

FAMILY AND MEDICAL LEAVE ACT

The Family and Medical Leave Act (FMLA) provides eligible employees up to twelve (12) workweeks of unpaid leave per calendar year for FMLA approved events. The mandated leave allowance is inclusive of other available leave and permits employers to offset the total twelve (12)-week entitlement with any paid leave taken under the FMLA.

Commission employees are required to use certain types of accrued paid leave as available under the Merit System Rules and Regulations (MSR & R) before Leave-Without-Pay can be granted. Once the required amount of paid leave has been used, the employee may request Leave-Without-Pay for the balance of the twelve (12) workweeks. For instance, if an employee is required to use 30 workdays (6 workweeks) of Sick Leave before requesting unpaid leave, s/he has 30 workdays (6 workweeks) which may be taken as Leave-Without-Pay under the FMLA.

Eligible Persons:

The FMLA provides coverage to all employees, career and contract, who have met the following minimum service and work-hour requirements (does not include holidays, annual, sick, compensatory or administrative leaves, but does include time that would have been worked but for a period of National Guard or Reserve military service):

- Twelve (12) months service, not necessarily consecutive; **and**
- 1,250 hours worked during the twelve (12) month period immediately preceding the start of the leave.

Approved FMLA Events:

- Birth and care of the newborn child of the employee (multiple births are treated as one FMLA period e.g. triplets);
- For placement with the employee of a child for adoption or foster care;
- Care for a seriously ill child, spouse, parent or domestic partner who meets the qualifications of the Commission's Health & Benefits program; (Domestic partner coverage is not normally covered by FMLA, however, M-NCPPC has granted it).
- Care of the employee's own serious illness.
- Care or comfort of a military servicemember.

Protections Afforded Under the FMLA:

Job Security- Job security provisions are applicable during use of FMLA leave. Employees returning from FMLA leave must be restored to the same or equivalent position with equivalent pay and benefits.

Continuation of Benefits- All employee benefits continue during FMLA leave. Under our current policy, employees are responsible for the **employee-share** of all continued benefits. The Health & Benefits Office should be contacted for self-payment of premiums.

Notification Requirements:

Employee- In accordance with the FMLA, employees are required to:

- Provide 30 days' advance notice when FMLA leave is foreseeable;
- Provide medical certification for FMLA leave related to a serious health condition.

FMLA leave may be initiated by the employee or manager. Any leave taken for events covered by the FMLA will be considered FMLA leave, and count against the total twelve (12) workweek leave entitlement. The FMLA leave status runs concurrently with all other employee or Commission leave programs.

Definitions:

Child- The FMLA defines as eligible, a child up to the age 18, or older if the child is disabled and incapable of self-care. Both male and female employees are eligible to take leave for the birth, adoption, foster placement or care of a seriously ill child, step-child, legal ward or child of a person standing in loco parentis.

Parent- Employees may take leave to care for their parents; Definition does not extend to "parents in law".

Serious Health Condition- Employees may take leave to care for a dependent or their own health when the illness includes:

- Incapacity requiring absence from work, school, or other daily activity for more than three (3) calendar days.
- Incapacity due to inpatient care in a hospital, hospice, or medical facility.
- Continuing treatment under the supervision of a health care provider for a chronic or long-term health condition which is incurable or, so serious that if not treated, would result in incapacity of more than three (3) calendar days.

ADMINISTRATION OF LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT (FMLA)

BIRTH, ADOPTION, OR FOSTER CARE OF A CHILD:

1. **Timing of Leave:** Leave taken under the FMLA must be completed within twelve (12) months from the birth or placement of the child. Leave may be taken on a continuous basis; intermittent leave can only be taken with employer approval.
2. **Leave Allowance:** Employees are eligible for up to twelve (12) weeks of FMLA leave. The FMLA can be taken using paid leave (available under the MSR & R) and/or unpaid (Leave-Without-Pay) leave.

