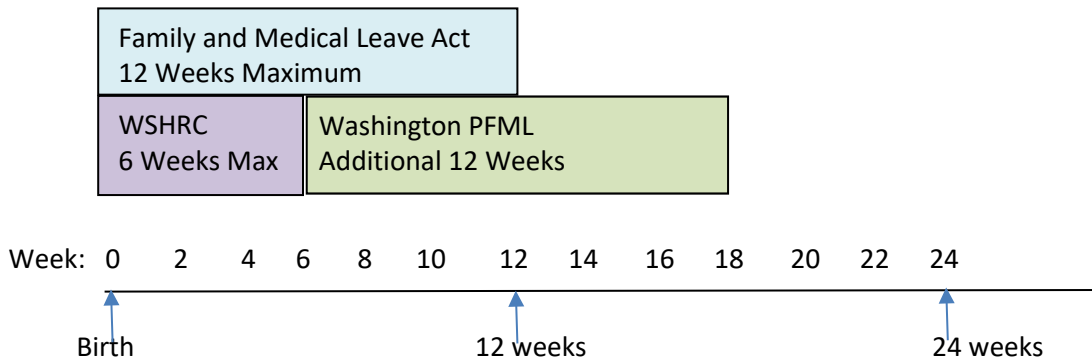
**19. I have income protection, can I use it? How does it work?**

Some voluntary disability plans cover parental leave. Please contact the agency directly to discuss your plan. If the agency needs any information from the District, they will send the forms directly to Human Resources and the forms will be completed promptly.

**20. I’m still confused, who can answer my other questions?**

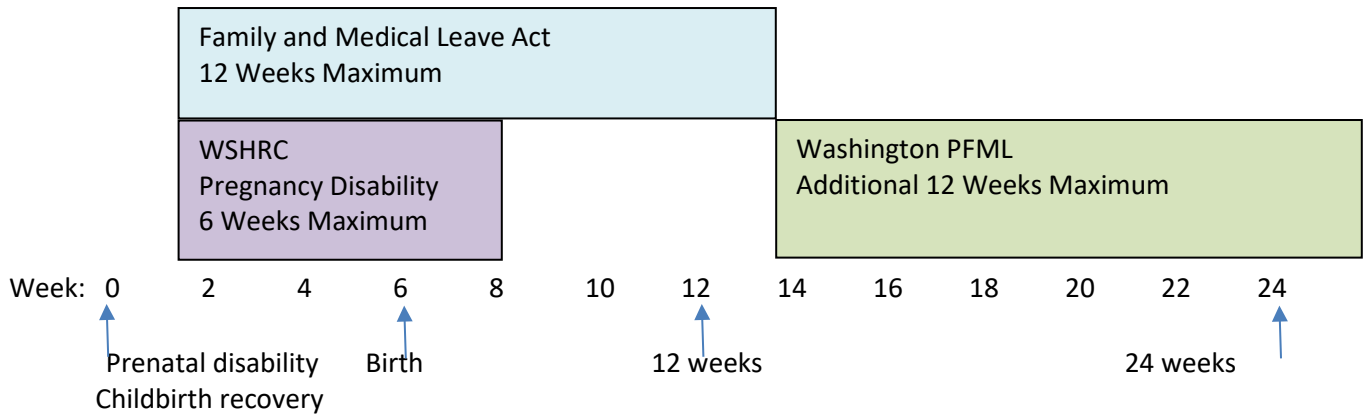
Human Resources is here to help! This whole topic can be very confusing, as every situation is quite different. We strongly suggest you make an appointment with Payroll/Benefits to talk about how your salary and benefits may be affected if you plan to take FMLA or PFML leave.

