

LEWISBURG WATER AND WASTEWATER  
FMLA POLICY  
(Family and Medical Leave Act)

FAMILY MEDICAL LEAVE

Effective: August 5, 1993 for DLESA Qualified Employees  
Original FMLA Policy Adopted by Lewisburg Water and Wastewater: January 18, 1996.

Purpose: To provide a family and medical leave policy in compliance with Public Law 103-3, titled Family and Medical leave Act of 1993.

Guidelines:

1) Definitions:

- a. Eligible Employee: Eligible employees are those who have been employed for at least 12 months, who have provided at least 1,250 hours of service during the 12 months before leave is requested.
- b. Parent: Mother or Father of an employee, or an adult who had day to day responsibility for caring for the employee during his or her childhood years in place of the natural parents.
- c. Son or Daughter/Child: Biological, adopted, or foster child, a step child, legal ward, or child of a person standing in loco parentis, who are under the age of 18 years. Children who are 18 years or older qualify, if he or she is incapable of self-care because of mental or physical disability.
- d. Serious Health Condition: An illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider. Examples of serious health conditions include but are not limited to heart attacks, heart conditions requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, severe arthritis, etc.
- e. Employer: denotes "Superintendent" acting on behalf of Lewisburg Water and Wastewater (a City utility) and/or the Lewisburg Water and Sewer Board as required.

2) Leave Provisions:

- a. An eligible employee may take up to 12 weeks of unpaid leave in a 12 month period for the birth of a child or the placement of a child for adoption or foster care. Under the Tennessee Maternity Leave Act, a female employee may take an additional 4 weeks of unpaid leave if the 3 months advance notice has been complied with. Leave may also be taken to care for a child, spouse, or a parent who has a serious health condition.
- b. The right to take leave applies equally to male and female employees who are eligible.

- c. Unpaid leave for the purposes of care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first 12 months following the date of birth or placement.
- d. An expectant mother may take unpaid medical leave upon the birth of the child, or prior to the birth of her child for necessary medical care and if her condition renders her unable to work. Similarly for adoption or foster care, leave may be taken upon the placement of the child or leave may begin prior to the placement if absence from work is required for the placement to proceed.
- e. An employee may take unpaid leave to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his or her own basic hygiene, nutritional needs, or safety. Examples include a parent or spouse whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke, or who is recovering from major surgery, or who is in final stages of terminal illness.
- f. Eligible employees, who are unable to perform the functions of the position held because of a serious health condition, may request up to 12 weeks unpaid leave. The term serious health condition is intended to cover conditions or illnesses that affect an employee's health to the extent that he or she must be absent from work on a recurring basis or for more than a few days for treatment or recovery.
- g. Employees requesting medical leave due to their own illness or injury must use any balance of sick leave, annual leave, floating holidays prior to unpaid leave beginning. The combination of sick leave, annual leave, floating holidays and unpaid leave may not exceed 12 weeks. Employees requesting family leave may use unpaid leave only after all available sick leave, annual leave, floating holidays, and other paid leave has been taken. The combination of annual leave, floating holidays, sick leave and unpaid leave may not exceed 12 weeks.
- h. During periods of unpaid leave, an employee will not accrue any additional seniority, sick leave or similar employment benefits during the leave period.

### 3) Notification and Scheduling:

- a. An eligible employee must provide the employer at least 30 days advance notice of the need for leave for birth, adoption or planned medical treatment, when the need for leave is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth, or sudden changes in a patient's condition that require a change in scheduled medical treatment.
- b. Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

#### 4) Certification:

- a. The employer reserves the right to verify an employee's request for family/medical leave.
- b. If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee or the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. That health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.
- c. This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse, or parent and must include an estimate of the amount of time that the employee is needed to care for the family member.
- d. Medical information (certification) given will be treated as confidential and privileged information.
- e. An employee will be required to report periodically to the employer the status and the intention of the employee to return to work.
- f. Employees who have taken unpaid leave under this policy must furnish the employer with a medical certification from the employee's health care provider that the employee is able to resume work before return is granted.

