



General Information for

Family Medical Leave Act (FMLA)

Washington Family Leave Act (WFLA)
Washington Family Care Act (WFCA)
Pregnancy/Childbirth Disability Leave (PDL)

The Federal Family and Medical Leave Act (FMLA) provides job protected leave and benefits coverage entitlements to employees who meet FMLA eligibility requirements as described below. Washington Family Leave Act (WFLA) runs concurrent with FMLA except in regards to the birth mother, care for a registered domestic partner, covered health benefits, and military related leave.

FMLA/WFLA Eligibility:

To be eligible for FMLA/WFLA, an employee must have:

- Worked at least 12 months for Kitsap County. The 12 months of employment need not be consecutive months; however, except for qualifying military leave any time employed with a break longer than seven years will not be considered.
- Worked at least 1,250 hours during the 12 months preceding the need for leave. The total 1,250 hours are actual work hours and do not include paid/unpaid time off. For questions concerning the 1,250 hours threshold and FLSA exempt employees, consult Human Resources.

Qualifying Reasons for FMLA/WFLA:

- Employee's own serious health condition in which the **employee** is unable to perform the functions of their job.
- Care for a **family member** (spouse, child, or parent) with a serious health condition.
- For birth of child or placement of child for adoption or foster care.
- **Qualifying military exigency** arising from military deployment (not covered under WFLA).
- **Military Caregiver Leave** to care for a covered service member with a serious injury or illness incurred in the line of active duty if the employee is the spouse, child, parent, or next of kin of the service members (not covered under WFLA).

Qualifying conditions under WFCA:

- Care for a child with a health condition that requires treatment or supervision;
- Care for a spouse, parent, parent-in-law, or grandparent, who has a serious health condition or an emergency health condition; and,
- Care for children 18 years and older with disabilities that make them incapable of self-care.

Definition of a Serious Health Condition under FMLA/WFLA:

- Inpatient Care – overnight stay.
- Incapacity and Treatment - a period of incapacity of more than three consecutive full calendar days and subsequent treatment.
- Pregnancy or prenatal care.
- Chronic Conditions - requires periodic visits to a health care provider each year.
- Permanent or Long-term Conditions - a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective.
- Conditions Requiring Multiple Treatments - any period of absence to receive multiple treatments from a health care provider; i.e. chemotherapy, dialysis.

Who is covered?

- Family Medical Leave Act (FMLA): Employee, Spouse, Son, Daughter, or Parent.
- WA Family Leave Act (WFLA): All members under FMLA and Register Domestic Partner.
- WA Family Care Act (WFCA): Spouse, Son, Daughter, Parent, Registered Domestic Partner, Parent-in-Law and Grandparents. **NOTE:** WFCA does not cover the employee's own condition.
 - Use of Sick Leave under Kitsap County's Personnel Manual: Employee, Spouse, Registered Domestic Partner, Parent, Parent-in-Law, or Grandparent.
 - Siblings, Grandparent in-laws, and Grandchildren are not covered under any protected leave laws and/or the County's sick leave policy.

Entitlements:

- FMLA/WFLA covers 12-weeks of leave (480 hours of intermittent leave) within a 12-month period. Exception: military caregiver leave covers up to a total of 26 workweeks in a single 12-month period. FMLA/WFLA can be taken in a paid/unpaid status; however, County policy requires all paid leave be exhausted before going into an unpaid status.) Part-time employees' leave is prorated based on the employee's FTE. When both spouses are employed by Kitsap County, combined leave is limited to 12-weeks for certain qualifying events.
- WFCA covers leave while in a paid status.
- PDL covers leave while medically disabled due to pregnancy and/or childbirth.

When to request FMLA/WFLA?

An employee must provide the employer at least 30 days advance notice before FMLA leave is to begin if the need for leave is foreseeable. If 30 day notice is not practicable, notice must be given as soon as practicable. If reasonable notice is not provided by the employee, the employer may delay FMLA coverage.

