



Corporate Policies and Procedures Human Resources

LEAVE OF ABSENCE - FAMILY MEDICAL LEAVE ACT/WISCONSIN FAMILY MEDICAL LEAVE/NON-ELIGIBLE MEDICAL LEAVE

Category: Benefits (BN)

Policy #: HR.BN.070

Applies to: Eligibility outlined in sections A.1 and B.1 of Procedure below

PURPOSE:

The Medical College of Wisconsin (the College) believes in supporting and recognizing family or medical needs that can occasionally require an employee to request time away from work. The College provides family and medical leave in accordance with the Federal Family and Medical Leave Act (FMLA) and the Wisconsin Family and Medical Leave Act (WFMLA).

DEFINITIONS:

Leave of Absence -

A leave of absence is an absence from work for a specific, allowable purpose, for an employee who has successfully completed the trial period and/or who has received approval from their department supervisor and administrator in advance of the leave commencement, or as soon as practicable.

There are two types of medical leaves of absence:

- Leaves covered by the FEDERAL Family and Medical Leave Act (FMLA). WISCONSIN employees may also have additional rights under the Wisconsin Family and Medical Leave Act (WFMLA). The FMLA and WFMLA provide for a period of time during which eligible employees have job protection. The Acts do not guarantee pay for any period of time away from work.
- Non-FMLA medical leave - any medical situation that will cause the employee to miss more than five (5) days of work

Foreseeable Leave -

Where leave is foreseeable, an employee must make a leave request at least 30 days in advance.

Unforeseeable Leave -

Where advance notice of the leave is not possible, such as in an emergency, advance verbal notice is required. Where advance verbal or written notice is not

possible, then verbal notice must be provided as soon as reasonably practicable with written documentation to follow.

Serious Health Condition -

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

- Incapacity or treatment in connection with inpatient care, hospice or residential medical care facility; or
- Continuing treatment by a health care provider; or
- A chronic condition which 1) requires periodic visits for treatment by a health care provider, and 2) continues over an extended period of time, and 3) may cause episodic rather than a continuing period of incapacity; or
- A period of incapacity which is permanent or long-term due to a condition for which active treatment by a health care provider may not be effective; or
- Any period of absence to receive multiple treatments by a health care provider either for restorative surgery after an injury or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment; or
- Any period of incapacity due to pregnancy or prenatal care.
- This does not include voluntary, elective, or cosmetic treatments.

Medical Certification -

Where leave involves a serious health condition for you, your spouse, parent, parent-in-law, child to be cared for, the College requires employees to provide a physician/practitioner certification form no later than 15 days following the leave request. It is the responsibility of the employee to ensure the medical certification is completed and submitted within the appropriate time frame. An absence prior to the date of the certification may be considered unauthorized. When an employee is absent without certification, the absences will be considered unapproved and may result in discipline up to and including termination.

Specific Notice -

Specific Notice is provided to employees to grant preliminary approval of an FMLA request when applicable. This approval is conditional upon receipt of the required documentation. Failure to submit the proper paperwork within the specified time frame will result in a retraction of the preliminary approval and denial of a leave request.

Recertification -

The College requires recertification of a leave of absence every 90 days, or more frequently if there are changes in the leave status.

Next of Kin -

Next of kin is defined as the nearest blood relative of an individual that will provide care for an individual with a health condition that was incurred by a member of the military while in the line of duty on active duty.

Covered Service Member -

A covered service member is defined as a 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. Serious injury or illness is limited to mean only an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the

member medically unfit to perform the duties of the member's office, grade, rank, or rating.

Contingency Operation -

A contingency operation is a military operation that is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against opposing military force or results in the call or order to, or retention on, active duty of members in the uniformed services or any other provision of the law during a war or during a national emergency declared by the President or Congress.

POLICY:

It is the policy of the College to provide eligible employees with a leave of absence when an employee encounters circumstances that necessitate time off from work due to personal, and/or family medical needs for illnesses or injuries, for family members to care for an injured service member, and for a family member's call or impending call or order to active duty in the Armed Forces in support of a contingency operation.

The College recognizes and respects the need for every person to maintain a balance between work and their personal life. The medical leave of absence policy supports that balance between the employee's needs and the College's need to provide adequate staffing.

Human Resources, or its designee, is responsible for ensuring all medical information provided by employees is maintained in the strictest confidence. Employees must request a leave from their supervisor and inform them when they expect to be absent. However, employees should not provide specific medical reasons for the leave request to their supervisor. Instead, to ensure privacy, employees will forward completed forms containing medical information to Human Resources, or its designee, to evaluate whether the leave can be approved as requested.