#### 5) Maintenance of Health and COBRA Benefits during Unpaid Leave:

- a. The employer will maintain health insurance benefits, paid by the employer for the employee, during periods of unpaid leave without interruption. Any payment for family coverage/s premiums, or other payroll deductible insurance policies, must be paid by the employee or the benefits may not be continued.
- b. The employer has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from the recapture provision.
- c. Leave taken under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work, and therefore ceases to be entitled to leave under this policy.

6) Reduced and Intermittent Leave:

- a. Leave taken under this policy can be taken intermittently or on a reduced leave schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with approval of the employer. The schedule must be mutually agreed upon by the employee and the employer.
- b. Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.
- c. Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but will not exceed the equivalent of 12 work weeks total leave in a one 12-month period.

7) Restoration:

- a. Employees who are granted leave under this policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave.
- b. Certain highly compensated key employees, who are salaried and among the 10% highest paid employees, may be denied restoration. Restoration may be denied if (A) the employer shows that such denial is necessary to prevent substantial and grievous economic injury to the employer's operations, (B) the employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur, and (C) in any case in which the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice.

8) The 12-month FMLA Period:

The 12-month period during which an employee is entitled to 12 workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to 12 weeks of leave during the 12 month period after the leave begins. The next 12-month period will begin the first time the employee requests FMLA leave after the completion of the previous 12-month period.

ADOPTED JANUARY 18, 1996, LEWISBURG WATER & SEWER BOARD

  
BUDDY WHALEY, CHAIRMAN

  
JERRY FREEMAN, SECRETARY

  
JOE MOSS, BOARD MEMBER

## Fact Sheet #28: The Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. This fact sheet provides general information about which employers are covered by the FMLA, when employees are eligible and entitled to take FMLA leave, and what rules apply when employees take FMLA leave.

### COVERED EMPLOYERS

The FMLA only applies to employers that meet certain criteria. A **covered employer** is a:

- Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
- Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

### ELIGIBLE EMPLOYEES

Only eligible employees are entitled to take FMLA leave. An **eligible employee** is one who:

- Works for a *covered employer*;
- Has worked for the employer for at least *12 months*;
- Has at least *1,250 hours* of service for the employer during the 12 month period immediately preceding the leave\*; and
- Works at a location where the employer has at least *50 employees within 75 miles*.

\* Special hours of service eligibility requirements apply to airline flight crew employees. See Fact Sheet 28J: Special Rules for Airline Flight Crew Employees under the Family and Medical Leave Act.

The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count *unless* the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service. See "FMLA Special Rules for Returning Reservists".

### LEAVE ENTITLEMENT

Eligible employees may take up to **12 workweeks** of leave in a 12-month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

An eligible employee may also take up to **26 workweeks** of leave during a "single 12-month period" to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember. The "single 12-month period" for military caregiver leave is different from the 12-month period used for other FMLA leave reasons. See Fact Sheets 28F: Qualifying Reasons under the FMLA and 28M: The Military Family Leave Provisions under the FMLA.

Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations. If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the employer's approval.

Under certain conditions, employees may choose, or employers may require employees, to "substitute" (run concurrently) accrued paid leave, such as sick or vacation leave, to cover some or all of the FMLA leave period. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

## NOTICE

Employees must comply with their employer's usual and customary requirements for requesting leave and provide enough information for their employer to reasonably determine whether the FMLA may apply to the leave request. Employees generally must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

When an employee seeks leave for a FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. If an employee later requests additional leave for the same qualifying condition, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave. See Fact Sheet 28E: Employee Notice Requirements under the FMLA.

Covered employers must:

- (1) Post a notice explaining rights and responsibilities under the FMLA (and may be subject to a civil money penalty of up to \$110 for willful failure to post);
- (2) Include information about the FMLA in their employee handbooks or provide information to new employees upon hire;

- (3) When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA-qualifying reason, provide the employee with notice concerning his or her eligibility for FMLA leave and his or her rights and responsibilities under the FMLA; and
- (4) Notify employees whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employee's FMLA entitlement.

See Fact Sheet 28D: Employer Notice Requirements under the FMLA.