If an employee is absent from work for more than three consecutive days due to an illness or care of a dependent, a FMLA/WFLA Leave Request form should be completed and forwarded to Human Resources. (*NOTE: Kitsap County has 5 business days to provide FMLA information to an employee after request and/or employer acquires knowledge that an FMLA-qualify reason may occur. Therefore, please send the Leave Request form as soon as possible after knowledge has been acquired.*) Email requests to kitsapphs@co.kitsap.wa.us or bring the form to Human Resources. Please **do not** send via Interoffice mail.

NOTE: An FMLA Leave Request form should be submitted for EACH separate condition.

NOTE: All FMLA documentation needs to be requested from Human Resources. Blank FMLA packets/medical certifications should NOT be kept by the department or employee.

When is FMLA/WFLA approved?

To support a leave request, the employee has 15 calendar days to provide a *complete* medical certification to Human Resources. Within the next 5 working days, Human Resources will provide the employee with a Designation Notice. This notice is also forwarded to the employee's immediate supervisor and department timekeeper. Periodically, there are circumstances that will delay the turn around time. Late paperwork can result in denial of the use of FMLA hours for the period medical certification was not provided. **NOTE: no hours** should be entered in Kronos or JDE as FMLA leave until after a Designation Notice has been provided.

If an employee fails to provide *complete* medical certification in a timely manner for a foreseeable leave, an employer may deny FMLA coverage for the leave until complete certification is provided. In the case of

unforeseeable leave, an employer may deny FMLA coverage for the requested leave if the employee fails to provide a certification within 15 calendar days from receipt of the request for certification unless not practicable due to extenuating circumstances. It is practice that an employee's time can be adjusted to FMLA hours in the prior two pay cycles if FMLA is approved; however, Kitsap County is not obligated to back date FMLA leave.

Medical Documentation:

Employee medical information/conditions are CONFIDENTIAL. This information should only be discussed with management staff when accommodations are being made. If you obtain access to medical documentation, it should be forwarded to Human Resources. Do not file documents containing medical information in department files. Remember that an employee's specific condition/details should not be included in writing and/or in an email. Under WFLA, medical information is NOT required but may be requested per Kitsap County's sick leave policy.

What Protected Leave should be used?

If there is reason to believe that an absence would qualify under FMLA/WFLA, this is the protected leave to pursue. If the leave request is denied under FMLA/WFLA, then WFLA should be considered by the department.

- Examples that FMLA/WFLA would not qualify and WFLA would: absence for a grandparent; absence for care for dependent less than three days; or absence for a minor child and medical treatment is not pursued.

What paid leave to use?

The employee can use **any** accrued paid leave. It is the employee's responsibility to communicate with the department which leave they would like to use. Kitsap County's policy requires that ALL paid leave be exhausted before an employee can go into an unpaid status. **NOTE:** WFLA is not available in an unpaid status.

| | Family Medical Leave Act/WFLA | WA Family Care Act | Pregnancy Disability Leave |
|--------------------|-------------------------------|--------------------|----------------------------|
| Annual Leave | 721 or 721EX | 708 or 708EX | 724 or 724EX |
| Sick Leave | 821 or 821EX | 808 or 808EX | 824 or 824EX |
| Compensatory Leave | 621 | 608 | 624 |
| LWOP | 050 | N/A | (no code) |

EX: - Exempt Employee

Leave Without Pay (LWOP):

During LWOP, even while covered under FMLA/WFLA, leave accruals may be suspended. Additionally, during period of LWOP, date of Continuous Service will be adjusted for the shifts taken under FMLA. If a holiday follows within a seven day period of FMLA leave while in LWOP, holiday pay is not paid.

