

CITY OF SALEM

FAMILY AND MEDICAL LEAVE ACT (FMLA) OREGON FAMILY LEAVE ACT (OFLA) SUMMARY

(Actual FMLA & OFLA Laws Shall Dictate)

Eligible City employees are entitled to twelve weeks of family or medical leave during a twelve month period starting with the beginning of such leave as provided under the Federal Family and Medical Leave Act (FMLA) and under the State of Oregon Family Leave Act (OFLA). The two laws generally run contiguously except in instances wherein the two laws differ in coverage. In such cases, the most generous law applies.

SUPERVISORS: Promptly contact the Benefits Manager or the Benefit Assistant when you learn of an employee's probable FMLA/OFLA qualifying event or the employee has been absent for more than 3 days (See Reasons for Taking Leave below).

Eligibility:

FMLA: Employees are eligible if they have worked for the City for at least one year and completed 1,250 work hours over the previous 12 months.

OFLA: Employees must be employed for the 180-day calendar period immediately preceding the leave and have worked at least an average of 25 hours per week during the 180-day period. Employees are eligible for parental leave after being employed for 180 calendar days without regard to the number of hours worked per week.

Reasons for Taking Leave:

Birth or adoption or foster child: FMLA and OFLA allow up to 12 weeks leave to care for the employee's child after birth, or placement for adoption or foster care.

Serious Health Condition: UP to 12 weeks to care for the employee's spouse, son, daughter, or parent who has a serious health condition, or for the serious health condition that makes the employee unable to perform the employee's job. In addition, OFLA includes care for a parent-in-law, in loco-parentis, same sex domestic partner, grandparent and grandchildren.

OFLA also includes an additional 12 weeks pregnancy disability leave as a form of serious health condition taken by a female employee for an incapacity related to pregnancy or childbirth occurring before or after the birth of the child.

Sick Child Leave: OFLA covers employees for up to 12 weeks sick child leave taken with an illness or injury of child following birth or that requires home care but is not a serious health condition. Sick Child Leave need not be provided to an eligible employee if another family member, including a non-custodial biological parent, is willing and able to care for the child.

*Leave to Care for Wounded Service Member: (FMLA) Eligible employees may take up to 26 weeks to care for spouses, children, parents or next of kin who are service members with serious illnesses or injuries incurred during active duty in the Armed Forces. Leave is available only during one 12-month period and is combined with all other FMLA leaves in that period to a maximum of 26 weeks.

*Leave Related to Active Duty or Call to Duty: (FMLA) Eligible employees may take up to 12 weeks of FMLA leave in a 12-month period to deal with any qualifying exigency that arises from a spouse's, child's or parents active duty in the Armed Forces, including an order to call to duty.

*Will be refined to be more definitive when clarified by the Department of Labor guidance language.

Types of Leave

Leave may be applied for on a Continuous basis or on an Intermittent basis. Continuous leave is being absent from work for a period of time of up to 12 weeks. Intermittent leave is intended for time off taken for regular treatments of an illness or injury that occur on a regular periodic basis.

Serious Health Condition:

A serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

Hospital Care: Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

Absence Plus Treatment: A period of incapacity of more than three consecutive days, including any subsequent treatment or period of incapacity relating to the same condition, involving:

- a. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services, such as a physical therapist, under orders of, or on referral by, a health care provider, or

- b. Treatment by health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- c. A regimen of continuing treatment includes, as an example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications.

Pregnancy: Any period of incapacity due to pregnancy or for prenatal care.

Chronic Conditions Requiring Treatments: A chronic condition which requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider; continues over an extended period of time including recurring episodes of a single underlying condition and may cause episodic rather than a continuing period of incapacity such as asthma, diabetes, epilepsy, etc.

Permanent/Long-Term Conditions Requiring Supervision: A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under continuing supervision of, but need not be receiving active treatment by a health care provider. Examples would include Alzheimer's, severe stroke, or terminal state of a disease.

Multiple Treatments (Non-Chronic Conditions): Any period of absence to receive multiple treatments, including any period of recovery, by a health care provider, either for services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive days, the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.) severe arthritis (physical therapy), kidney disease (dialysis), etc.

Imminent Danger of Death: An illness, disease or condition that in the medical judgment of the treating health care provider poses an imminent danger of death, is terminal in prognosis with reasonable possibility of death in the near future, or requires constant care.

Paid or Unpaid Leave:

Employees on FMLA and/or OFLA must exhaust their accrued sick leave, except as specifically determined by a collective bargaining agreement. Accrued vacation, holiday leave and compensatory time, if applicable will be charged following exhaustion of accrued sick leave. An employee may designate which leaves are to be charged first after

accrued sick leave has been used. In the absence of a designation by the employee, the supervisor shall determine which leaves to charge after sick leave.

Benefits:

Health, vision, dental, and city paid group life insurance will continue for employees on approved FMLA and/or OFLA in the same manner that was in effect for that employee prior to the beginning of FMLA or OFLA. The employee will be responsible for any voluntary payroll deductions that the employee is enrolled.

The City may recover its share of premiums if the employee fails to return to work at the expiration of FMLA/OFLA leave. Returning to work is determined to be for at least a period of 30 days. However, recovery is not permissible if the return to work is beyond the control of the employee.

Reinstatement:

Employees must be allowed to return to their former job or to an equivalent job if the former position no longer exists. However, employees on FMLA/OFLA are still subject to nondiscriminatory employment actions such as layoff or discipline that would have been taken without regard to employee's leave.

An employee returning to work following their own serious illness or injury must provide the City with the Release To Return To Work Form completed by the employee's health care provider.

Notice Requirements:

Employees ordinarily must provide 30 days advance leave notice when the leave is foreseeable. Medical Certification must be provided for all leaves except birth of a child.