Paid Leave: An employee may elect the following types of accrued paid leave for any portion of the FMLA.

- a. Sick Leave (up to 240 hours unless medically necessary)
- b. Annual Leave
- c. Compensatory Leave: **or**
- d. Personal Leave

Unpaid Leave: If an employee wishes to take any portion of FMLA as Leave-Without-Pay, s/he must first use the following available leave.

- a. 240 hours of Sick Leave; **or**
- b. 240 hours of Compensatory Leave

SERIOUSLY ILL CHILD, SPOUSE, OR PARENT:

1. **Timing of Leave:** If medically necessary, FMLA leave can be taken on a continuous or intermittent schedule.
2. **Leave Allowance:** Employees are eligible for up to twelve (12) weeks of FMLA leave.

Paid Leave: The total twelve (12) week allowance may be offset by the following types of paid leave:

- a. Sick Leave (Up to 10 days/80 hours)
- b. Annual Leave
- c. Compensatory Leave **or**
- d. Personal Leave

Unpaid Leave: If an employee wishes to take Leave-Without-Pay for any portion of the FMLA, s/he must first use all available:

- a. Annual Leave; **and**
- b. Compensatory Leave

LEAVE TAKEN TO CARE FOR AN EMPLOYEE'S OWN SERIOUS HEALTH CONDITION:

1. **Timing of Leave:** If medically necessary, FMLA leave can be taken on a continuous or intermittent schedule.
2. **Leave Allowance:** In accordance with the FMLA, employees are entitled to take up to twelve (12) weeks of FMLA leave.

Paid Leave: Employees can elect to take any portion of the FMLA using available:

- a. Sick Leave
- b. Annual Leave
- c. Compensatory Leave **or**
- d. Personal Leave

Unpaid Leave: Before any portion of the twelve (12) weeks can be granted as Leave-Without-Pay, an employee must use all:

- a. Sick Leave **and**
- b. Compensatory Leave

ADMINISTRATION OF LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT (FMLA)

LEAVE FOR MILITARY REASONS

QUALIFYING EXIGENCY LEAVE: Leave for the employee's spouse, son, daughter, or parent (the 'covered active duty military member') may be taken for:

1. Short-notice deployment (up to 7 calendar days)
2. Military events and related activities (as needed)
3. Childcare and school activities (as needed)
4. Financial and legal arrangements (as needed)
5. Counseling (as needed)
6. Rest and recuperation (5 days per instance)
7. Post-deployment activities (as needed)
8. Additional activities (as needed)

Note 1: For purposes of qualifying exigency leave, a 'covered active duty' military member, means reservist, member of the National Guard, or active duty member of Armed Forces deployed or called to active duty in a foreign country.

Note 2: Effective date of Act as amended 10/28/09 is presumed to be effective immediately.

1. Timing of Leave: Leave may be taken on a continuous, intermittent or a reduced leave schedule.

2. Leave Allowance: Employees are eligible for up to twelve (12) weeks of FMLA leave based on the reason selected.

Paid Leave: Employees may elect to use any portion of the FMLA using available:

- a. Annual Leave
- b. Compensatory Leave
- c. Personal Leave

Unpaid Leave: If an employee wishes to take any portion of FMLA as Leave-Without-Pay, s/he must first use the following available leave.

- a. Annual Leave **and**
- b. Compensatory Leave

MILITARY CAREGIVER LEAVE: Leave to care for a sick family military servicemember or veteran (as defined in Note 2 below)

1. Timing of Leave: Military Caregiver Leave may be taken on a continuous, intermittent or reduced leave schedule when medically necessary.

2. Leave Allowance: An eligible employee who is the spouse, son, daughter, parent, or next of kin of a military servicemember is entitled to leave to care for a current covered servicemember for up to 26 weeks in a single 12 month period:

- a. who is on the temporary disability retired list; or
- b. who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or is otherwise in outpatient status

Paid Leave: Employees may elect the following types of accrued paid leave for any portion of the FMLA:

- a. Sick Leave (up to 10 days/80 hours)
- b. Annual Leave
- c. Compensatory Leave
- d. Personal Leave

Unpaid Leave: If an employee wishes to take any portion of FMLA as Leave-Without-Pay, s/he must first use the following available leave.

