

**LEELANAU COUNTY
BOARD POLICY**

GENERAL SUBJECT:	Administration/General (County Administrator)	Policy No.	11
SPECIFIC SUBJECT:	Family Medical Leave Act Policy (FMLA)	Adopted:	11/15/2011
		Revised:	04/21/2015

APPLIES TO: All Leelanau County Employees and Elected Officials.

The Family and Medical Leave Act provides employees that have been employed for at least 12 months, who have worked at least 1,250 hours during the 12 months prior to the start of the FMLA Leave, and who works at a location that has at least 50 employees of his/her employer within a 75 mile radius would be eligible for up to 12 weeks of unpaid Leave in a 12-month period based on a 12-month rolling calendar measured backwards from the start of the FMLA Leave. Eligible employees (as defined by the FMLA) may take FMLA Leave for any of the following reasons:

1. For the birth of a child and to care for the newborn child (Leave must conclude within 12 months of the birth.)
2. For the placement of a child with the employee, for adoption or foster care, to care for the newly-placed child (Leave must conclude within 12 months of the placement.)
3. To care for an immediate family member (spouse, minor child, adult child incapable of self-care, or parent – but not parents-in-law) with a serious health condition.
4. When the employee is unable to work because of a “serious health condition,” which includes in-patient care, medical treatment, or inability to perform an essential function of your position.
5. Because of Qualifying Exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the armed forces in support of contingency operation. “Qualifying Exigency” means one of the following duties directly related to the covered service member’s active duties:
 - i. Short Notice Deployment: To address an issue that arises from the fact that a service member is notified of a call to active duty seven or less calendar days prior to

deployment. Leave taken for this purpose can be used for a period of seven calendar days beginning on the date the covered military member is notified of an impending call or order to active duty.

- ii. **Military Events and Related Activities:** This Leave may be used to attend any official ceremony, program, or event sponsored by the military or to attend family support and assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member.
- iii. **Temporary Childcare and School Activities Necessitated by the Military Member's Active Duty or Call to Active Duty Status:** This Leave may be used to arrange for alternative childcare necessitated by active duty or a call to active duty; to provide childcare on an urgent, immediate need basis (but not on a routine, regular, or everyday basis); to enroll the child in or transfer the child to a new school or day care facility; to attend meetings with staff at a school or day care facility, such as meetings with school officials regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors (but not on a routine, regular, or everyday basis.)
- iv. **Financial and Legal Arrangements:** This Leave may be used to make or update financial or legal arrangements to address the covered military member's absence, such as preparing and executing financial and healthcare powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System (DEERS), obtaining military identification cards, or preparing or updating a will or living trust; or to act as the covered military member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the covered military member is on active duty or call to active duty status (and for a period of 90 days following the termination of the covered military member's active duty status.)
- v. **Counseling necessitated by the military member's active duty or call to active duty status:** This Leave may be used to attend counseling provided by someone other than a healthcare provider for oneself, for the covered military member, or for the covered military member's child. Please note that if medical counseling is needed, the employee may be able to take regular FMLA Leave due the "serious health condition" of the employee or of a military member who is the employee's spouse, parent, or son or daughter.
- vi. **Rest and Recuperation:** To spend time (up to five days) with a service member who is on a short-term, temporary rest and recuperation Leave.
- vii. **Post-Deployment Activities:** This Leave may be used to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program

sponsored by the military for a period of 90 days following the termination of the covered military member's active duty or to address issues that arise from the death of a covered military member while on active duty status, such as meeting and recovering the body of the covered military member and making funeral arrangements.

- viii. Additional Activities: Leave may be granted if it arises out of the covered military member's active duty or call to active duty status and if the employer and employee agree that such Leave shall qualify as an exigency, and agree to both the timing and duration of such Leave.
6. To care for a spouse, son, daughter, parent, or next of kin recovering from an injury or illness suffered while on active duty in the armed forces. The Military Caregiver Leave is available during "a single 12-month period" during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA Leave.

When requesting Leave, the employee must provide County Administration with at least 30 calendar days of advance notice, whenever possible, by submitting a Request for Leave Absence form, and a Medical Certification form. If the need for the Leave is not foreseeable, the employee must provide notice to his/her supervisor as soon as possible (within the same or next business day,) and provide sufficient information for the County to reasonably determine the reason for the Leave and its anticipated duration. Failure to provide timely notice may result in denial of Leave until notice is provided. Medical certification will be required if the Leave request is for the employee's own serious health condition or to care for a family member's serious health condition and must be returned within 15 calendar days of the first day of Leave, or notification of requirement, whichever is earlier. Certification for Leave taken due to a Qualifying Exigency will also be required. Failure to provide the requested certification in a timely manner may result in denial of the Leave until it is provided. Occasional updates to the medical certification may be required.