## Timeline for Parental Leaves



**Example 1.**

Employee works until birth (no disability during pregnancy), has no serious complications during birth, and takes 6 weeks leave for recovery from childbirth under Washington State Human Rights Commission regulations. In such a case, the employee’s 6 weeks of Pregnancy Disability Leave runs concurrently with the first 6 weeks of her federal FMLA leave. She has applied for her PFML leave to begin after her Pregnancy Disability Leave ends. Once the employee’s Pregnancy Disability Leave ends, her remaining 6 weeks of federal FMLA leave runs concurrently with the first 6 weeks of her state PFML leave. Once the employee’s federal FMLA leave is exhausted, she has 6 remaining weeks of state FMLA leave (which results in a combined total of 18 weeks of leave).



**Example 2.**

Employee takes 6 weeks of pregnancy disability leave before the child is born because of pregnancy-related complications, followed by 6 weeks for recovery from childbirth. These 12 weeks of leave count as leave both under the Washington State Human Rights Commission pregnancy disability regulations and under the federal FMLA. Employee’s 12 weeks of state PFML leave do not begin to run until after the 12-week period of FMLA ends, providing Employee with a total of 24 weeks of leave.

**LONG TERM CERTIFICATED SUBSTITUTE ORIENTATION**

Listed below are items to discuss with your long-term substitute and/or your site administrator prior to your leave. Please note that not all of these topics will apply to every grade level. Please utilize what applies to you and your position and/or site.

1. Student information: health concerns, behavior, parent involvement (restraining orders); IEPs
2. Lesson plans: rest of the year plan (roughly), where to find all teacher’s guides and student material, workbooks.
3. Discipline routine: behavior expectations, class rules, rewards, and consequences
4. Class routine: daily schedule; rules regarding bathroom use, sharpening pencils, and drinks; signal used to get students’ attention; rainy days; emergency drills; roll call.
5. Class list/seating chart
6. Yard duty responsibilities: where, when, what
7. Out of classroom activities: PE, music, computers, library
8. Prep period schedule
9. Grading procedures: grade book, report cards, grading system (percentage, letter grades, stickers, stamps), any portfolios
10. Homework policy: typical assignment, frequency
11. Birthdays: do you celebrate them, how? List of dates
12. Filing system
13. Student jobs/helpers
14. Special person of the week/month
15. Advice/procedures for minimum days or assembly schedule
16. State testing or upcoming events
17. Your telephone number or email and anticipated return date





**MEDICAL LEAVE ONLY** (answer all items):

1. What is the serious health condition? \_\_\_\_\_
2. When did you learn of the need for the leave? \_\_\_\_\_
3. If the medical leave is for yourself, are you unable to work or to perform essential functions of your job?  
Yes \_\_\_ No \_\_\_
4. If the medical leave is due to a child's medical condition, what is his/her age? \_\_\_\_\_
5. If the medical leave is due to medical condition of a spouse, parent, or child, is he/she capable of self-care?  
Yes \_\_\_ No \_\_\_ If no, why not? \_\_\_\_\_

**PARENTAL LEAVE ONLY** (answer all items):

1. Care of a newborn child? Yes \_\_\_ No \_\_\_
  - If yes, anticipated date of birth: \_\_\_\_\_
2. Placement of an adopted child? Yes \_\_\_ No \_\_\_
  - If yes, date of birth: \_\_\_\_\_
  - Date of Placement: \_\_\_\_\_
3. Placement of a foster child? Yes \_\_\_ No \_\_\_
  - If yes, date of birth: \_\_\_\_\_
  - Date of Placement: \_\_\_\_\_
4. If your spouse is employed by this school district, will the spouse take leave time to care for the same child?  
Yes \_\_\_ No \_\_\_ (if yes, provide name of spouse/employee as shared leave provisions apply.)  
Name of the other employee/spouse: \_\_\_\_\_

***Please contact the Payroll and Benefits Department to schedule an appointment to meet concerning benefits, sick leave, changes in FTE, etc. Contact –Payroll and Benefits Department, Sequim S.D. 360-582-3247 or 360-582-3267.***

