Leaves of Absences Training

November 07, 2023

Introductions and Agenda

• Introductions of presenters and attendees

Agenda:
• Overview of various leave options
• Family and Medical Leave Act (FMLA)
• Review HR Resources:
  • HR Website: https://wmich.edu/hr
  • Employee Handbook, Section 11: https://wmich.edu/hr/handbook-leave
  • Collective Bargaining Agreements:
    • Staff: https://wmich.edu/hr/policies/staff/collectivebargaining
    • Faculty: https://wmich.edu/academic/labor-relations/agreements
  • Leave of Absence forms: https://wmich.edu/hr/forms/leave
• Questions

Overview of Leave Options

• Broad overview of the various leave options available
  • Paid or unpaid options available:

  • Leaves of Absences (LOAs) eligibility may vary by:
    • Types of leave
    • Years of service (seniority date)
    • Employee status type
      • E.g. full-time vs. part-time
      • Employee groups

Employee eligibility may vary based on your employee group. Please consult the Employee Handbook (or your specific collective bargaining agreement for faculty employees).
Types of Leaves

Paid Leave Options:
- Annual leave
- Sick leave
- Professional development leave
- University convenience leave
- Jury duty and court-required service
- Bereavement leave
- Sabbatical leave
- Neccessity leave
- Parental leave

Unpaid Leave Options:
- Family and medical leave of absence
- Parental leave
- Personal
- Professional development leave
- University convenience leave
- Jury duty
- Court-required service
- Political office
- Military leave
- Some bargaining groups have an unpaid union business activity leave

Employee eligibility may vary based on your employee group. Please review the Employee Handbook (or bargaining agreement for specified leave options).

Family Medical Leave Act (FMLA)

We have discussed an overview of all the leaves offered at WMU and now we will focus in more detail on the FMLA. FMLA is a leave of absence that is often requested and used concurrently with a paid leave.

Overview of FMLA:
- What is FMLA
- Employer coverage and employee eligibility
- Leave Types
- FMLA Leave Process
- Timekeeping
- Q & A

What is FMLA?

- The Family and Medical Leave Act (FMLA) was passed in 1993 by the Department of Labor (DOL).
- Of all federal employment laws, the FMLA is one of the most popular and beneficial to employees.
- WMU is a public institution and is required to comply with FMLA regulations.
- Employees may be aware of the basic requirements of the act, but they may not realize the act provides employers with options on how to administer FMLA.
- Human Resources (HR) Employees and Supervisors all need to know what FMLA is and to understand how to comply with FMLA regulations and with WMU’s FMLA policy.
Who is eligible for FMLA?

An employee is eligible when they meet the following criteria:

- Works for a covered employer
- Has worked for the employer for at least 12 months
  - The 12 months of employment do not need to be consecutive
  - Separate periods of employment will be counted provided that the break in service does not exceed seven years
  - Separate periods of employment will be counted if the break in service exceeds seven years due to military service obligations or when there is a written agreement stating the employee's intention to retire the employee after the service break
- Has at least 1,250 hours of service for the employer during the 12-month period immediately preceding the leave
  - 1230 hours of service if Academic Year faculty

How do you qualify for FMLA?

1. For the birth of a child and to care for the newborn child
2. For placement with the employee of a child for adoption or foster care
3. To care for the employee's spouse, child, or parent with a serious health condition
4. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job
5. Because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered active duty member (or has been notified of an impending call or order to covered active duty status)
6. To care for a covered service member with a serious injury or illness if the employee is the spouse, child, parent, or next of kin of the covered service member

How to qualify for FMLA (continued)

1. For the birth of a child and to care for the newborn child (up to 12 weeks of leave in a 12-month period):
   - For prenatal care appointments
   - Time off during the pregnancy if the pregnancy makes them unable to work before the actual birth of the child due to severe morning sickness, bed rest, etc.
   - Recovery after birth
   - Bonding with the newborn child
   - To care for the spouse, if needed
How to qualify for FMLA (continued)

2. Placement with the employee of a child for adoption or foster care (up to 12 weeks of leave in a 12-month period):
   - This leave must be given before the actual placement or adoption of a child if an absence from work is required for the placement process, including court appearances, counseling and doctor or attorney visits.
   - Leave is also available for bonding with the child after adoption or placement.