The County may choose to authenticate or clarify a medical certification with an employee's Health Care Provider, or require and verify a certification related to a Qualifying Exigency prior to approving the Leave or may require a Certification for Serious Injury or Illness of Covered Service Member. The County, at its expense, may also require an examination by a second healthcare provider chosen by the County, if the County has a reasonable question regarding the medical certification provided by the employee. If the two healthcare providers disagree as to whether the employee suffers from a serious health condition, then the County will pay for a third, mutually-agreeable healthcare provider to conduct an examination and provide a final and binding condition.

The County will maintain health, dental, and vision benefits for the employee at the same level and under the same conditions as if the employee continued to work while on FMLA Leave. If required to pay a portion of the premium, the employee must make payment to the County Treasurer's office by the last business day of the month. If payment is not made as stated, the

employee's health, dental, and vision coverage may be cancelled for the duration of the Leave. For purposes of retirement benefits, FMLA Leave is treated as "continued service" for purposes of vesting and eligibility to participate.

If the employee elects not to return to work at the end of the FMLA Leave period, or leaves employment within 30 calendar days of the end of the FMLA Leave period, the employee will be required to reimburse the County for the cost of the premiums paid for maintaining insurance coverage during the FMLA Leave period.

FMLA Leave runs concurrently with any other sort of approved Leave. The County will follow all applicable federal law concerning FMLA. Employees will be required to use all of their Personal Leave days and one half of their accrued Vacation Leave days before being granted unpaid FMLA. If the Leave is covered under Workers Compensation Insurance or Short-Term Disability Insurance, the employee shall use accumulated Leave time for the purpose of satisfying any waiting period. Absences in excess of these accumulated days, unless covered by Workers Compensation Insurance or Short-Term Disability Insurance will be treated as Leave without pay. Accrual of vacation or any applicable Leave time will continue while under paid FMLA Leave. The employee shall not receive MERS Service Credit if on unpaid FMLA Leave.

If the employee and their spouse both work for the County, they are both eligible for FMLA Leave. However, the spouses are entitled to a combined total of 12 weeks Leave in the following circumstances:

1. For the birth, adoption, or foster care placement of a child and in order to care for such child;
2. To care for a parent with a serious health condition.

Each spouse is entitled to 12 weeks Leave because of his/her own serious health condition or to care for the serious health condition of his/her child or spouse, without counting the Leave time taken by the other spouse.

Leave due to a serious health condition, a serious illness or injury of a service member or a Qualifying Exigency may be taken intermittently (in separate blocks of time due to a single health condition) in minimum 15 minute increments or on a reduced Leave schedule (reducing the number of hours you work per workweek or per workday) if medically necessary. If the Leave is unpaid, the County will adjust an employee's salary based on the amount of time actually worked. In addition, while on intermittent or reduced-schedule Leave, the County may temporarily transfer the employee to an available alternate position that better accommodates the recurring Leave and that has equivalent pay and benefits. An employee on an intermittent or reduced Leave schedule will need to work with his/her department head to the extent possible to arrange a schedule that best suits the needs of the department.

Leave resulting from the birth, adoption, or foster placement of a child must be completed within the 12-month period beginning on the date of birth or placement of the child. It may not be taken intermittently without special permission from County Administration.

An employee may request an extension of Leave beyond the 12-week period because of a serious health condition. The employee must submit the request in writing to County Administration with medical certification of a continued serious health condition a minimum of two weeks prior to the end of their FMLA Leave. County Administration will review such request on a case-by-case basis in order to determine whether it can reasonably accommodate such a request. Reinstatement is not guaranteed when an employee is granted extended Leave and will depend on the business needs of the County. If an employee fails to return to work, or is unable to perform the essential functions of the job at the end of his or her Leave, the employee will be considered to have voluntarily resigned their position with Leelanau County.

When an employee returns from FMLA Leave for their own serious health condition, a fitness for duty statement signed by the treating physician is required. The County may require that the fitness for duty statement specifically address the employee's ability to perform the essential functions of the employee's job. An employee failing to provide a fitness for duty statement will not be permitted to resume work until it is provided. A fitness for duty statement will be required from each treating physician. Employees are required to notify County Administration of their intent to return to work at least one week prior to their return date when possible. Upon return from FMLA Leave, the employee will be restored to his/her original or an equivalent position.

Certain highly-compensated employees are "key employees" and may be denied restoration to their prior or equivalent position. Key employees are those employees who are among the highest paid 10% of employees within the County. Denial is based on the following conditions:

1. The denial is necessary to prevent substantial economic injury to the employer;
2. The employer has notified the employee of his/her key employee status, as well as the decision to deny restoration should the Leave take place or continue; and
3. The employee elects not to return to work after being notified of the employer's decision.