***IMPORTANT INFORMATION CONCERNING BENEFITS:*** 1. A district employee on an approved leave under the federal Family and Medical Leave Act (FMLA) or the family and medical leave insurance program under chapter 50A.04 RCW, Paid Family and Medical Leave program (PFML) may continue to receive the employer contribution toward school employees benefits board (SEBB) insurance coverage in accordance with the federal FMLA or RCW 50A.04.245. Employees may also continue current supplemental life, supplemental accidental death, and dismemberment (AD&D), and supplemental long term disability insurance. The school employee's SEBB organization is responsible for determining if the school employee is eligible for leave under FMLA and the duration of such leave. The Employment Security Department is responsible for determining if the school employee is eligible for leave under the Paid Family and Medical Leave program (PFML). 2. If a school employee's monthly premium or applicable premium surcharges remain unpaid for sixty days from the original due date, the school employee's SEBB benefits will be terminated retroactive to the last day of the month for which the monthly premium and applicable premium surcharges were paid. 3. If a school employee exhausts the period of leave approved under FMLA or paid family and medical leave, SEBB benefits may be continued by self-paying the premium and applicable premium surcharges set by the health care authority (HCA), with no contribution from the SEBB organization, as described in WAC 182-31-100(1).

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Administrator/Supervisor Signature

\_\_\_\_\_  
Date

**Human Resource Department Use Only**

**Reviewed by** \_\_\_\_\_ **Date** \_\_\_\_\_ **Board Approval Date** \_\_\_\_\_ **To Payroll** \_\_\_\_\_

## CERTIFICATION OF HEALTH CARE PROVIDER for FAMILY AND MEDICAL LEAVE

1. Employee's Name (please print) \_\_\_\_\_
2. Patient's Name (please print) \_\_\_\_\_
3. The attached sheet describes what is meant by a "***Serious Health Condition***" under the Family and Medical Leave Act. Does the patient's condition<sup>1</sup> qualify under any of the categories described? If so, please check the applicable category.  
 (1)     (2)     (3)     (4)     (5)     (6)     None
4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories. ***Do not disclose diagnosis.***
- 5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity<sup>2</sup>, if different).
- b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in item 6 below)?  
 Yes     No    If yes, give the probable duration.
- c. If the condition is a chronic condition (condition #4 on attached sheet) or pregnancy, state whether the patient is presently incapacitated<sup>2</sup> and the likely duration and frequency of episodes of incapacity<sup>2</sup>.
- 6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments.

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery, if any.

\_\_\_\_\_

<sup>1</sup>Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

<sup>2</sup>"Incapacity", for the purpose of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom.

- b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments.

- c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment).
- 7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absence due to pregnancy or a chronic condition), is the employee unable to perform work of any kind?
- Yes             No
- b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)?
- c. If neither "a" nor "b" applies, is it necessary for the employee to be absent from work for treatment?
- Yes             No
- 8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation?
- Yes             No
- b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery?
- Yes             No
- c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need. State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule.

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

\_\_\_\_\_  
Type of Practice

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

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

\_\_\_\_\_  
Date

A “***Serious Health Condition***” means an illness, injury impairment, or physical or mental condition that involves one of the following:

1. **Hospital Care** – Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity<sup>2</sup> or subsequent treatment in connection with or consequent to such inpatient care.
2. **Absence Plus Treatment**
  - a. A period of incapacity<sup>2</sup> of **more than three consecutive calendar days** (including any subsequent treatment for period of incapacity<sup>2</sup> relating to the same condition), that also involves:
    - 1) **Treatment<sup>3</sup> two 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
    - 2) **Treatment** by a health care provider on **at least one occasion** which results in a **regimen<sup>4</sup> of continuing treatment** under the supervision of the health care provider.
3. **Pregnancy** – Any period of incapacity<sup>2</sup> due to **pregnancy**, or for **prenatal care**.
4. **Chronic Conditions Requiring Treatments**

A **chronic condition** which:

