
“Family and Medical Leave Act” of 1993

Prepared by the UAMS Office of Human Resources

The Family and Medical Leave Act of 1993 ("FMLA") is a federal law that became effective on August 5, 1993. FMLA is intended to promote a healthy balance between work and family responsibilities.

Eligible employees may take up to 12 weeks of unpaid leave per year for the birth or adoption of a child; to care for a family member; for the employee's own serious illness; or an illness, injury, or financial exigency related to military service.

Below are typical questions about FMLA. If you have additional questions, please talk to your supervisor/manager or call the Office of Human Resources at 686-5650.

Am I "eligible" to take leave under FMLA?

To be eligible, you must have been employed for the State of Arkansas for at least twelve (12) months. In addition, you must have worked at least 1250 actual hours (excluding vacation, sick, holiday hours) in the 12-month period prior to the start of your FMLA absence from work. Accordingly, if you have one year of service at UAMS and worked 25 hours or more each week during the entire prior year, you are eligible for FMLA leave.

- “Military leave” of absences from work **will** count as actual hours worked.
- U-Temps and PRN hours **will** count as actual hours worked.

Under what circumstances may I be granted FMLA leave?

You are entitled to FMLA leave for the birth of a child and to care for your newborn; for the placement of a child for adoption or foster care; to care for a seriously ill parent, spouse or child; your own serious health condition; and an illness, injury, or financial exigency related to military service that causes you to be unable to work.

If I adopt a child or become a foster parent can I take FMLA leave?

Yes, employees may use FMLA for adoption or the placement of a child into foster care. **Vacation** time must be used unless the child has a serious health condition. If the adopted/foster child is ill, sick leave time may be used for the care of the child. Proper documentation is required to support usage of sick leave.

What is a serious health condition?

A serious health condition is an illness, injury impairment, or a physical or mental condition that involves (A) inpatient care in a hospital or related facility; or (B) continuing treatment by a healthcare provider. This must include either (1) a period of incapacity lasting more than three consecutive calendar days and treatment two or more times by a healthcare provider, or treatment by a healthcare provider on one occasion resulting in a regimen of continuing treatment under the provider’s supervision; or (2) any period of incapacity due to pregnancy, or for prenatal care; or (3) any period of incapacity due to a chronic serious health condition. *Also see: www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf*

How much FMLA leave am I entitled to?

Eligible employees are entitled to get up to 12 work weeks of leave during a 12-month period. FMLA runs concurrently with any paid leave. This includes Workers’ Compensation, Short Term Disability, sick, and vacation leave. When all accrued leave time has exhausted, FMLA becomes unpaid leave time.

Are “fathers” entitled to FMLA leave for the birth of their child?

Yes, the law is gender-neutral. New fathers can take up to 12-weeks of FMLA for the actual birth of their child. The law views the dad’s time away from work as “bonding.” UAMS’ current practice is: one week sick leave if the birth is “normal”, without complications; two weeks sick leave if the birth is a c-section. The father must use vacation leave or LWOP for additional time off up to 12-weeks. If there are other complications, documentation must be submitted to support usage of additional sick leave.

- If the father is not married to the mom, he is not eligible to take leave related to the pregnancy or to care for the mom following the birth of his child.

My husband and I both work at UAMS. How much FMLA leave may we take for the birth of our child?

During any 12-month period: you may both take a **combined total of 12 weeks** for the birth of a child; you may both also take 12 weeks **combined** to care for a parent who is seriously ill; you are each entitled up to 12 weeks **individually** to care for your spouse or child who is seriously ill, or for your own serious illness.

Example: Both Sue and Tom work at UAMS. Sue gives birth to a child and takes 8 weeks of leave. Tom is entitled to take 4 weeks of family leave to care for/bond with his newborn child.

Doesn't UAMS have a policy where I can ask for up to six months' leave of absence without pay?

Yes, UAMS has a policy which allows you to *request* a leave of absence for up to six months. However, because FMLA only provides 12 weeks of leave, any leave you request beyond 12 weeks *may* be approved at the discretion of your department. That decision would be based on your department's ability to adequately conduct business during your absence and their ability to hold your position open for you for the duration of your leave.

Does FMLA leave have to be taken all at once, or can it be taken in parts?

FMLA leave can be taken "intermittently" whenever "medically necessary." You must try to schedule this leave in a manner that is least disruptive to the department. Also for the birth or adoption of a child **only** with your supervisor's approval; however, an illness related to the birth of your child does not require your supervisor's approval.

Is FMLA leave paid or unpaid?

It depends on whether or not you have an available balance of sick or vacation leave. If you do, paid leave time runs concurrent with your FMLA leave. When your leave balance runs out, the remainder of your FMLA leave will be without pay. Sick leave can only be used for your illness or doctor's appointment, or for the serious illness of an immediate family member. **Workers' Compensation and Short Term Disability runs concurrently with FMLA.**

How much notice do I give for an FMLA leave of absence?

When the necessity for leave is foreseeable due to the expected birth or placement of a child, or planned medical treatment, you must provide at least 30 days' notice. In cases where you cannot provide 30 days' advance notice, such as a premature birth or a medical emergency, you must give notice as soon as practical, usually within five days. A family member **may** provide notice if you are unable to do so because of your medical emergency.

Do I have to provide a doctor's statement?

Yes, your supervisor will ask that you provide medical certification (Healthcare Provider Form) at the time you request leave. You are allowed 15 calendar days to return the Healthcare Provider Form. Employees are also required to complete a HIPAA Authorization Form.

What happens to my medical insurance while I'm on leave?

You may continue your medical and other insurance while you are on FMLA leave by continuing to pay your portion of the premiums. UAMS will likewise continue to pay its share of the premiums while you are on FMLA leave. Contact the Office of Human Resources (686-5650) to discuss your plan to take FMLA leave so that arrangements can be made to continue your insurance when you are on leave of absence without pay.

What happens to my other employment benefits while I'm on FMLA leave?

No employment benefits that accrued before the date leave began can be lost. Hire dates, review months and retirement vesting dates will remain the same as before going on leave.

What happens when my leave ends and I am ready to return to work?

You will return to your job with the same pay, shift, benefits and work hours. During the time you are on leave, your department may need to fill your position on a temporary basis, or restructure the work. This is why it is important for you provide as much advance notice as possible to your department when you are ready to return to work.

Am I required to provide my supervisor with a note from my doctor when I return to work?

Yes, following an extended leave, a "fitness for duty" statement **is** required prior to your return to full duty. If you are on intermittent leave, a "fitness for duty" statement is **not** required.

If I miss work because of my serious health condition, do I have to call-in to my department for the day?

If your absence is "intermittent" yes you **are** required to call-in for each absence and identify the absence as FMLA; however, if you are on "continuous" FMLA leave, you do not have to call in daily.

Where can I get the Healthcare Provider Form?

Please request the forms from your supervisor/manager. The forms are also located <http://hr.uams.edu/>; click on "Forms; Manager's Forms" then search for the FMLA section.

Please review the FMLA Administrative Guide Policy 4.6.11 by going to www.hr.uams.edu and click on the Policies tab.