PROCEDURE:

A. FMLA/WFMLA Medical Leave

1. Eligibility

- a. Federal Medical/Family (FMLA) Leave - Employees with 12 months of employment who have worked at least 1,250 hours during the preceding 12 months.
- b. Wisconsin Medical/Family (WFMLA) Leave - Employees with at least 52 consecutive weeks of employment and at least 1,000 compensated hours during those 52 weeks.

(Please note these definitions may be amended from time to time to remain compliant with the current regulations.)

2. Maximum Length of Leave

The College provides leave in compliance with the state and federal laws governing leaves of absence. The College runs the state and federal

time periods concurrently when determining the amount of time the employee is eligible to be off of work.

- a. Federal - Employees are eligible for up to a total of 12 weeks of unpaid FMLA leave during a rolling back 12-month period for the following:
- Employee's own serious health condition which renders the employee unable to perform any one of the essential functions of his or her job.
 - To care for a child after birth, placement for adoption or foster care within 12 months after birth or placement; if both spouses work for the College, their combined leave shall not exceed 12 weeks.
 - To care for a spouse, dependent child, or parent (excluding parent-in-law) who has a serious health condition.
 - Because of any qualifying exigency arising out of an employee's spouse, son, daughter or parent that is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.
 - Up to a total of 26 weeks to care for an individual with a health condition that was incurred by a member of the military while in the line of duty on active duty. Eligible employees include spouse, children and parents (including next of kin) of the injured service member.
- b. Wisconsin - Wisconsin employees are eligible for WFMLA leave based on a calendar year. The WFMLA leave runs concurrently with the Federal FMLA leave.
- Two (2) weeks for employee's serious health condition which renders the employee unable to perform any one of the essential functions of his or her job
 - Two (2) weeks for a parent, child, spouse, or parent-in-law's serious health condition
 - Six (6) weeks for birth/adoption for a child, which must begin either 16 weeks before or after the birth or placement

3. Process for Requesting Leave

Employees requesting leave must contact their supervisor or department administrator within 30 days of the leave start date if the leave is foreseeable. If the leave is not foreseeable, the employee must give notice as soon as possible, which should generally be within two working days of learning of the need for leave. The required documentation to finalize a leave request is to be submitted no later than **15 days** after requesting your leave from your supervisor/department administrator. If the required documentation is not completed and returned to the Office of Human Resources, or is returned to the Office of Human Resources incomplete, the leave of absence will be denied.

Required Documentation:

In order to determine the employee's eligibility for leave under this policy, the Office of Human Resources has the right to request the employee provide specific documentation related to their request for leave. It should be noted that the Office of Human Resources is the sole authority which determines FMLA/WFMLA eligibility.

- **Specific Notice and Family and Medical Leave Request** - The Specific Notice is a reference for the employee and contains additional details and specifics concerning the employee's leave. The Family and Medical Leave Request form is to be completed by the employee requesting a leave of absence and must be signed by the employee's supervisor.
- **Physician/Practitioner Certification** - This form is to be completed by the employee's health care provider in the event of their own serious health condition or by the health care provider of a family member or next of kin if that family member suffers from a serious health condition. The College may request an updated physician's certification every 30 calendar days. The College also has the right to request the employee obtain a second opinion from a practitioner of the College's choosing and a third opinion by a mutually agreeable practitioner.
- **In Loco Parentis Verification** - This form is to be completed by the employee if the requested leave is for an individual who acted in place of a parent when the employee was a child, a child for whom the employee has financial responsibility, or a child over the age of 18 who is incapable of self care.
- **Active Duty Leave Certification** - Employees must provide a copy of the military order to certify that the service member is on active duty or has been called to active duty.

4. Intermittent Leave

Intermittent leave may be taken under the following circumstances:

a. Federal (FMLA) Leave -

- Birth, adoption, or foster care of a child (intermittent leave is subject to the approval of the College)
- Employee, spouse, child, or parent's serious health condition (intermittent leave may be taken if it is medically necessary and after making a reasonable attempt to schedule the leave so as not to unduly disrupt the College's operations)

b. Wisconsin (WFMLA) Leave -

- Birth, adoption, or foster care of a child (intermittent leave is subject to the approval of the College), which must begin either 16 weeks before or after the birth or placement.

- Employees are allowed to take intermittent leave if the leave is medically necessary. (Employees requesting intermittent family leave should schedule all absences so they do not unduly disrupt the College's operations.)

Where employees have some control over the timing of their leave, they are expected to consult with their supervisors to try to arrange a mutually acceptable time.