3. Caring for the employee’s spouse, child or parent with a serious health condition.

4. A serious health condition that makes the employee unable to perform the functions of the employee’s job (up to 12 weeks of leave in a 12-month period):
   - A serious health condition is an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. Generally speaking, a serious health condition includes the following:
     - Any overnight admission to a hospital, hospice, or other medical care facility.
     - Continuing treatment by a health care provider that results in a period of incapacity of more than three consecutive days and necessary follow-up treatment (e.g., additional doctor or nurse visits, prescriptions, medication, physical therapy).
     - Chronic conditions requiring periodic care visits; such visits must take place at least twice a year.

5. Caring for a covered service member with a serious injury or illness if the employee is the spouse, child, parent or next of kin of the covered service member of the regular Armed Forces, National Guard, and Reserves:
   - Eligible employees may take FMLA leave for a qualifying exigency when the covered service member is on active duty or is called to active duty in support of a contingency operation in a foreign country. This leave may commence as soon as the individual receives the call-up notice. A qualifying exigency must be one of the following:
     - Short-notice deployment.
     - Military events and activities.
     - Child care and school activities.
     - Financial and legal arrangements, counseling, rest and recuperation (up to 15 days).
     - Post-deployment activities.
How to qualify for FMLA (continued)

6. To care for a covered service member with a serious injury or illness
   if the employee is the spouse, child, parent or next of kin of the
   covered service member:
   • FMLA provides for up to 26 weeks of leave in a single 12-month period in
     this circumstance.
   • "Next of kin" is defined as the closest blood relative of the injured or
     recovering service member.
   • This type of FMLA leave is also known as military caregiver leave or
     covered service member leave.

What is the qualifying period?

FMLA 12-month period:
• The DOL provides employers with specific criteria to measure FMLA
  qualification periods.
• WMU is on a rolling 12-month period measured backward from the date an
  employee uses any FMLA leave.
• Example:
  • Employee requests FMLA as of November 12, 2023.
  • Measure period for eligibility: November 13, 2022 – November 12, 2023.

What is the qualifying period for spouses?

FMLA 12-month period:
• When spouses both work for the same company and each wishes to take
  leave for the birth of a child, adoption or placement of a child for foster care,
  or to care for a parent (but not parent-in-law) with a serious health condition,
  the spouses may take only a combined total of 12 weeks of leave.
• When spouses both work for the company and each wishes to take leave to
care for a covered ill or injured service member, the spouses may take only a
  combined total of 12 weeks of leave.

Spouses share FMLA time.
What types of leave options are available?

- Full / "continuous" leave - employees will not be at work
- Intermittent leave
- Reduced work schedules may be taken intermittently

Please note:
- When leave is for the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only with the approval of the supervisor.
- Each condition may be certified differently.

How do I request FMLA leave?

- Employees requesting FMLA leave must provide verbal or written notice of the need to HR. In the event that an employee contacts their supervisor, the supervisor needs to redirect the employee to HR.
- Within five business days after the employee has provided this notice, HR will consult with the employee to complete the application process. This includes:
  - FMLA application
  - Notice of rights and responsibilities
  - Certification requirements
- How much notice should I give?
  - When the need for leave is foreseeable, the employee must provide at least 30 days notice.
  - When the employee becomes aware of the need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day.

As soon as you think you may need leave, call your HR Business Partner!

What is the application?

- Collects employee's personal and work information
- Allows the employee to designate the reason for the leave
- Establishes the due date for the medical certification
- Establishes the leave map, the employee request for leave and any paid benefit options
- Submission of an FMLA application allows for the leave to begin pending receipt of applicable documentation
- For AAUP, Faculty will need to complete a Faculty Leave of Absence (LOA) form in addition to the FMLA Application.
What is the official notice?

- A DOL approved document to notify the employee of their Eligibility and Rights & Responsibilities with FMLA.
- Establishes when the employee notified WMU of the leave, the leave reason, and the employee's eligibility.
- Designates if certification is required and when it is due to WMU.
- Discusses the employee's rights, including the amount of time available.
- Reiterates where additional policy information may be found.

What certification is required?

- WMU requires employees to submit certification of the need for FMLA leave.
- Certification may be required for:
  - An employee's serious health condition
  - A family member's serious health condition
  - The qualifying exigency for military family leave
  - The serious injury or illness of a covered service member for military family leave
- Employees are given 15 days to obtain the completed certification from their treating physician and submit the documentation to HR.
- Pending receipt of the certification, all FMLA claims are provisionally approved. In the event the FMLA certification is not approved, the employee is required to cover their time with another leave option. Uncovered time could result in disciplinary action—reference Employee Handbook or Collective Bargaining Agreements.

What happens next?