- a. Annual Leave **and**
- b. Compensatory Leave

Note 1: a "serious injury or illness" includes an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, rank or rating.

Note 2: Relatives of veterans, reservists or National Guard who were in the service within five (5) years before the date when the veteran undergoes treatment, recuperation or therapy for the serious injury or illness, incurred or aggravated by service in the line of duty, will be eligible for FMLA's military caregiver leave. (Act as amended 10/28/09, presumed effective immediately)

Note 3: This does not apply to dishonorably discharged individuals.

ADMINISTRATION OF LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT (FMLA)

3. Period of Leave: An employee taking FMLA leave to care for a covered service member is entitled to 26 weeks of leave during a “single 12-month period.” The “single 12-month period” begins on the date the employee takes leave to care for the covered service member and ends 12 months later, regardless of any other method that the Commission may use to calculate leave under other circumstances.

4. Leave Entitlement:

- a. The leave entitlement for Military Caregivers is to be applied on a per-covered servicemember, per-injury basis such that an eligible employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered servicemembers or to care for the same servicemember with a subsequent serious injury or illness.
- b. No more than 26 workweeks of leave may be taken within any “single 12-month period.”
- c. When an eligible employee takes leave to care for more than one covered servicemember or for a subsequent serious injury or illness of the same covered servicemember, and the “single 12-month period” corresponding to the different military caregiver leave entitlements overlap, the employee is limited to taking no more than 26 workweeks of leave in each “single 12-month period.”

5. Examples of combined leave types (general FMLA and military caregiver FMLA)

Example 1: (a span of one calendar year)

- a. 16 weeks are used for military caregiver purposes beginning January 1st.
- b. 10 weeks are still available for general FMLA leave for the remainder of the calendar year (total cannot exceed 26 weeks in a single 12 month period)

Example 2: (a span of two calendar years)

- a. 12 weeks are used for general FMLA purposes in 2009.
- b. 13 weeks are used for military caregiver purposes starting October 1, 2009
- c. 13 weeks are available for military caregiver purposes until October 1, 2010
- d. 12 weeks are available in 2010 for general FMLA purposes

***** A total of up to twelve (12) weeks is available in a calendar year for all FMLA events, except Military Caregiver Leave which is up to 26 weeks in a single 12 month period (not necessarily a calendar year). FMLA leave is approved upon meeting eligibility, notification, and medical certification requirements. In many cases, the Commission may provide more liberal leave allowances than mandated by the FMLA. All requests for leave beyond the twelve (12) workweek or 26 workweek FMLA allowance or for non-FMLA events will be approved at the discretion at the Department Head. Questions or requests for additional copies may be directed to inSite, the Commission’s internet (www.mneppc.org) or to the Health & Benefits Office at 301-454-1683.**