Health Benefit Entitlement:

Health benefits will continue while covered under FMLA. If the employee goes into an unpaid leave, self payment of premiums may be required. Contact Human Resources for assistance as to when self payment is due. *Health benefits may not continue while on leave covered under WFLA, unless qualified under the Affordable Care Act (ACA).*

If the employee does not return to work within 30 days following a continuous FMLA leave, the employee shall reimburse the County for the County's cost in maintaining health benefits unless the reason for not returning to work is beyond the employee's control.

Annual and Sick Leave Accruals:

Leave accruals will continue to accrue while in a **paid** status. *Monthly eligibility of 65% of paid status is required to receive accruals in any given month.*

Returning to Work:

The FMLA/WFLA entitles an employee to return to the position held prior to the leave, or to a position that is virtually identical (i.e. job title, work location, salary, work hours, etc.) However, job-restoration is contingent upon the employee's continued ability to perform the essential functions of his or her job. When an employee returns from a period of FMLA absence, a Fitness-For-Duty Certification is required before or on the first day of returning to work. (This form was provided to the employee when the initial FMLA information was requested.) If job restrictions are provided, the supervisor and employee will need to review the form together to determine if the accommodations can be made. Both signatures are needed on the Fitness-For-Duty certification. Once complete, please send the form to Human Resources. **NOTE:** If an employee does not provide the requested documentation, return to work can be delayed until documentation is provided.

Injured on the Job (Worker's Compensation):

FMLA/WFLA is automatically approved and will run concurrent with any leave used under Workers' Compensation. Additional medical certification is not required.

Intermittent Absence:

While under INTERMITTENT FMLA/WFLA leave, an employee is expected to abide by department/County policies when scheduling appointments/treatment and/or calling in absent. When an employee calls in absent under FMLA, it is the employee's responsibility to inform the supervisor that the particular absence is due to an approved FMLA condition. If an employee has more than one FMLA condition, it is the employee's responsibility to inform the supervisor which condition the absence is due to. (Human Resources identifies separate conditions by numbers, i.e. Condition #1, Condition #2.) Information provided by the employee should be documented for future reference.

Do I calculate hours or weeks?

In calculating 12 work weeks under FMLA, weeks are counted for block absences and hours for intermittent absences. When an employee takes leave on an intermittent or reduced leave schedule in period of less than one full-week, only the amount of leave actually taken may be counted toward the employee's leave entitlement. Therefore, if a holiday falls within an absence of less than one full-week, the holiday hours are not counted towards FMLA usage. If eligible for FMLA/WFLA, part-time employee's FMLA/WFLA available hours are pro-rated based on their approved FTE.

When to Notify Human Resources (timekeeper)?

It is requested that FMLA hours are tracked at the department level. Notice needs to be provided to Human Resources when an employee's paid time is exhausted and the employee has moved into an unpaid leave status and/or when an employee will exhaust 12-workweeks/480 hours of FMLA within a 12-month period. **NOTE:** Yearly tracking sheets are no longer requested. However, FMLA hours should be accurately maintained in JDE. The employee has the right to request hours used against their FMLA entitlement once in a 30-day period.

What happens when an employee is absent for a block of time?

As long as the employee remains in a paid status, accruals and health benefits will continue under FMLA. If an employee goes into an unpaid status, the employee will need to have 65% of their FTE within any given month to earn accruals. During a lengthy absence, it is the employee's responsibility to maintain regular contact with their supervisor.

NOTE: Accruals can only be used by an employee once they have reached the 65% threshold. Health benefits will continue through the end of the month which their FMLA leave exhausts.

NOTE: Under WFLA, the employee may not be eligible to continue health benefits. Contact Human Resources for information and assistance.

Maternity Leave:

All female employees are eligible for Pregnancy/Childbirth Disability Leave (PDL) upon date of hire. Leave is used for pregnancy/childbirth-related disability of the employee. Continuation of accruals and health benefits need to meet County's policies. PDL typically runs 6-8 weeks following delivery. Once medically released from PDL, WFLA (running concurrent with FMLA) will begin (Kitsap County codes this leave under FMLA). If an employee goes into an unpaid status during PDL, hours against WFLA/FMLA will begin to calculate so that the employee's benefit coverage will not be interrupted. However, once WFLA/FMLA is exhausted, the employee would be eligible to use any remaining PDL which was not used. **NOTE:** The way Kitsap County calculates maternity leave is more generous to an employee than allowed under WFLA.