5. Coordination with Worker's Compensation

If an employee is injured in a work-related capacity, the College has the right to apply FMLA qualification to this time and run the time off concurrently with any compensation and benefits paid or denied by the College's worker's compensation plan.

6. Compensation and Benefits While on Leave

a. Benefits

The College will maintain the benefits of the employee on FMLA or WFMLA for the duration of the leave under the conditions that applied immediately before the leave began, subject to the following conditions:

All employee contributions that had been paid by the employee prior to the leave must be paid by the employee during the FMLA/WFMLA leave. If the employee is in a paid status during the leave, the employee contributions will be deducted from the employee's pay as normal. If the leave is an unpaid leave at the start of the new month, the employee must pay the required contribution for that period. The employee will be billed by the Benefits Office. If no payment is made by the due date, an automatic stoppage of benefits will occur.

b. Compensation

FMLA and WFMLA leaves are unpaid. Employees may use accrued time (sick, vacation, floating holidays, and/or STD) that is available per our benefit plan. If the employee leave is not for their own serious health condition, the employee may elect to use their accruals or be in an unpaid status. An employee may only choose whether to apply these additional accruals or be in an unpaid status for the time period covered by WFMLA. Once the WFLMA time is exhausted, the employee will be required to use any available accrued time before going into unpaid status.

7. Return from Leave

Employees must provide updates to their supervisor every 30 days while on a full time leave and notify their supervisor of their return to work date at least three (3) days prior to the scheduled return to work date, or as soon as the return to work date is known. If the leave was for the employee's own serious health condition, a Fitness for Duty form must be completed and sent to Human Resources before the employee may return to work. If the employee fails to submit a Fitness for Duty form, the employee will not be allowed to return to work until the required

documentation is submitted. The College reserves the right to obtain a second medical opinion from its own practitioner concerning the employee's fitness for duty, or a third medical opinion from a mutually agreeable practitioner.

Upon return to work from an FMLA/WFMLA leave, the employee will be reinstated to his/her former position, or if such position is not available, to an equivalent position for which the employee is qualified, with equivalent benefits and conditions of employment. The employee has no greater right to reinstatement or other benefits and conditions of employment than if the employee had been continuously employed during the leave period. Failure to return to work by the scheduled return to work date may be considered a voluntary resignation by the employee.

8. Authorization to Return to Work with Temporary Restrictions

If the employee's health care provider indicates restrictions on the Fitness for Duty form, the restrictions will be reviewed by Human Resources and the employee's supervisor to determine if there is work available on a temporary basis that is within the employee's restrictions. The maximum time that this work will be provided is six (6) months. Human Resources and/or the employee's supervisor will notify the employee if this work is available.

9. Exhaustion of Leave

Employees who exhaust their 12 weeks of Federal FMLA and two (2) weeks of Wisconsin WFMLA leave due to their own serious health condition and are unable to return to work may be placed on a non-FMLA medical leave (see B. below) for up to maximum of nine (9) months from the first day of leave. However, once the FMLA has been exhausted, the employee's position can be filled. Once the employee is released to return to work and if the employee's position is open, the employee may return to their regular position. If the employee's position is no longer available, the employee may apply for any open positions that they are qualified for within 30 days from their authorization to return to work. (The employee will be placed on a personal leave of absence during this 30-day time period.) If the employee refuses a job offer, or does not obtain a job offer into another position within 30 days, their employment will be terminated. During this time the employee must use any accrued vacation or floating holiday time, and benefits may be available through COBRA.

10. **NOTICE:** Any employees wishing to view their rights and entitlements under the FMLA/WFMLA may view these rights at anytime on the posters contained in the Office of Human Resources.

B. Non-FMLA Medical Leave

1. Eligibility

Exempt and non-exempt employees who are not eligible for or have exhausted FMLA/WFMLA leave are eligible to apply for a non-FMLA medical leave for their own serious health condition.

2. Maximum Length of Leave

An employee with six (6) or more months of service may remain on a full-time non-FMLA medical leave for up to a maximum of nine (9) months from the first day of leave. An employee with less than six (6) months of service may remain on non-FMLA medical leave for up to a maximum of two (2) months.

3. Process for Requesting Leave

Employees requesting a non-FMLA medical leave must contact their supervisor or department administrator within 30 days of the leave start date if the leave is foreseeable. If the leave is not foreseeable, the employee must give notice as soon as possible, which should generally be within two working days of learning of the need for leave. The required documentation to finalize a leave request is to be submitted no later than **15 days** after requesting your leave from your supervisor/department administrator. If the required documentation is not completed and returned to Human Resources, the leave of absence will be denied.

