

**NORTH GEORGIA HEALTH DISTRICT**  
**County Board of Health Personnel Policy #1005**

Cherokee, Fannin, Gilmer, Murray, Pickens, Whitfield

**FAMILY AND MEDICAL LEAVE**

**EFFECTIVE DATE:** May 1, 2010

**RELEASE DATE:** May 1, 2010

**REFERENCES:** Federal Family and Medical Leave Act (FMLA) 29 USC 2601 *et seq.*  
U.S. Department of Labor 29 CFR Part 825

The Family and Medical Leave Act (FMLA) provides job-protected leave without pay to eligible employees for the birth and care of their newborn child, placement of a son or daughter for adoption or foster care, to care for an immediate family member with a serious health condition, or for their own qualifying serious health condition. Federal law entitles eligible employees to a maximum of twelve (12) work weeks of family and medical leave (FML) unpaid leave in any 12 month period.

**USE OF  
PAID  
LEAVE**

The County Board of Health (CBH) permits employees to use available annual, sick, and/or personal leave, if appropriate, while on FML in order to remain in pay status. If sick leave is requested, absences must be for reasons that qualify for sick leave usage. See County Board of Health/Personnel Policy #1006 - ANNUAL, SICK AND PERSONAL LEAVE for specific requirements.

**NOTE:** Under Federal regulations, FLSA compensatory time cannot be counted toward the twelve (12) work weeks of FML.

**USE OF FML**

Authorized officials cannot deny the use of FML when the provisions of this policy have been met. It is unlawful to interfere with, restrain, or deny the exercise of (or attempts to exercise) any right provided by the FMLA. Further, it is unlawful to discharge or discriminate against employees for opposing any practice made unlawful by the FMLA or for involvement in any proceeding relating to the FMLA. This policy does not, however, insulate any employee from disciplinary action based on conduct or performance deficiencies.

**QUALIFYING  
REASONS**

Both male and female employees may be eligible for FML for any of the following reasons:

1. Pregnancy and birth of the employee's child; (Pregnancy is considered a serious health condition under FMLA, and all pregnancy related absences from work [e.g., morning sickness, prenatal examinations, birth, etc.] qualify for FML and sick leave.)

---

**FAMILY AND MEDICAL LEAVE (continued)**

---

2. Care of the employee's newborn child;

(When the birth mother [female employee] is released by the attending health care provider to return to work, sick leave cannot be used for further absence unless the newborn child has a serious health condition that supports the use of sick leave.)

3. The placement of a child with the employee for adoption or foster care, and to care for the child after placement;
4. A serious health condition which makes the employee unable to perform the essential functions of the position; or,
5. Care of the employee's child, spouse or parent who has a serious health condition.

("Child" means a biological child, adopted or foster child, stepchild, legal ward, or a child of an employee standing in *in loco parentis* who is either under age 18 or is age 18 or older and incapable of self-care because of mental or physical disability.)

("Parent" means a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a child under age 18. "*In loco parentis*" means having day-to-day responsibilities to care for and financially support a child. "Parent" does not include parents-in-law.)

**ELIGIBILITY**

1. In order to be eligible for FML, employees must:
  - 1.1 Have been employed with **State government** for a minimum of twelve (12) months (The twelve [12] months do not need to be consecutive; there can be a break in service).
  - 1.2 Have been **present at work** for a minimum of 1,250 hours during the twelve (12) months immediately before the beginning of FML (does not include holidays or time away from work on paid or unpaid leave); and,
  - 1.3 Have a qualifying reason for taking FML.
2. Eligibility for FML to care for a newborn child begins on the date of birth and ends twelve (12) months after the date of birth.

---

**FAMILY AND MEDICAL LEAVE (continued)**

---

3. Eligibility for FML due to the placement of a child with the employee for adoption or foster care may begin prior to the date of placement if absence from work is needed for the placement to proceed. Eligibility ends twelve (12) months after the date of placement.
  
4. FML for a serious health condition is limited to the time determined to be medically necessary by the attending health care provider.
  - 4.1 FML to care for a family member with a serious health condition ends if the family member dies. The date of death is the last day that qualifies for FML.
  