FMLA REQUIREMENTS EVERY EMPLOYEE & SUPERVISOR SHOULD KNOW

MEDICAL CERTIFICATION

1. Leave requests based on a serious health condition must be accompanied by a verifying medical certification from a licensed provider authorized to practice in the state or country in which the services are rendered, on the appropriate Certification of Health Provider form (Employee, Family Member or Military)
2. Form WH-380-E must be used for the employee's own illness or injury.
3. Form WH-380-F must be used for a family member's illness or injury.
4. The employee must see a provider within seven (7) calendar days of the first day of initial incapacity and again by the 30th day following the initial incapacity.
 - a. Does not apply for subsequent requests for the same condition.
 - b. Does not apply for a chronic condition already diagnosed and being treated.
5. An employee must provide a new medical certification form at the beginning of each new calendar year if the employee is using leave from one year into the next plan year.
6. If the department head or designee determines a certification is incomplete or insufficient (a complete certification but the information provided is vague, ambiguous or nonresponsive), the reasons must be stated in writing to the employee along with what additional information or action is necessary to make the certification complete and sufficient. The employee will have seven (7) calendar days to fix any deficiency. Form WH-382 must be used.
7. A certification that is not returned to the supervisor/manager/department is not incomplete or insufficient, but a failure to provide certification.
8. The Health & Benefit Office may contact the employee's health care provider to obtain clarification and authentication of the submitted medical certification form after the employee has been given an opportunity to provide the requested information.
9. All medical certifications and re-certifications are at the employee's own expense and there is no entitlement to reimbursement for time or travel costs.
10. An employee who requests FMLA leave because of his/her own or a family member's serious health condition must submit a Medical Certification Form within 15 calendar days completed by the health care provider to support the leave request.
 - a. If the employee believes the 15 calendar deadline cannot be met, the employee must state in writing why it is not possible to return the form within 15 calendar days.
 - b. Failure to provide the medical documentation or make a request in writing to extend the 15 calendar days may result in actions under *Failure to Cooperate*.

MEDICAL RECERTIFICATION

1. In all cases, the Commission will require re-certification every six (6) months in connection with an absence by the employee and depending on specific case facts may require re-certification more often. Form WH-380-E or WH-380-F must be used.
2. A supervisor or manager may request a new certification if there is a change in circumstances (e.g.: FMLA approved for 16 hours every two weeks and employee is off twice as much), there is reason to doubt the employee's stated reason for leave or the employee requests an extension of leave.
3. All requirements of medical certification apply to the recertification process. The same forms must be completed again, the 15 and 7 day requirement are still valid etc.

MILITARY MEDICAL CERTIFICATION

1. When an employee takes leave to care for a covered servicemember with a serious injury or illness, the employee is required to obtain a certification completed by an authorized health care provider of the covered servicemember.
2. An employee is required to have form WH-384 completed to demonstrate the servicemember's injury or illness.
3. Leave requests based on a serious health condition for a military family member must be documented by a United States or Department of Defense (DOD) authorized health care provider or an authorized DOD representative if the provider is unable to make certain military-related determinations as outlined in the FMLA.
4. In lieu of any medical certification, the employee may provide "invitational travel orders" (ITOs) or "invitational travel authorizations" (ITAs) issued to any family member to join an injured or ill servicemember at his or her bedside.
 - a. The Commission may seek authentication and clarification of the ITO or ITA for the period of time supported by such a document.
 - b. If the employee seeks time beyond the expiration date specified, the employee must have an authorized health care provider complete a certification form for the additional time.
 - c. No ITA or ITO will be accepted without a specified expiration date.
5. The employee may be required to confirm his/her blood relationship with the covered servicemember at any time in this process.

MILITARY EXIGENCY CERTIFICATION

1. An employee is required to complete WH-384 for leave for a qualifying exigency.
2. The employee must provide a copy of the covered military member's active duty orders or other documentation issued by the military indicating that the covered military member is on active duty or called to active duty status in support of a contingency operation, along with the dates of the covered military member's active duty service.
3. The Commission may also contact an appropriate unit of the Department of Defense to request verification that a covered military member is on active duty or call to active duty status, without the employee's permission.
4. Types of military qualifying exigency leave reasons:
 - a. Short-notice deployment – up to 7 calendar days
 - b. Military events and activities related to the active duty or call to active duty
 - c. Childcare and school activities to:
 - i. Arrange for change in childcare or school arrangements
 - ii. Provide childcare
 - iii. Attend meetings with school or daycare staff
 - d. Financial and legal arrangements
 - i. Make or update arrangements
 - ii. Act as a covered military member's representative
 - e. Counseling – by other than a health care provider
 - f. Rest and recuperation – up to 5 days for each instance
 - i. Spend time with covered military member on leave
 - ii. The employee as a military member takes time
 - g. Post-deployment activities such as ceremonies, briefings, and events
 - h. Additional activities

