

TOWN OF HADLEY
HUMAN RESOURCES DEPARTMENT
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Date: March 18, 2020
To: All Town Employees
From: Human Resources Director
Subject: Policy and Procedure for Requesting Leave under the Family Medical Leave Act

OVERVIEW

The Town of Hadley is fully committed to adhering the requirements set forth in the Family Medical Leave Act (FMLA). This Policy is designed to simplify a complicated law and outline the process for requesting leave under FMLA. In order to be eligible for leave under FMLA, an employee must:

1. Be employed with the town for 12 months or more
2. Have worked 1,250 hours or more during the preceding 12-month period

An Employee may take up to 12 workweeks of leave in a 12-month period for one or more of the following reasons:

- The birth of a child or placement of a child with the employee for adoption or foster care, and to bond with the newborn or newly-placed child;
- To care for a spouse, child, or parent who has a serious health condition, including incapacity due to pregnancy and for prenatal medical care;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job, including incapacity due to pregnancy and for prenatal medical care; or
- 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.

In addition, an eligible employee may also take up to 26 workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember. An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reasons during the single 12-month period

RESPONSIBILITIES

Employer

Under the law the town has several responsibilities toward its employees. This is not an exhaustive list – this is meant to highlight the most significant elements of the town’s reasonability under FMLA. The Town has the responsibility to:

1. Provide the requesting employee eligibility notice
2. Be timely in decisions, and reasonable in requests for further information
3. Maintain health benefits for covered employees (employees are responsible for their share)
4. Maintain confidentiality for the employee
5. Keep accurate records
6. Comply with laws that have intersectionality. Examples include the Americans With Disabilities Act or Uniformed Services Employment and Reemployment Rights Act. When feasible or required the town will also provide all notices, rights and warnings for the same.

Employee

Under the law, employees have their own set of responsibilities to the town. This is not an exhaustive list but is designed to aid the employee in fulfilling the most impactful requirements of the law in order to aid in timely decision making and reduce undue pressure on all parties involved. Every employee requesting FMLA has the responsibility to:

1. Exercise the diligence to request leave 30 days or more in advance for foreseeable leave. When the situation is unforeseeable or changes; employees must strive to be prompt with their request.
2. Have the certification completed within 15 calendar days. If the certification needs correction, complete the request within 7 calendar days.
3. Comply with requests for a second opinion.
4. Provide documents to support relationships, military status, or other applicable provision under the law.

PROCESS

1. Employee requests leave (written preferred, verbal acceptable by law) from manager under FMLA, preferably with at least 30 days of notice. Exceptions will be made for unforeseen circumstances. The employee releases HIPPA protected information only to Human Resources or designated official, under no circumstances will the employee’s manager have access to this information.
2. Manager forwards request to Human Resources.
3. Within 5 business days. Human Resources Provides employee w/ eligibility, rights and responsibilities notice using DOL Form WH-381, and if appropriate, a certification form:
 - a. WH-380-E, Certification of Health Care Provider for Employee’s Serious Health Condition;
 - b. WH-380-F, Certification of Health Care Provider for Family Member’s Serious Health Condition;
 - c. WH-384, Certification of Qualifying Exigency for Military Family Leave;

d. WH-385, Certification for Serious Injury or Illness of a Covered Servicemember – for

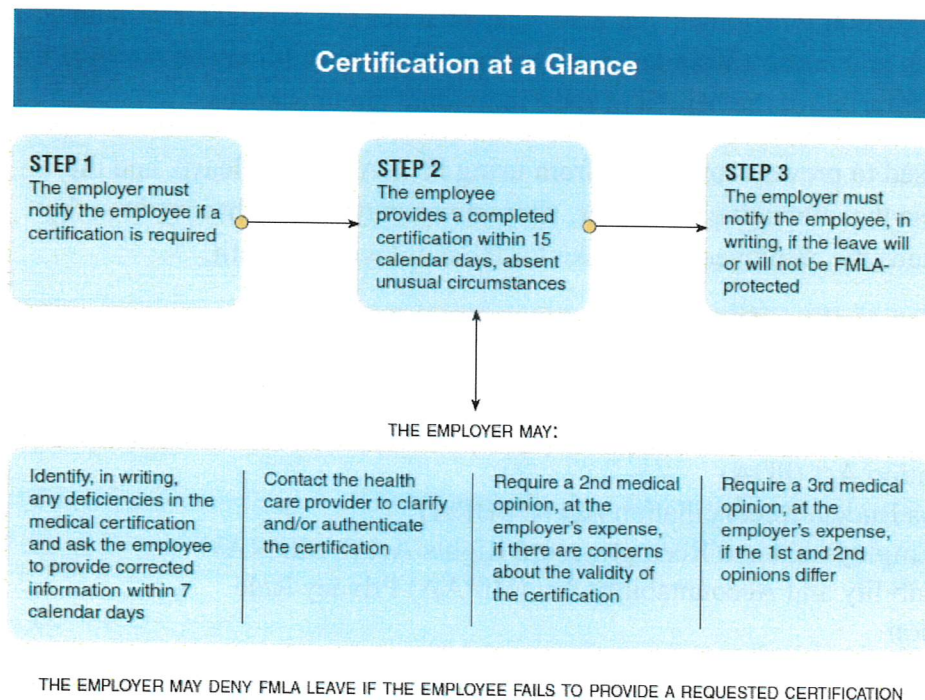
Military Family Leave;