  - 4.2 Authorized officials may approve leave after the date of death of an employee's family member in accordance with County Board of Health Personnel Policy #1006 - ANNUAL, SICK AND PERSONAL LEAVE.
  
  - 4.3 A leave of absence without pay may also be considered in accordance with County Board of Health policy.
  
5. In accordance with Federal regulations, **when both husband and wife are eligible State employees**, they are limited to a combined total of twelve (12) work weeks of FML in any 12 month period for the following reasons:
  - 5.1 birth of the employee's child;
  
  - 5.2 care of the employee's newborn child;
  
  - 5.3 placement of a child with the employee for adoption or foster care, or to care for the child after placement; or
  
  - 5.4 care of the employee's parent with a serious health condition.

Each spouse is entitled to use the difference between the amount of FML he or she has taken individually for one of the above reasons and the twelve (12) work week maximum for other qualifying reasons.

**SERIOUS  
HEALTH  
CONDITION**

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

1. Inpatient care in a hospital, hospice or residential medical care

---

## FAMILY AND MEDICAL LEAVE (continued)

---

facility, including any period of incapacity or any further treatment in connection with the inpatient care; or

2. Continuing treatment by a health care provider which includes any one (1) or more of the following:
  - 2.1 A period of incapacity of more than three (3) consecutive calendar days, and any additional treatment or period of incapacity relating to the same condition that also involves:
    - 2.1.1 Treatment two (2) or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or other referred health care services provider; or,
    - 2.1.2 Treatment by a health care provider at least once that results in a regimen of continuing treatment (e.g., prescription medication) under the supervision of the health care provider;
  - 2.2 Any period of incapacity due to pregnancy, or for prenatal care;
  - 2.3 Any period of incapacity or treatment due to a chronic serious health condition that requires periodic treatment, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, migraines, etc.);
  - 2.4 Any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's Disease);
  - 2.5 Any period of absence to receive multiple treatments (including recovery period) either for restorative surgery after an accident or other injury or for a condition that would likely result in incapacitation of more than three (3) calendar days if not treated (e.g., chemotherapy for cancer, dialysis for kidney disease, etc.).

**NOTE: Substance abuse may meet the criteria for a serious health condition. FML may be taken for substance abuse treatment or to care for a child, spouse or parent who is**

---

**FAMILY AND MEDICAL LEAVE (continued)**

---

**receiving substance abuse treatment. FML for substance abuse treatment does not prevent the Agency from taking appropriate disciplinary action against an employee for conduct or performance deficiencies.**

**HEALTH CARE PROVIDER**

“Health Care Provider” means the following:

1. Doctors of medicine or osteopathy;
2. Podiatrists, dentists, clinical psychologists, optometrists;
3. Chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist);
4. Nurse practitioners, nurse-midwives, clinical social workers;
5. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts;
6. Any health care provider from whom the Agency or the State Health Benefit Plan will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and,
7. Health care providers listed above who practice in a country other than the United States.

**TIME FRAMES**

1. Eligible employees are entitled up to twelve (12) work weeks of FML in any 12 month period.
2. The twelve (12) work weeks of FML are based on an employee’s regular work schedule. For example, full-time employees who regularly work five (5) days per work week will be charged one (1) work week of FML for every five (5) days absent from work. Similarly, part-time employees who regularly work three (3) days per work week will be charged one (1) work week of FML for every three (3) days absent from work. If a holiday(s) occurs during a week of FML, the holiday(s) counts toward FML as if it were a workday.

**POSTING FMLA NOTICE**

1. Information regarding FMLA and procedures for filing complaints of violations are included in the FMLA notice, *YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993*. (See Attachment #1)

---

**FAMILY AND MEDICAL LEAVE (continued)**

---

2. All county health departments within the North Georgia Health District are to permanently post the notice in prominent locations where notices to employees and applicants are customarily displayed and are to post such revised notices as they become available.