Paternity and Maternity Leave – Bonding/Parental Leave:

Intermittent bonding/parental leave requires department agreement for leave. Employee is eligible for bonding/parental leave for up to 12 months from the date of birth, as long as 12-work weeks of FMLA in a 12-month period has not been exhausted.

Fathers: If eligible for FMLA/WFLA, medical certification is required for any time needed to care for spouse. For time to care of a healthy newborn (bonding/parental leave), medical certification is NOT required; however, the employer can request documentation of relationship. In addition, an FMLA/WFLA Leave Request form is required.

Placement of a Child for Adoption or Foster Care: If eligible for FMLA/WFLA, medical certification is not required; however, a Leave Request form is required. Leave for placement of a child must be taken within 12 months of the placement. Intermittent or reduced leave schedule may be taken with the employer's agreement.

Qualifying Exigency Leave:

If eligible, employees may take FMLA leave for qualifying exigencies arising from the fact that the employee's spouse, son, daughter, or parent (the military member) is on covered active duty or call to covered active duty status (or has been notified of an impending call or order to cover active duty) in the Armed Forces. Certification of Qualifying Exigency For Military Family Leave document is required.

Military Caregiver Leave:

Eligible employees who are the spouse, parent, son, daughter, or next of kin of a covered servicemember with a serious injury or illness are entitled to up to 26 workweeks of FMLA leave in a "single 12-month period" to care for that covered servicemember. Covered service members include current members of the Regular or Reserve components of the Armed Forces and certain veterans. Certification for Serious Injury or Illness of a Current Servicemember – for Military Family Leave document is required.

Recertification – can be requested for the following:

- For conditions lasting beyond a single leave year, medical certification can be requested in each subsequent leave year. (NOTE: It is the employee’s responsibility to obtain updated annual medical certification to continue leave under FMLA/WFLA. Kitsap County will not send out a request for this information.)
- Every six months.
- If circumstances of the leave change significantly from the previous certification.
- If the information is received that cast doubt on the employee’s stated reason for the absence or continuing validity of the certification.

Annual Medical Certifications:

FMLA approvals will be valid for 1 year from the date of approval. It will be the employee’s responsibility to initiate an FMLA Leave Request for a condition that lasts beyond a single year.

TO REQUEST FMLA LEAVE: Complete an FMLA/WFLA Leave Request form (available on Sharepoint) and send the completed form to Kitsapphs@co.kitsap.wa.us.

IF YOU HAVE FMLA QUESTIONS: Please contact Joy Crema at x3652 or email at jcrema@co.kitsap.wa.us

FORMS:

- FMLA/WFLA Leave Request Form
- EMPLOYEE Medical Certification Form
- Fitness For Duty Form (Release to Work)
- FAMILY MEMBER Medical Certification Form
- Servicemember - Military Family Leave Form
- Qualifying Exigency – Military Family Leave Form
- Parental Leave Form

NOTICES:

- FMLA/WFLA Notice of Eligibility
- FMLA Rights and Responsibilities
- Designation Notice
- Parental Leave Notice
- Self Payment Notice

Additional Resources:

- FMLA policy is available in the Personnel Manual – Appendix G.
- Federal Family and Medical Leave Act (FMLA) - <http://www.dol.gov/whd/fmla>
- Washington Family Leave Act (WFLA) - <http://apps.leg.wa.gov>
- Washington Family Care Act (WFCA) - <http://apps.leg.wa.gov>
- Pregnancy/Childbirth Related Conditions (PDL) - <http://apps.leg.wa.gov>