- 1) 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;
  - 2) Continues over an **extended period of time** (including recurring episodes of a single underlying condition); and
  - 3) May cause **episodic** rather than a continuing period of incapacity<sup>2</sup> (e.g., asthma, diabetes, epilepsy, etc.)
5. **Permanent/Long-term Conditions Requiring Supervision** – A period of **incapacity<sup>2</sup>** 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 not be receiving active treatment by, a health care provider**. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease.
  6. **Multiple Treatments (Non-Chronic Conditions)** – any period of absence to receive **multiple treatments** (including any period of recovery therefore) by a health care provider or by a provider of health care service 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<sup>2</sup> of more than the consecutive calendar days in the absence of medical intervention or treatment**, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

<sup>3</sup>Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

<sup>4</sup>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 condition. A regimen of treatment does not include the taking of over-the-counter medication such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

# EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

## Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave 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, 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 whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status 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: (1) a current member of the Armed Forces, including a member of the National Guard or 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\*; or (2) a veteran who was discharged or released under conditions 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, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

**\*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

## 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 12 months, have 1,250 hours of service in the previous 12 months\*, and if at least 50 employees are employed by the employer within 75 miles.

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

## 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

Employees may choose or employers may require use of 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; and
- 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 section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.**



For additional information:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)

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



WHD Publication 1420 · Revised February 2013



Washington State

# Human Rights Commission

## Pregnancy/Maternity Leave Questions

### **Q. Can an employer refuse to hire a woman because she is pregnant?**

No. A qualified woman who is pregnant must be considered for any position she applies for. It is an unfair practice to refuse to hire a woman because she is pregnant or may become pregnant.

### **Q. Is a woman entitled to maternity leave?**

Under the law a pregnant woman is allowed to ask for medical leave away from work. This may include all the time her medical provider thinks is required. The law requires the employer to allow a pregnant woman time away from work for abnormal conditions. [\[FMLA\]](#)

### **Q. Is there a set period of time off of work for leave during pregnancy?**

Under the law there is no set period of time off of work for pregnancy problems. The employer is expected to allow a woman time off work whenever the medical provider requests time off. Assuming the request is because she is medically unable to work. [\[FMLA\]](#)

### **Q. Is the employee entitled to full pay while on maternity leave?**

The law doesn't talk about pay while on maternity leave. So the basic answer is no. However, if the employer offers short-term disability insurance for other temporary disabilities, then the employer must offer it for pregnancy.

### **Q. Is the employee entitled to her job back after she delivers the baby?**

Yes. Once the medical provider releases the woman to return to work the employer is expected to bring her back. However, the employer is not required to keep her specific position open though. If necessary the employer may fill the original position. Then the employer is expected to bring the employee back to work in a similar position after her medical provider releases her.

### **Q. If my employer temporarily fills a position with someone else while a woman is out on maternity leave and then doesn't want to bring her back because they like the other person better can they do that?**

The law allows the employer to fill a position if business necessity requires it. However, the law also says that an employer needs to bring the woman back to work after she is released. Therefore, returning her to a similar position is expected. But it may not be the one that she held prior to her leave.

### **Q. Can an employee be laid off or fired while pregnant or on maternity leave?**

Not because of the pregnancy or related medical leave. However, if the employer is conducting a general reduction in force then her position may be included. The reduction in force must be based on business needs. Also performance problems can be addressed while the employee is pregnant.

**Q. At what time in the pregnancy must the employee stop working?**

The employee and her medical provider decide when she must stop working. There is no standard time when a pregnant employee needs to stop working. If the employee is medically able to work she can work until she delivers the baby.

**Q. If an employee experiences morning sickness or another related physical condition due to the pregnancy is she permitted to take leave during this time and then return to work for the remaining period of this pregnancy?**

Generally if a woman suffers an unusual condition related to her pregnancy then she is entitled to ask for time away from work. It is expected that she will be granted time away from work. No matter how long the need for time off work, the employer should bring the woman back when her medical provider releases her.