**REQUEST**

1. Employees are responsible for notifying supervisors or authorized officials of the need for FML.
  - 1.1 Employees must give supervisors or authorized officials adequate notice (usually thirty [30] calendar days) when FML is foreseeable.
  - 1.2 When thirty (30) calendar days advance notice is not possible, employees must give supervisors or authorized officials notice as soon as they become aware that FML is necessary. FML may be delayed when adequate notice is not provided.
  - 1.3 If FML is foreseeable based on planned medical treatment, employees must make a reasonable effort to schedule the FML, subject to the approval of the attending health care provider, when the operations of the work unit will not be unduly disrupted.
2. When requesting FML, employees are to provide a completed *REQUEST FOR FAMILY LEAVE/CERTIFICATION FORM* (See Attachment #2) to supervisors or authorized officials, unless submitting this form is not possible. The following information must be provided:
  - 2.1 beginning and ending dates of requested FML;
  - 2.2 request for use of annual, sick and/or personal leave or leave without pay; and,
  - 2.3 reason for the FML. The reason for the absence must be explained in order to determine whether the absence qualifies for FML.

(If employees request to use paid leave while on FML, they are to submit the appropriate leave request forms in addition to the *REQUEST FOR FAMILY LEAVE/CERTIFICATION FORM*.)

3. Employees requesting FML due adoption or foster care are to provide to supervisors or authorized officials the completed *CERTIFICATION OF ADOPTION OR FOSTER CARE* Form

---

## FAMILY AND MEDICAL LEAVE (continued)

---

(See Attachment #3). This form is in addition to the *REQUEST FOR FAMILY LEAVE/CERTIFICATION FORM*.

4. Employees requesting FML due to pregnancy, child birth or a serious health condition must provide to supervisors or authorized officials a medical *certification of serious health condition*, or other medical statement with similar information, completed by the attending health care provider.  
(The certification information is on page two of the *REQUEST FOR FAMILY LEAVE/CERTIFICATION FORM*) When a single serious health condition requires multiple absences (e.g., asthma, chemotherapy, etc.), a separate medical statement is not required for each absence.
  - 4.1 When FML for a serious health condition is foreseeable, this certification should be provided before the absence begins.
  - 4.2 When it is not possible to provide this certification before the absence begins, employees must provide the certification within fifteen (15) calendar days of the date it is requested.

### RESPONSE

Supervisors or authorized officials are to forward the completed request form to the District Personnel Office along with a *PERSONNEL ACTION REQUEST FORM* (PERS/005) for processing. The District Personnel Office is to review the request to ensure eligibility and compliance with the FMLA. **The personnel office will respond in writing to the requests within ten (10) calendar days of receipt of the requests**, unless there are extenuating circumstances that require clarification or additional documentation from employees.

1. Approval notices must specify the terms and conditions of the FML and advise employees of their right to return to work.
2. If an employee is denied for FML, the employee must be notified in writing and the notice must include the reason why they were denied.
3. If sufficient information is not available to determine whether FML should be approved, FML may conditionally be approved contingent upon receiving required documentation.
  - 3.1 The required documentation must be submitted to District Personnel Office within fifteen (15) calendar days.

---

**FAMILY AND MEDICAL LEAVE (continued)**

---

- 3.2 When the required documentation is received, employees will be advised if the FML is approved or denied.
- 3.3 If the required documentation is not provided by the deadline date, the absence will not qualify for FML and the employee will not receive the protection of FML, or the use of FML may be delayed.
- 4. If timely notices are not provided by supervisors or authorized officials, employees are **NOT** entitled to additional time beyond the maximum amount of twelve (12) work weeks for FML.
- 5. If there is a question as to the validity of the certification for FML, **and ONLY** with the approval of the District Health Director, the employee may be required to obtain a second opinion from a health care provider chosen by the Health District and paid for by the appropriate CBH.
- 6. Supervisors or authorized officials who do not comply with the requirements of this policy are subject to disciplinary action up to and including separation.

**CONCERNS  
WITH PROCESS**

Employees who believe that their FML requests have not been processed correctly should discuss their concerns with supervisors or authorized officials, or the District Personnel Office.