## **CERTIFICATION**

When an employee requests FMLA leave due to his or her own serious health condition or a covered family member's serious health condition, the employer may require certification in support of the leave from a health care provider. An employer may also require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition. See Fact Sheet 28G: Certification of a Serious Health Condition under the FMLA. For information on certification requirements for military family leave, See Fact Sheet 28M(c): Qualifying Exigency Leave under the FMLA; Fact Sheet 28M(a): Military Caregiver Leave for a Current Servicemember under the FMLA; and Fact Sheet 28M(b): Military Caregiver Leave for a Veteran under the FMLA.

## **JOB RESTORATION AND HEALTH BENEFITS**

Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot be counted against the employee under a "no-fault" attendance policy. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same terms and conditions as if the employee had not taken leave. See Fact Sheet 28A: Employee Protections under the Family and Medical Leave Act .

## **OTHER PROVISIONS**

Special rules apply to employees of local education agencies. Generally, these rules apply to intermittent or reduced schedule FMLA leave or the taking of FMLA leave near the end of a school term.

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under the FLSA regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to an eligible employee's use of FMLA leave.

## **ENFORCEMENT**

It is unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any

proceeding, related to the FMLA. *See Fact Sheet 77B: Protections for Individuals under the FMLA*. The Wage and Hour Division is responsible for administering and enforcing the FMLA for most employees. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress. If you believe that your rights under the FMLA have been violated, you may file a complaint with the Wage and Hour Division or file a private lawsuit against your employer in court.

**For additional information, visit our Wage and Hour Division Website:**

**<http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4-USWAGE (1-866-487-9243).**

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
**Contact Us**



**REQUEST FOR LEAVE FORM**

Employee Name: \_\_\_\_\_ SS#: \_\_\_\_\_

Department: \_\_\_\_\_ Date of Request: \_\_\_\_\_

Leave Category Requested

Reason for Leave

\_\_\_\_\_ Paid Leave  
\_\_\_\_\_ Unpaid Leave  
\_\_\_\_\_ Other (Explain: \_\_\_\_\_  
\_\_\_\_\_)

\_\_\_\_\_ Vacation/Personal Leave  
\_\_\_\_\_ Ill-Family Member relationship: \_\_\_\_\_  
\_\_\_\_\_ Employees Own Illness  
\_\_\_\_\_ Care for New Child  
\_\_\_\_\_ Other (Explain: \_\_\_\_\_  
\_\_\_\_\_)

\_\_\_\_\_ Beginning Date of Leave

\_\_\_\_\_ Ending Date of Leave

\_\_\_\_\_ Address During Leave

\_\_\_\_\_ Phone No. During Leave

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

Special Circumstances (Explain): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATION OF PHYSICIAN OR PRACTITIONER  
(Family and Medical Leave Act of 1993)**

1. Employee's Name \_\_\_\_\_
2. Patient's Name (If other than employee): \_\_\_\_\_
3. Diagnosis: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Date condition commenced: \_\_\_\_\_
5. Probable duration of condition: \_\_\_\_\_
6. Regimen of treatment to be prescribed (Indicate number of visits, general nature and Duration of treatment, including referral to other provider of health services. Include schedule of visits or treatment if it is medically necessary for the employee to be off work on an intermittent basis or to work less than the employee's normal schedule of hours or days per week.):
  - a. By Physician or Practitioner: \_\_\_\_\_  
\_\_\_\_\_
  - b. By another provider of health services, if referred by Physician or Practitioner:  
\_\_\_\_\_

**IF THIS CERTIFICATION RELATES TO CARE FOR THE EMPLOYEE'S SERIOUSLY-ILL FAMILY MEMBER, SKIP ITEMS 7, 8, AND 9 AND PROCEED TO ITEMS 10 THRU 14, OTHERWISE, CONTINUE BELOW.**

Check Yes or No in the boxes below, as appropriate.