e. WH-385-V, Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave

4. Employee turns in certification (if applicable) within 15 days, and any other supporting documentation. The employer may request that the employee prove a qualifying relationship exists. For adoption, birth or foster care a certification is not required, but a proof of relationship is, 15-day limit still applies.

5. Employer provides in writing whether or not the leave is protected under FMLA, if incomplete, please chart below for clarification.

The Certification process:



In addition to designating leave as FMLA qualifying, the written Designation Notice must include all of the following:

- The amount of leave that will count against the employee's FMLA leave entitlement, if known;
- If the exact amount of leave is not known at the time of the designation (for example, when the employee needs unforeseeable intermittent leave), the employer must provide this information in writing upon the employee's request, but no more often than once in a 30-day period and only if leave was taken.
- Whether the employee is required to substitute paid leave for unpaid FMLA leave, and
- Whether the employee will be required to submit a fitness-for-duty certification to return to work.

6. Upon completion of leave, the employee returns to work. Proof the employee is fit for duty may be required. When an employee returns from FMLA leave, he or she must be restored to the same job that the employee held when the leave began or to an "equivalent job."

ALTERNATIVES TO FMLA

Employees may have other options protected under law, town by-law, or personnel policy that may be more advantageous or personally preferable to the individual circumstances. Options may include (but are not limited to) reduced, changed or condensed (four 10-hour days) schedule, or temporary fill to a lighter duty position. In all instances where leave or medical condition is not resolved by the 12-week or 26-week period, the employee is encouraged to seek alternative opportunities with the town. Example:

Officer Jones works night shift, Officer Smith works day shift. Officer Smith's spouse requires surgery and many weeks of recovery and assistance getting to day time appointments however he doesn't have enough vacation time to help his wife. Officer Jones has a daughter with an upcoming sports season and doesn't want to miss practices and games. It may be possible for the officers to switch temporarily for the benefit of their individual circumstances.

The alternatives will not be used to prevent employees from using FMLA covered leave, and the employee is not required to use the alternative. However, alternatives may be sought to reduce the amount of leave (paid or unpaid) the employee has to take for the employee's benefit.

FMLA, ADA, AND OTHER OVERLAPPING LAWS

Due to the nature of FMLA, there may be some interaction among other existing laws such as

- Americans with Disabilities Act (ADA)
- Pregnancy Discrimination Act (PDA)
- Consolidated Omnibus Budget Reconciliation Act (COBRA)
- Uniformed Services Employment and Reemployment Rights Act (USERRA)
- Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule
- Workers' Compensation
- Interaction with State Family and Medical Leave Laws
- Interaction with an Employer's Policies

All employees are encouraged to participate in an interactive conference to allow the Town to assist in making or providing reasonable accommodations.

REMARKS

This policy is merely meant as a guide and the Town's preference for requesting leave under FMLA. At any point where there a conflict exists between this policy and a legal update (change of law, court ruling, etc) the legal update will prevail. The following guides may assist you in understanding FMLA:

Employee Guide: <https://www.dol.gov/whd/fmla/employeeguide.pdf>

Employer Guide: <https://www.dol.gov/whd/fmla/employerguide.pdf>

APPROVAL

Effective: 18 March 2020 until revoked by the Select Board

Adopted this 18th Day of March, 2020.

HADLEY SELECT BOARD

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