**DESIGNATING  
FAMILY AND  
MEDICAL  
LEAVE**

It is the responsibility of supervisors or authorized officials to designate FML as appropriate. If FML is determined appropriate, employees are to be placed on FML **even when they do not submit a request**. Supervisors or authorized officials may learn that an absence, or part of an absence, from work qualifies for FML either during or after the period of absence. In these circumstances, FML should be designated as follows:

- 1. When supervisors or authorized officials learn that an employee is eligible for FML during a period of absence, any portion of the absence from work that qualifies for FML should be designated as such. When FML is designated, medical certification is still required to confirm that the absence qualifies as FML.
- 2. Generally, absences from work may not be retroactively designated as FML after an employee has returned to work. However, FML may be designated retroactively under the following circumstances:
  - 2.1 When the employee was absent for an FML reason and

---

**FAMILY AND MEDICAL LEAVE (continued)**

---

the Agency did not learn of the reason for the absence until the employee's return, the retroactive designation must be made within fifteen (15) calendar days of the employee's return to duty.

- 2.2 When the Agency knows the reason for leave but has not been able to confirm that the leave qualifies under FMLA. In such cases, the FML designation must be made promptly upon receipt of appropriate certification.

When the reason for the absence is known beforehand by the Agency (e.g., pregnancy/child birth), employees are **NOT** to be retroactively placed on FML after they return to work.

**PAY  
STATUS  
BENEFITS**

1. Employees may use paid leave (annual, sick, or personal), if appropriate, take leave without pay, or use a combination of both to cover the absence from work. Use of paid leave must comply with County Board of Health Personnel Policy #1006 - ANNUAL, SICK AND PERSONAL LEAVE (e.g., sick leave can be used only for reasons that qualify for sick leave).

**NOTE: FLSA Comp Time cannot be counted toward the twelve (12) work weeks of family leave.**

- 1.1 Absences due to morning sickness and other pregnancy related absences (including the two [2] weeks immediately before delivery) generally qualify for use of sick leave by female employees.
- 1.2 The first six (6) weeks following the birth of a child generally qualify for use of sick leave by female employees. Additional use of **sick leave** due to the birth of a child must be supported by a medical statement (e.g., serious health condition of the mother or child). Fathers (male employees) would generally be eligible to use sick leave if their presence is needed due to the serious health condition of the mother or child.
2. Absences related to adoption when the employee's presence is required for health-related reasons qualify for use of sick leave. Other FML absences related to adoption qualify for use of annual or personal leave or authorized leave without pay.
3. Since leave donations are credited to recipients' sick leave balances, employees who are on FML can only use donated leave

---

**FAMILY AND MEDICAL LEAVE (continued)**

---

for absences that qualify for use of sick leave.

4. While on FML, employees who have health insurance benefits through the State Health Benefit Plan are entitled to maintain this health insurance coverage at the employee rate. If premiums change while employees are on FML, they are responsible for paying the new premiums.
5. In order to maintain health insurance and any benefits through the Flexible Benefits Program (e.g., Accidental Death and Dismemberment Insurance, Dental Insurance, etc.), employees on FML **with** pay (those using sick/donated, annual or personal leave) continue to pay premiums through payroll deductions.
6. Employees on FML **without** pay will be advised of the cost for maintaining health insurance and any benefits through the Flexible Benefits Program, arrangements for making payments and consequences for not making timely payments.
  - 6.1 Employees on FML **without** pay must complete and submit the following forms to the District Personnel Office to continue health insurance benefits:
    - 6.1.1 *REQUEST TO CONTINUE HEALTH BENEFITS DURING LEAVE OF ABSENCE WITHOUT PAY* (Form MS66-003); and
    - 6.1.2 *DISABILITY CERTIFICATION* (Form MS66 005), if appropriate.
  - 6.2 Employees with at least one (1) year of participation in the Group Term Life Insurance Program under the Employees' Retirement System (ERS) may retain coverage while on FML without pay. A request to continue coverage must be made in writing to ERS prior to beginning the FML without pay. This may be done by completing the *ELECTION TO CONTINUE GROUP TERM LIFE INSURANCE WHILE ON LWOP FORM* and sending it to the District Personnel Office for processing. Coverage terminates if this written request is not received.

**SYSTEM  
ENTRY**

Supervisors, authorized officials or designees are to complete the *REQUEST FOR PERSONNEL/PAYROLL ACTION FORM* to place employees on FML with and/or without pay. These completed forms are to be submitted to the District Personnel Office for processing.

---

## FAMILY AND MEDICAL LEAVE (continued)

---

### RECERTIFICATION

Employees on FML due to a serious health condition may be required to provide recertification of the serious health condition on a reasonable basis. Recertification cannot be required more often than every thirty (30) calendar days.