**Q. Must an employer provide health insurance coverage for pregnancy, childbirth and related medical conditions?**

Yes, if the employer offers health insurance for other temporary medical conditions. Then the employer needs to provide insurance that covers pregnancy.

**Q. Is the employee on maternity leave entitled to take additional time off for childcare and/or bonding with the child?**

Under discrimination law the employer is not required to grant leave for childcare or bonding. However, there may be other laws that apply to this type of leave and they should be reviewed. [[FMLA](#)]

**Q. Can my employer decide when I have to go on leave before the baby is born?**

No. The woman and her medical provider determine the length of time she is excused from work.

**Q. Can I expect to have my job duties altered to accommodate my medical condition because I am pregnant?**

If there were an abnormal physical condition, asking for a change of job duties is considered a reasonable accommodation. Changing minor job functions can be a reasonable accommodation. The employer does not need to make major changes in job duties in order to accommodate an employee. Follow the employer's normal way of asking for a change at work.

**Q. Can an employer decrease an employee's work hours because she is pregnant?**

An employer must treat a woman who is pregnant the same as any other employee. An employer must have a business reason for changing the employee's work schedule. If decreased hours are part of a reasonable accommodation request by the employee the request should usually be granted.

**Q. Does an employee lose seniority rights when she takes disability leave due to pregnancy?**

No, as long as the employer's policy allows it. If the policy permits the employee to keep and build benefits during a leave for other short-term disabilities the same policy needs to apply to pregnancy. If there is no policy then seniority should not be lost.



# Paid time off. Peace of mind.

Paid Family and Medical Leave provides paid time off when a serious health condition prevents you from working, when you need to care for a family member or a new child, or for certain military-related events. It's here for you when you need it most, so you can focus on what matters.

## How it works



Nearly every Washington worker—whether you work full time or part time in a small to large business—is eligible for up to 12 weeks of Paid Family and Medical Leave. You need to work 820 hours in Washington, or about 16 hours per week, over the course of about a year. You can get up to 16 weeks if you have family and medical events in the same year, or up to 18 weeks in some cases. Leave doesn't have to be taken all at once. You can use these weeks within your "claim year," which starts when you apply and then runs for the next 52 weeks. When that claim year expires you can then be eligible for leave again.

You apply for leave with the Employment Security Department and will get partial wage replacement, up to 90 percent of your typical pay, capped at **\$1,206** per week.

## Your rights



**If you meet the requirements, you have the right to take paid time off using Paid Family and Medical Leave.**

If you qualify for Paid Family and Medical Leave, your employer cannot prevent you from taking it. Your employer also cannot require you to use other types of leave, such as sick or vacation days, before or after taking Paid Family and Medical Leave. The program is funded by premiums shared between workers and many employers. The premium is 0.4% of your wage. You may pay about 2/3 of that total, and your employer (if they have 50 or more employees) pays the rest. A calculator to estimate premiums is available on our website.

To file a complaint against your employer about Paid Family and Medical Leave, email or call our Customer Care Team at [paidleave@esd.wa.gov](mailto:paidleave@esd.wa.gov) or (833) 717-2273.

You may also contact the Office of the Paid Family and Medical Leave Ombuds. The Ombuds is appointed by the governor and serves as a neutral, independent third party to help workers and employers in their dealings with the Department. The Office of the Ombuds investigates, reports on and helps settle complaints about service deficiencies and concerns with the Paid Family and Medical Leave program. Learn more at [www.paidleaveombuds.wa.gov](http://www.paidleaveombuds.wa.gov) or call the Ombuds' office at 844-395-6697.

Learn more and apply at  
[paidleave.wa.gov](http://paidleave.wa.gov)

Washington  
Paid Family & Medical Leave



## **WAC 162-30-020**

### **Pregnancy, childbirth, and pregnancy related conditions.**

(1) **Purposes.** The overall purpose of the law against discrimination in employment because of sex is to equalize employment opportunity for men and women. This regulation explains how the law applies to employment practices that disadvantage women because of pregnancy or childbirth.