PART-TIME EMPLOYEES and PERIODIC HOURS

1. The workweek includes “all the time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed workplace”. An employee's “workweek” simply consists of the number of hours s/he usually works.
 - a. If an employee normally works an average of 10 hours of overtime on top of a regular 40-hour week, his/her leave entitlement would be 50 hours times 12 weeks, or 600 hours.
 - b. If the employee could only work 40 of those hours, 10 hours each week would be charged against the 600 hours available to the employee.
 - c. If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period is to be used for calculating the employee's normal workweek.
2. An employee who normally works a part-time schedule, is entitled to FMLA leave on a pro-rata basis by comparing the reduced schedule with the employee's normal schedule.
 - a. An employee who normally works 30 hours per week, works only 20 hours per week under a reduced leave schedule. The 10 hours of leave constitute one-third of a week of FMLA leave for each week the employee works the reduced schedule.

NO WORK WHILE ON LEAVE

1. An employee on FMLA leave may not work another job for money, barter or trade or on a voluntary basis or this may result in actions under *Failure to Cooperate*.

NOTICE OF LEAVE

Foreseeable

1. If the need for FMLA leave is foreseeable, the employee must give the supervisor/manager at least 30 days prior written notice.
2. When 30 days notice is not possible, or the approximate timing of the need for leave is not foreseeable (e.g.: pregnancy), the employee must provide the supervisor/manager notice of the need for leave as soon as practicable under the facts and circumstances of the particular case.
3. An employee, who fails to give 30 days notice for foreseeable leave with a reasonable excuse for the delay, or otherwise fail to satisfy FMLA notice obligations, may be subject to actions under *Failure to Cooperate*.
 - a. e.g.: Where an employee could have given 2 weeks notice and only provided 1 week's notice, the Commission may delay FMLA protected leave for one week.
4. When scheduling planned medical treatment, the employee must consult with the supervisor/manager and make a reasonable effort to schedule the treatment so as not to disrupt the Commission's operations, subject to the approval of the health care provider.
 - a. Employees are expected to consult with their supervisor/manager prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employer and the employee.

5. An employee requesting a leave extension should do so in writing, if possible, two weeks prior to the end of the employee's scheduled leave. Failure to comply with these notice requirements may be grounds for action under *Failure to Cooperate*.

Not Foreseeable

1. Where the need for FMLA leave is not foreseeable, the employee is expected to notify the supervisor/manager as soon as is practical.
2. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, it should be practicable for the employee to provide notice of the need for leave either the same day or the next business day.

INTERMITTENT or REDUCED LEAVE

1. Intermittent leave or leave on a reduced leave schedule must be medically necessary due to a serious health condition or a serious injury or illness.
2. An employee will advise the supervisor/manager, upon request, of the reasons why the intermittent/reduced leave schedule is necessary and what the employee will be doing while absent or what the schedule for treatment will be, whether the employee will be able to work part of the day, why the employee can't work, if the employee will be seeing or calling the doctor, and if not, why not, (if applicable and to determine if the leave qualifies).
3. Upon the employee's return the supervisor/manager may ask how the employee spent the day and the types of things s/he did during the day.
4. The employee and supervisor/manager will attempt to work out a schedule for such leave that meets the employee's needs without unduly disrupting the Commission's operations, subject to the approval of the health care provider.

HEALTH BENEFITS CONTINUATION

1. During periods of leave without pay, the employee will be responsible for contacting the Health & Benefits Office and paying the employee's share of health insurance benefit premiums.
2. While on leave without pay, the employee will pay monthly premiums (rather than bi-weekly premiums).
3. All premiums are due on the first calendar day of the month in which benefit services are available.
4. An employee who is late paying premiums by more than 30 days may be denied health benefits until the employee returns to work or until the next open enrollment period, whichever comes first. The employee remains responsible for satisfying enrollment and eligibility requirements.