### INTERMITTENT/ REDUCED LEAVE SCHEDULE

1. FML may be taken intermittently or on a reduced leave schedule under certain circumstances. FML cannot exceed 480 hours in a calendar year.
  - 1.1 Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason (e.g., morning sickness, prenatal examinations).
  - 1.2 A reduced leave schedule reduces employees' normal work hours per work week or per workday.
2. FML may be taken intermittently or on a reduced leave schedule when medically necessary or to provide care or psychological comfort to a qualifying family member with a serious health condition. A medical statement is not required for each absence when FML is taken intermittently. Documentation may be required initially, and recertification may be required no more often than every thirty (30) calendar days.
3. FML may be taken intermittently or on a reduced leave schedule to care for a newborn child or for placement of a child for adoption or foster care **ONLY** with supervisory approval, unless the absence involves a qualifying serious health condition.
4. Employees who request FML on an intermittent or reduced leave schedule basis may be required to temporarily transfer to an available alternative position that better accommodates recurring periods of absence.
  - 4.1 The alternative position must have equivalent pay and benefits, but is not required to have equivalent duties.
  - 4.2 Employees must not be transferred to alternative positions in order to discourage the use of FML or to positions that represent a hardship (e.g., employees may not be transferred to a less desirable shift).
  - 4.3 When the need for intermittent leave or a reduced leave schedule ends and employees are able to return to their normal work schedules, they must be returned to their former positions or equivalent positions.

---

**FAMILY AND MEDICAL LEAVE (continued)**

---

5. Only the amount of leave actually taken on an intermittent or reduced leave schedule basis may be counted toward the twelve (12) work weeks of FML. For example, employees who normally work five (5) days per work week and take off one (1) day for intermittent FML will be charged  $\frac{1}{5}$  work week of FML. Similarly, full-time employees who reduce a work week from forty (40) to twenty (20) hours are charged  $\frac{1}{2}$  work week of FML.

**RETURN  
TO WORK**

1. Employees who have complied with the terms and conditions in the FML approval notice are entitled to return to the same position, or an equivalent position with the same pay and grade, benefits and comparable working conditions, at the expiration of FML.
  - 1.1 Employees do not retain this entitlement if at the expiration of FML, they are unable to perform the essential functions of the position, with or without reasonable accommodation, due to physical or mental condition.
  - 1.2 Employees on FML do not have greater rights to return to work than they would have if they had continuously remained at work. For example, employees who are on FML during a staff reduction do not have a right to return to work if they are laid off due to the staff reduction.
2. Employees returning from FML due to their own serious health condition may be required to submit a return-to-work statement from the attending health care provider prior to returning to work (See Attachment #4). This statement must certify that the employee is capable of performing the essential functions of the position, with or without reasonable accommodation. Employees who do not provide the required statement or have restrictions that cannot be reasonably accommodated should **not** be allowed to return to work.
3. Supervisors, authorized officials or designees are to submit completed *REQUEST FOR PERSONNEL/PAYROLL ACTION* Forms along with appropriate required documentation to the District Personnel Office for entry for employees returning from FML.

**RECORD  
KEEPING**

All FML related employment records must be maintained for at least (3) years and made available upon request by the U. S. Department of Labor. These records include, but are not limited to the following:

1. Correspondence between the employee, supervisor or authorized

**FAMILY AND MEDICAL LEAVE (continued)**

---

official regarding FML;

2. Records of any dispute regarding designation of leave as FML; and
3. Any documents describing employee benefits or Agency policies and practices regarding the taking of leave with and without pay.

**CONFIDENTIALITY**

Medical information related to FML is confidential and is available to individuals on a “need to know” basis only.

FMLA is a complex Federal Law that is used often and must be applied accurately. Any questions or concerns should be directed to the District Personnel Office at 706/272-2342.

**ATTACHMENTS:**

Attachment #1 –*YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993*

Attachment #2 –*REQUEST FOR FAMILY LEAVE/CERTIFICATION FORM*

Attachment #3 –*CERTIFICATION OF ADOPTION OR FOSTER CARE*

Attachment #4 –*RELEASE TO RETURN TO WORK*

\*\*\*\*\*