(2) **Findings and definitions.** Pregnancy is an expectable incident in the life of a woman. Discrimination against women because of pregnancy or childbirth lessens the employment opportunities of women.

(a) "Pregnancy" includes, but is not limited to, pregnancy, the potential to become pregnant, and pregnancy related conditions.

(b) "Pregnancy related conditions" include, but are not limited to, related medical conditions, miscarriage, pregnancy termination, and the complications of pregnancy.

(3) **Unfair practices.**

(a) It is an unfair practice for an employer, because of pregnancy or childbirth, to:

(i) Refuse to hire or promote, terminate, or demote, a woman;

(ii) Impose different terms and conditions of employment on a woman.

(b) The sole exception to (a) of this subsection is if an employer can demonstrate business necessity for the employment action.

For example, an employer hiring workers into a training program that cannot accommodate absences for the first two months might be justified in refusing to hire a pregnant woman whose delivery date would occur during those first two months.

(c) It is an unfair practice to base employment decisions or actions on negative assumptions about pregnant women, such as:

(i) Pregnant women do not return to the job after childbirth;

(ii) The time away from work required for childbearing will increase the employer's costs;

(iii) The disability period for childbirth will be unreasonably long;

(iv) Pregnant women are frequently absent from work due to illness;

(v) Clients, co-workers, or customers object to pregnant women on the job;

(vi) The terms or conditions of the job may expose an unborn fetus to risk of harm.

(4) **Leave policies.**

(a) An employer shall provide a woman a leave of absence for the period of time that she is sick or temporarily disabled because of pregnancy or childbirth. Employers must treat a woman on pregnancy related leave the same as other employees on leave for sickness or other temporary disabilities. For example:

(i) If an employer provides paid leave for sickness, or other temporary disabilities, the employer should provide paid leave for pregnancy related sickness or disabilities;

(ii) If the uniform policy requires a physician's statement to verify the leave period, a physician's statement may be required to verify the leave period relating to pregnancy or childbirth.

(iii) If the uniform policy permits the retention and accrual of benefits, such as seniority, retirement, and pension rights, during the leave period for other temporary disabilities, the policy must also permit it during leave for pregnancy related temporary disabilities.

(iv) If the employer permits extensions of leave time (e.g., use of vacation or leave without pay) for sickness or other temporary disabilities, the employer should permit such extensions for pregnancy related sickness or disabilities.

(b) There may be circumstances when the application of the employer's general leave policy to pregnancy or childbirth will not afford equal opportunity for women and men. One circumstance would be where the employer allows no leave for any sickness or other disability by any employee, or so little leave time that a pregnant woman must terminate employment. Because such a leave policy has a disparate impact on women, it is an unfair practice, unless the policy is justified by business necessity.

(c) An employer shall allow a woman to return to the same job, or a similar job of at least the same pay, if she has taken a leave of absence only for the actual period of disability relating to pregnancy or childbirth. Refusal to do so must be justified by adequate facts concerning business necessity.

(d) Employers may be required to provide family medical leave, in addition to leave under this chapter. Please see appropriate federal and state family and medical leave laws and regulations.

(5) **Employee benefits.** Employee benefits provided in part or in whole by the employer must be equal for male and female employees. For example, it is an unfair practice to:

(a) Provide full health insurance coverage to male employees but fail to provide full health insurance coverage, including pregnancy and childbirth, to female employees.

(b) Provide maternity insurance to the wives of male employees but fail to provide the same coverage to female employees.

(6) **Marital status immaterial.** The provisions of this chapter apply irrespective of marital status.

(7) **Labor unions and employment agencies.** The provisions of this chapter apply equally to employers, labor unions, and employment agencies.

[Statutory Authority: RCW [49.60.120\(3\)](#). WSR 99-15-025, § 162-30-020, filed 7/12/99, effective 8/12/99; Order 15, § 162-30-020, filed 9/28/73; Order 11, § 162-30-020, filed 6/26/72.]