

Family and Medical Leave

A Guide for Supervisors

As a supervisor, it is important for you to know how to recognize and respond to an employee's request for leave that may be eligible under the federal Family and Medical Leave Act (FMLA) and to know what to do with confidential medical information. If you intentionally or unintentionally deny employees' rights under FMLA, you and Central Michigan University can be held liable. Although you are not expected to know all of the details of FMLA, you should know the basics and how to recognize a possible serious health condition. This guide provides information that will answer many of the questions you may have about FMLA.

What is FMLA?

FMLA is leave entitlement for reasonable, job-protected leave for specified family and or medical reasons. Under the federal Family and Medical Leave Act (FMLA), eligible employees have a right for up to 12 weeks of job-protected leave per 12 month period for the following reasons:

- For incapacity due to pregnancy, prenatal 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, CMU registered OEI, son or daughter, or parent with a serious health condition.
- For a serious health condition that makes the employee unable to perform the employee's job.

In addition, The Family and Medical Leave Act was amended by the National Defense Authorization Act in 2008 to include:

- 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 OR
- Twenty-six workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).

To read more about FMLA, please click on this link: Family and Medical Leave (<https://www.cmich.edu/about/human-resources/employment-services/leaves-of-absence-staff/types-of-leaves/family-and-medical-leave>).

In addition, you can access the U.S. Department of Labor website here: U.S. Department of Labor Wage and Hour Division (<https://www.dol.gov/agencies/whd/fmla>).

Recognizing possible FMLA

Employees may not always say "I need leave and it is covered under FMLA", or "I'd like to request FMLA", or otherwise come forward with a formal request or notification. Instead, watch for employees missing time from work (whether using sick leave or some other paid leave) or needing a change in schedule. For example, an employee:

- Has been calling in sick a few days each week, for several weeks.
- An employee has called in for four days in a row and indicates they've gone to the doctor.
- Indicates that he may need to adjust his schedule for chemotherapy treatments.
- Tells you his child has been diagnosed with a heart condition, and he will need to take a few days off work each week to attend appointments and meet with specialists for at least the next few months.
- Tells you she may need a month off work for back surgery.
- Tells you he is planning to reduce to a part-time schedule, for the first month after his baby is born.
- Tells you she may need to be on part or full bed rest prior to the birth of her baby.

Human Resources wants to hear from you whenever you think an employee's situation may apply under FMLA. Your HR department can assist in making sure CMU is compliant and that the employee's questions are answered.

Responding to the situation

Tell the employee: “This leave may be covered under the Family and Medical Leave Act, which provides job protected leave.” You should then visit the Leaves of Absence – Staff web page (<https://www.cmich.edu/about/human-resources/employment-services/leaves-of-absence-staff/types-of-leaves>), click on “For Supervisors” and:

- Utilize the FML Eligibility Checklist to determine if your employee’s leave of absence qualifies for FMLA & if they are eligible. This is just a resource and not a required form.
- Complete the Notice of Eligibility & Rights and Responsibilities (whether they are eligible for FMLA or not) and provide the form to the employee. If they are eligible, also provide the appropriate medical certification form.
- Forward the completed notification to Human Resources (staffleaves@cmich.edu).
- On or before your employee’s first day back, you must ask them to present a return to work release, indicating restrictions, if any. If there are restrictions, you must evaluate whether you are able to accommodate the restrictions. Please forward the return to work release to Human Resources (staffleaves@cmich.edu) with confirmation that the restrictions can be accommodated, if applicable. If your employee does not present a return to work release, you should not permit them to return.

Please keep in mind:

- Reasons underlying an FMLA leave are often sensitive so be mindful of confidentiality.
- You cannot disclose to others that an employee is using FMLA, or has a medical condition or disability accommodation (even if the employee is already sharing this information with you or others).
- Employees should submit any medical information directly to HR -- any medical information (written or verbal) that you might receive should go to Erin Christian in HR.
- You cannot ask if an employee has a medical condition or a disability.
- You cannot ask an employee on FMLA leave to work.
- FMLA guarantees that employees will be restored to the same or equivalent position at the end of the FMLA leave.
- There will be no retaliation if an employee exercises their FMLA rights.
- Additional leave may be required by the Americans with Disabilities Act.

HR’s role in the FMLA process

- After HR receives the Notice of Eligibility & Rights and Responsibilities and medical certification form, HR conducts a final review for approval.
- HR then contacts both the supervisor and the employee to let them know what the status of the leave request is and provides additional instructions/documentation at that time.