ELIGIBILITY NOTICE / RIGHTS & RESPONSIBILITIES

1. The employee's department will provide the employee who requests FMLA leave with a notice of the employee's eligibility for the leave or a reason why the employee is not eligible within five business days of a request for leave. At the same time, the employee will be provided with a statement of his/her rights and responsibilities, which is part of the Eligibility Notice (WH-381).

FMLA LEAVE DESIGNATION

1. The Commission has made the decision that all paid leave and leave programs (workers' compensation, sick leave bank, long-term disability etc.) used during FMLA approved time will run concurrent with FMLA approved leave. This is not an employee choice.
2. The employee is required to provide sufficient information for a supervisor/manager to reasonably determine whether the FMLA may apply to the leave request.
 - a. If the employee currently has more than one approved FMLA application, the employee must identify which FMLA leave request pertains or the non-FMLA qualifying reason for leave.
 - b. An employee with at least one FMLA approved application may not call in sick without providing sufficient information or actions may result under *Failure to Cooperate*.
3. Within 5 business days (absent extenuating circumstances) of having enough information to determine whether the requested leave is FMLA eligible the employee's Department Head or designate will provide a Designation Notice (WH-382), informing the employee whether or not leave is designated FMLA leave. This designation may be retroactive.
4. If a supervisor/manager makes a determination that leave may qualify as FMLA leave and requests that the employee complete the FMLA application and appropriate provider certification, the employee has 15 days in which to comply with the request, unless the employee can provide reasonable justification in writing why the deadline cannot be met.
 - a. Failure to respond to a request for the forms may result in actions under *Failure to Cooperate* (see below).
 - b. For the period of time that the paperwork has not been submitted, the employee may also be denied FMLA and/or paid leave. For example, if the paperwork is finally submitted on the 45th day after the request, the manager may deny use of FMLA and/or paid leave from the 16th through the 44th day.

5. The supervisor/manager may ask why the employee is going to be out (what the problem is), how long the absence will be, whether the employee will be able to work part of the day, why the employee can't work, if the employee will be seeing a doctor (why or why not) and other pertinent information to determine whether the leave qualifies under the FMLA.
 - a. An employee is required to respond to reasonable inquiries and failure to do so may result in denial of FMLA protection.
6. At the sole discretion of the Commission, any leave that is determined to qualify as FMLA leave may be designated as FMLA leave, regardless of whether all possible employee obligations are met. For example, the Commission may designate a leave as FMLA leave without receiving a complete medical certification form or an employee obtaining a consultation with a health care provider.

ESSENTIAL DUTIES

1. If the supervisor or manager provides the employee with a job description and identifies the essential duties or provides a list of essential duties, the employee must provide this list to the employee's health care provider in order for the provider to complete the Employee FMLA certification form (WH-380-E). Consequences for failing to do so are listed under *Failure to Cooperate*.
2. Additionally, the return-to-work certification must address the employee's ability to perform these functions.

SECOND and THIRD OPINIONS

1. If the Commission has reason to doubt initial medical certifications (the first certification provided during each calendar year), it may require an employee to obtain a second opinion at the Commission's expense.
2. If the opinions of the initial and second health care providers differ, the Commission may at its expense, require employees to obtain a third, final and binding certification from a health care provider designated or approved jointly by the Commission and the employee.
3. The Health & Benefit Office will obtain an independent medical provider for the second and third opinions. The employee must decline in writing, any provider selected for the third opinion within 10 calendar days of being or attempting to be notified.

EMPLOYER POLICIES

1. An employee is required to comply with all work place rules and Commission policies before, during and following FMLA leave.
2. A supervisor or manager may take appropriate action when applying work place rules and policies, including discipline for failure to follow customary notification rules when an employee is absent from the workplace. For example, if the employee is required to call-in between certain hours and speak to the supervisor or a designate, failure to do so may result in actions under *Failure to Cooperate*.
3. If an employee is on a sick leave restriction, if the need for leave is not FMLA related, the sick leave restrictions identified for the employee must be followed or action may result under *Failure to Cooperate*.