Required Documentation: In order to determine the employee's eligibility for leave under this policy, the Office of Human Resources has the right to request the employee provide specific documentation related to their request for leave. It should be noted that the Office of Human Resources is the sole authority which determines Non-FMLA medical leave eligibility.

- **Non-FMLA Medical Leave Request** - This form is to be completed by the employee requesting a medical leave of absence and must be signed by the employee's supervisor.
- **Physician/Practitioner Certification** - This form is to be completed by the employee's health care provider in the event of their own serious health condition. The College may request an updated physician's certification every 30 calendar days. The College also has the right to request the employee obtain a second opinion from a practitioner of the College's choosing and a third opinion by a mutually agreeable practitioner.

4. Compensation and Benefits While on Non-FMLA Medical Leave

a. Compensation

Non-FMLA medical leaves are unpaid leaves. The employee is required to use available accrued time (sick, vacation, floating holidays) to cover their unpaid leave. Use of accrued time is required until the end of the leave or until the accrued time is exhausted.

b. Benefits

The College will maintain the benefits of the employee on medical leave for the duration of the leave under the conditions that applied immediately before the leave began, subject to the following conditions:

All employee contributions that had been paid by the employee prior to the leave must be paid by the employee during the non-FMLA medical leave. If the employee is in a paid status during the leave, the employee contributions will be deducted from the employee's pay as normal. If the leave is an unpaid leave at the start of the new month, the employee must pay the required contribution for that period. The employee will be billed by the Benefits Office. If no payment is made by the due date, an automatic stoppage of benefits will occur. Once FMLA is exhausted, the COBRA period will begin.

5. Return from Leave

The employee does not have job protection rights under a non-FMLA medical leave. The College may, at their discretion, fill the employee's position at any time based on the staffing needs of the College.

Employees must provide updates to their supervisor every 30 days while on a full time leave and notify their supervisor of their return to work date at least three (3) days prior to the scheduled return to work date, or as soon as the return to work date is known. A Fitness for Duty form must be completed by the physician/practitioner and submitted to Human Resources before an employee may return to work. If the employee fails to submit a Fitness for Duty form, the employee may be denied the ability to return to work until the required documentation is submitted. The College reserves the right to obtain a second medical opinion from its own practitioner concerning the employee's fitness for duty, or a third medical opinion from a mutually agreeable practitioner. If the employee's position is open, the employee may return to work. If the employee's position is no longer available, the employee may apply for any open positions that they are qualified for within 30 days from their authorization to return to work. (The employee will be placed on a personal leave of absence during this 30-day time period.) If the employee refuses a job offer, or does not obtain a job offer into another position within 30 days, their employment will be terminated. During this time the employee must use any accrued vacation or floating holiday time, and benefits may be available through COBRA.

Failure to return to work by the scheduled return to work date may be considered a voluntary resignation by the employee.

6. Authorization to Return to Work with Temporary Restrictions

If the employee's health care provider indicates restrictions on the Fitness for Duty form, the restrictions will be reviewed by Human Resources and the employee's supervisor to determine if there is work available on a temporary basis that is within the employee's restrictions. The maximum time that this work will be provided is six (6) months. Human Resources and/or the employee's supervisor will notify the employee if this work is available.

C. Termination

Employees on an approved FMLA/WFLA leave of absence for their own serious health condition who are unable to return to work when their leave entitlement is exhausted can apply for a non-FMLA medical leave of absence. Employees may remain in that status up to a maximum of nine (9)

months from the start of the leave, provided medical certification requirements are met. Termination of employment occurs if the employee fails to contact his or her supervisor following three calendar days from their release to work, fails to return to work at the end of the leave, fails to apply for Long Term Disability benefits by the 180th day of leave, or once a Long Term Disability benefits decision is made.

REFERENCES:

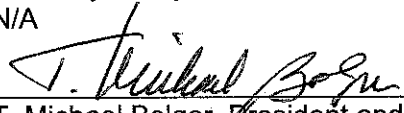
Not applicable

ATTACHMENTS:

Specific Notice document
Supervisor/Manager Medical Leave Notification form - electronic, on-line form (for supervisor)
Family and Medical Leave Request form
Physician/Practitioner Certification form
In Loco Parentis Verification form
Fitness for Duty form
Non-FMLA Leave Request form

Effective Date: 01/1997
Revision History: 05/2000, 08/2003, 10/15/2008
Supersedes Policy: Formerly Policy # 5.22
Review Date: N/A

Approved By:



T. Michael Bolger, President and CEO
Medical College of Wisconsin