

Employee Notice – Rights and Responsibilities under the Family Medical Leave Act (FMLA) and the Oregon Family Leave Act (OFLA)

Multnomah County, as an employer, is required to track any qualifying absence as FMLA and/or OFLA. This notice is intended to provide information to employees about their rights and responsibilities related to qualifying events, eligibility, continuation of benefits, and medical certification due to their leave.

Qualifying Events for FMLA/OFLA Leave

An eligible employee is entitled to take FMLA/OFLA leave for the birth of a child, the placement of a child for adoption or foster care, or the serious health condition of the employee or the employee's spouse, parent, or child. In addition, OFLA allows leave for the serious health condition of a parent-in-law, same gender domestic partner, grandchild, grandparent, the parent or child of the same gender domestic partner, a child under age 18 requiring home care who does not have a serious health condition (OFLA Sick Child Leave), or bereavement leave following the death of a qualifying family member. The County has elected to include domestic partners, domestic partners' parents and children as qualifying family members in both its FMLA and OFLA administration and protection; however it does not count against an employee's FMLA entitlement.

Designation of Leave

It is the responsibility of the employer to designate leave as FMLA and/or OFLA qualifying, and to give notice to the employee. Employees are required to give at least 30 days advance notice if the need for leave is foreseeable. If the leave is not foreseeable, notice must be provided within 1 business day of beginning the leave. Employees may be required to furnish periodic reports of status, updated medical certification and/or intent to return to work every 30 days while on FMLA/OFLA leave.

Length of Leave Available

Employees are generally entitled to a maximum of 12 weeks of family leave within an employer's 12-month leave year. The County uses a calendar year (Jan. 1 to Dec. 31). A woman using pregnancy disability leave may be entitled to additional weeks of leave in the same leave year for any other qualifying OFLA purpose. In addition, under OFLA, an employee using a full 12 weeks of Parental leave is entitled to take additional leave for the purpose of OFLA Sick Child leave. Any leave taken that qualifies as FMLA or OFLA will be counted against an employee's annual FMLA/OFLA entitlement.

Medical Certification

Medical certification is required for all FMLA/OFLA qualifying leaves **except** for those related to OFLA Bereavement or Parental leave. Employees have 15 days to provide the required certification or the leave may be delayed or denied. The County provides a standard form for medical certifications. While use of this form is not required, the information contained on the form is required from the medical provider to support the request for leave.

Sick Child Leave Verification: If sick child leave is taken on any part of 3 separate days during a leave year, the County may require medical verification from a health care provider at the time of or after the 4th occurrence of use.

Incurred Costs: If an employee incurred any out-of-pocket expenses directly associated with the provider completing the medical certification, please contact the Employee Benefits Office for reimbursement. Supporting documentation for reimbursement must be received within 90 days of incurring the expense.

Use of Leave

The County requires employees to use accrued paid leave, if available in accordance with County policy and labor contracts. Both the paid and unpaid portion of the leave is tracked as FMLA and/or OFLA time. Under FMLA/OFLA, employees may determine what order paid leave is used. By default, sick time will be used first unless stated otherwise.

If approved for appointments or scheduled leave: Leave must be scheduled in advance and employees must notify their supervisor at the time of scheduling that leave is for FMLA/OFLA. Leave for appointments are typically not full day absences and will not be protected as full day under FMLA/OFLA unless the provider states otherwise. 30 days advanced notice is required for scheduled leave or as soon as leave needs are known. Less notice may be acceptable if permitted by department.

If approved for flare-ups: Normal call-in procedures must be followed during any absence related to flare-ups. Employees must designate the time as FMLA/OFLA at the time of call in, otherwise absences may count against the

attendance policy as listed in the Personnel Rules and/or Labor Contracts. Retroactive changes to time entry may not be permitted if the leave is not specified as FMLA/OFLA at the time of reporting inability to work.

Timesheet coding

Employees are responsible for true/accurate reporting of their time entry records. Timesheets must be coded appropriately with FMLA and/or OFLA codes. If approved for more than one event, a text note must be specified on timesheet for the event the leave is for. Employees may determine what order paid leave is used. By default, sick time will be used first unless stated otherwise. If employees have questions about what codes to use, contact our office, timekeeper or supervisor.

Continuation of Benefits

If enrolled in a County sponsored medical and/or dental plan, health plan coverage will continue during the FMLA/OFLA protected leave. **If in paid status**, medical and dental payroll deductions will be deducted from semi-monthly paychecks, along with premiums for optional coverages. Unpaid premiums will be tracked and recovered from future checks upon the employee's return to work. If an employee Opts Out of coverages, Opt Out refunds will cease during any period that is unpaid. Other benefit programs may end even if an employee is in protected status.

If on unpaid status without FMLA/OFLA protection, County sponsored benefits may end. If health plan coverage terminates, employees are sent information about continuing coverage on a self-pay basis under COBRA. If an employee does not return to work following FMLA/OFLA leave, they may be required to reimburse the County for health insurance premiums paid on their behalf during any unpaid leave as well as any unpaid employee cost-shares. Employees should contact Leave Administration to discuss when benefits will end or for personalized information about other benefit impacts.

Disability Plan Information (STD and/or LTD)

If an employee is on a continuous leave due to their own serious health condition, the Benefits Office will send a disability claim form during the leave. If there is a long term chronic condition, absences may meet the eligibility requirements to qualify for applicable disability plans. Questions about these disability plans can be directed to Benefits Office Leave Administration.

Catastrophic Leave

If an employee's paid accruals (sick time, vacation time, etc) are not sufficient to cover the leave, employees may be eligible to participate in the County's Catastrophic Leave program. Please contact the Benefits Office for more information or to request a [Catastrophic Leave Application](#). Medical certification submitted for FMLA/OFLA approval is used for Catastrophic Leave eligibility review. Please review [MC Personnel Rule 2-55](#) for more details.

Reinstatement from Leave and Release to Return to Work

If an employee is on a continuous leave of absence due to their own condition or for certain intermittent leave situations, they **will be required** to present a release prior to being restored to employment. If such documentation is not received, the return to work will be delayed until such certification is provided. If released to modified duty, employees must provide that release prior to return in order to determine if the County can accommodate the restrictions.

FMLA regulations require that upon return from leave the employee be reinstated to an equivalent position. OFLA is more generous and requires the employer to return the employee to the employee's former position if the job still exists even if it has been filled during the employee's leave unless the employee would have been bumped or displaced if the employee had not taken leave. Therefore, the County will follow the provision which provides greater benefit to the employee.

**Multnomah County Benefits Office Leave Administration • leave.information@multco.us • (503) 988-3477
501 SE Hawthorne Blvd. Portland, OR 97214 • Fax (503) 988-6257**