WORKERS' COMPENSATION AND FMLA

1. Although light duty cannot be required of an employee on FMLA, the provisions of Workers' Compensation may apply including termination of salary replacement if the employee does not accept a light duty position.

RETURN TO WORK

1. A supervisor/manager may require an employee on FMLA leave to furnish periodic reports on the employee's status and intent to return to work.
2. The employee is required to notify the supervisor/manager at least two workdays prior to the date the employee intends to
 - a. report for work
 - b. come to work earlier than expected
 - c. come to work later than expected
3. For the employee's own illness, the employee must provide a return-to-work certification from the employee's provider prior to being restored to employment.
4. The certification must address any work restrictions, indicate whether restrictions are permanent or temporary, and the expected date the employee will return to full duty from the restrictions.
5. The employee's return-to-work may be delayed until certification is provided. (Preference will be given to a provider using the M-NCPPC provider certification form, since answers will be more specific.)
 - a. If the employee has been provided a list of essential job functions for the health provider, the medical certification to return to work must certify the employee's ability to perform those essential job functions or the employee cannot resume work until such certification is provided.
6. If the provider's information is incomplete, vague or nonresponsive, the employee may not be prohibited from returning to work while clarification is obtained from the health provider.
 - a. If the employee does not obtain clarification from the provider within 7 calendar days, the employee may be unable to continue working until the clarification is received.

7. Following the 7th day that clarification has not been provided, the employee may also be denied FMLA and/or paid leave, until such time as the written clarification is received and justifies the time off.
8. The employee's return-to-work certification must come from the provider or replacement provider that initially certified the employee for FMLA leave.
9. The certification only needs to relate to the particular health condition that caused the employee's need for FMLA leave.

JOB PROTECTION RIGHTS

1. An employee who does not return to work at the end of FMLA leave entitlement, loses rights to job restoration and may be subject to actions in *Failure To Cooperate*. For example if the employee's reason for FMLA leave was to care for a terminally ill parent, when the parent dies, the FMLA leave entitlement ends.
2. An employee who accepts a light duty assignment does not use the FMLA leave entitlement for the hours worked. However, an employee in a light duty assignment through the end of the Commission's FMLA (calendar) year, loses the right to job restoration/reinstatement, according to the FMLA. However, Merit Rules and collective bargaining agreements may preside, depending on case circumstances.
3. An employee who accepts a light duty assignment does not use the FMLA leave entitlement for the hours worked. However, an employee in a light duty assignment through the end of the Commission's FMLA (calendar) year, loses the right to job restoration/reinstatement, according to the FMLA. Merit Rules and collective bargaining agreements may preside, depending on case circumstances.

TIME KEEPING CONSIDERATIONS

1. If an employee is on FMLA the entire week in which there is a holiday, the holiday is counted as FMLA leave.
2. If an employee takes FMLA leave in an increment of less than a full week, the holiday does not count against the employee's FMLA entitlement unless the employee was scheduled and expected to work on that day.
3. Any days that the Commission is temporarily closed (except emergency/public safety personnel), do not count against an employee's FMLA leave entitlement.
4. If an employee would be required to work overtime hours "but for" time on FMLA leave, the hours the employee would have been required to work count against FMLA leave entitlement.

FAILURE TO COOPERATE

Unless specifically stated above, failure to provide requested information or fix any deficiencies and to do so timely may result in the employee's FMLA leave and any requested paid leave being deferred, delayed or denied until the employee complies with the requirements of the situation. The Commission is not required to retroactively provide paid leave that has been denied. Additionally the employee may be subject to disciplinary action up to and including termination. An employee may also be subject to actions in this section if the employee does not maintain a working phone number with voicemail and a current address of record so the employee can be contacted.