- |    | Yes | No  |  |
|----|-----|-----|--|
| 7. | ___ | ___ | Is inpatient hospitalization of the employee required?   |
| 8. | ___ | ___ | Is employee able to perform work of any kind? (If "No", skip Item 9.)  |
| 9. | ___ | ___ | Is employee able to perform the functions of employee's position?<br>(Answer after reviewing statement from employer of essential functions of employee's position, or, if none provided, after discussing with employee.) |

Signature of Physician or Practitioner: \_\_\_\_\_

Type of Practice (Field of Specialization, if any): \_\_\_\_\_

Date: \_\_\_\_\_

**FOR CERTIFICATION RELATING TO CARE FOR THE EMPLOYEE'S SERIOUSLY-ILL FAMILY MEMBER, COMPLETE ITEMS 10 THRU 14 BELOW AS THEY APPLY TO THE FAMILY MEMBER.**

- Yes    No
10. \_\_\_\_    \_\_\_\_    Is inpatient hospitalization of the family member (patient) required?
11. \_\_\_\_    \_\_\_\_    Does (or will) the patient require assistance for basic medical, hygiene, nutritional needs, safety or transportation?
12. \_\_\_\_    \_\_\_\_    After review of the employee's signed statement (See Item 14 below), is the employee's presence necessary or would it be beneficial for the care of the patient? (This may include psychological comfort.)
13. Estimate the period of time care is needed or the employee's presence would be beneficial: \_\_\_\_\_
- \_\_\_\_\_

**ITEM 14 IS TO BE COMPLETED BY THE EMPLOYEE NEEDING FAMILY LEAVE.**

14. When Family Leave is needed to care for a seriously-ill family member, the employees shall state the care he or she will provide and an estimate of the time period during which this care will be provided, including a schedule if leave is to be taken intermittently or on a reduced leave schedule.

Employee signature: \_\_\_\_\_ Date: \_\_\_\_\_

NOTICE OF FMLA LEAVE APPROVAL

You have requested leave which is covered under the federal Family and Medical Leave Act (FMLA). This notice confirms the terms of your leave.

Employee: \_\_\_\_\_

Duration of Leave: Beginning \_\_\_\_\_ Ending \_\_\_\_\_

\_\_\_\_\_ Regular Leave  
\_\_\_\_\_ Intermittent Leave  
\_\_\_\_\_ Reduced Leave Schedule

Reason for Leave:

\_\_\_\_\_ Employee's Own Serious Health Condition  
\_\_\_\_\_ Care for Family Member with Serious Health Condition (Explain: \_\_\_\_\_)  
\_\_\_\_\_ Care for Newborn or Newly Placed Child

Required Medical Certification(s):

\_\_\_\_\_ Certification of Health Care Provider as to medical necessity for leave – must be provided to employer PRIOR to beginning leave.  
\_\_\_\_\_ Fitness-for-Duty Certification - must be submitted to employer PRIOR to returning to work.

Compensation During Leave:

\_\_\_\_\_ Paid Leave  
\_\_\_\_\_ Unpaid Leave  
\_\_\_\_\_ Combination (Describe: \_\_\_\_\_)

Health Insurance:

\_\_\_\_\_ Continue coverage - employee will pay \$ \_\_\_\_\_ to employer as follows: \_\_\_\_\_  
\_\_\_\_\_ Continue coverage - employer pays all premiums.  
\_\_\_\_\_ Employee has elected to discontinue coverage during leave.

Other Benefits (Specify: \_\_\_\_\_)

\_\_\_\_\_ Continue coverage - employee will pay \$ \_\_\_\_\_ to employer as follows: \_\_\_\_\_  
\_\_\_\_\_ Continue coverage - employer pays all premiums.  
\_\_\_\_\_ Employee has elected to discontinue coverage during leave.  
\_\_\_\_\_ Other: \_\_\_\_\_

Required Reports During Leave (employee will call to report status):

\_\_\_\_\_ Weekly  
\_\_\_\_\_ Monthly  
\_\_\_\_\_ Other: \_\_\_\_\_

Additional Information: \_\_\_\_\_

Employer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

FITNESS-FOR-DUTY CERTIFICATION

Employee's Name: \_\_\_\_\_

Employee's Position: \_\_\_\_\_

Essential functions of employee's position (to be furnished by employer, or determined by physician after discussion with employee): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Yes

No

\_\_\_\_\_      \_\_\_\_\_ Is the employee able to perform the functions of the employee's position?

\_\_\_\_\_      \_\_\_\_\_ If no, is the employee able to perform work of any kind?

Signature of Physician or Practitioner: \_\_\_\_\_ Date: \_\_\_\_\_

Type of Practice (and field of specialization, if any): \_\_\_\_\_

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_