Employer Responsibilities

- HR will complete and provide a written response regarding the determination (approval/denial) of FMLA leave within 5 business days.
- Employee receives notice via US Mail.
- Department receives notice via email.
- Health benefits continue at the same level as before the start of the FMLA leave. Other benefits are governed by University policy.
  - For unpaid FMLA leave, the employee is responsible for their monthly employee portion of applicable benefits premiums.
- Reinstate the employee to the same or an equivalent position upon conclusion of the FMLA leave.
What happens next?

Employee Responsibilities

- Report their time appropriately to timekeeper and/or supervisor following the departmental call-in procedures.
- Review all notices sent from Human Resources.
- Monitor FMLA dates and available hours.
- Do not perform any work while on an approved FMLA leave — including meetings, office trainings, additional appointments, responding to emails, etc.

What happens next?

Department Responsibilities

- Review all FMLA eligibility and notices from HR.
- Monitor and record leave time accordingly.
  - Refer to the FMLA User Guide provided by HR when entering time taken into PeopleSoft’s FMLA panel.
  - Enter weekly.
  - If hours are missed, complete a FMLA Correlation Form.
- Do not ask or inquire about confidential information relating to employee’s protected health information.
- Do not allow the employee to perform any work while on an approved FMLA leave.
- Consult with your HR Business Partner with any questions or concerns.

Timekeeping

- Timekeepers:
  - An FMLA Usage page allows timekeepers (and supervisors when needed) to enter FMLA time on a weekly basis for employees in their area who are on FMLA.
  - Timekeepers are responsible for entering employee FMLA time correctly.
  - Timekeepers must review the FMLA Usage page weekly and verify hours entered.
- For additional information, go to HR’s Website:
  - https://wmich.edu/hr/officemanagement
- Or, if you have questions about entering FMLA hours, contact:
  - HR Service Center at (269) 387-3620, or
  - Payroll at (269) 387-2935
- Don’t forget to report the employee’s paid leave option(s) to payroll.
Will I be paid while on FMLA?

- FMLA is an unpaid leave, per the regulation.
- WMU provides excellent paid time off benefits that may be used concurrently with FMLA, which may include:
  - Sick Leave
  - Annual Leave
  - Necessity Leave (AAUP only)
  - Parental Leave (AAUP only)
  - Long Term Disability (LTD) – elected benefit
- Paid leave may be applied differently per each employee type
- Reference the Employee Handbook or the specific Collective Bargaining Agreements for details
- Contact HR Business Partner for specific coverage options

How do I return to work?

**Employee**

- Provide return to work note to HR prior to returning to work
- Define the date of return
- List any restrictions, if necessary
- If you are unable, or choose not to return to work from an approved FMLA leave, please reach out to your HR Business Partner

**Department**

- Ensure employee does not return to work prior to their physician releasing them to return to work
- Work with HR to determine if any reasonable accommodations may be made for employee restrictions, if applicable

Employer Actions Prohibited

- Making pre-hire inquiries regarding need for FMLA leave
- Asking employees for a doctor’s note for each use of intermittent FMLA leave. (Contact your HR Business Partner if you question an employee’s use of FMLA leave)
- Interfering with an employee’s rights under the FMLA
- Retaliating against employees who file FMLA complaints or exercise their FMLA rights
- Managers and/or supervisors violating the requirements of the FMLA could be held personally liable. This includes any person acting directly or indirectly in the interest of an employer in relation to an employee
Resources

- WMU’s FMLA Policy: https://wmich.edu/hr/fmla
- Leaves and Absences from Work – PPM Section 13: https://wmich.edu/人事/hr/leave
- DOL Fact Sheets: https://www.dol.gov/agencies/whd/fmla/factsheets
- Leave of Absence forms: https://wmich.edu/hr/forms/leave
- PeopleSoft FMLA Panel: https://wmich.edu/hr/forms/management
- FMLA Hours Usage Correction Form: https://wmich.edu/hr/forms/business
- HR Website: https://wmich.edu/hr

Human Resources Contacts

- HR Service Center #: (269) 387-3820
  - Office Location: 1270 Sclab Administration Building
  - Hours of operations: 8 a.m. to 5 p.m. Mondays, Tuesdays, Thursdays, and Fridays
    9 a.m. to 5 p.m. Wednesdays
- Human Resources Business Partners:
  - Amy Morin – (269) 387-3643
  - Isys McCormack – (269) 387-3646
  - Kate Daileda – (269) 387-3637
  - Katrina Mayes – (269) 387-3651
  - Trisha Priest – (269) 387-9601
- HR Services, Director: Gretta Clay – (269) 387-3647

Questions, Answers and Discussion

Thank you for attending this training session!