

# Initiating The Family Medical Leave Act (FMLA) Process

## Fact Sheet

(UAMS, Office of Human Resources)

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.

All FMLA forms are located at [www.hr.uams.edu](http://www.hr.uams.edu) "Forms" Tab, Managers Forms

Prior to beginning the **Steps** outlined below make sure your employee qualifies. They must have:

- 1 year of service with the State of Arkansas
  - UTEMP & PRN time counts
  - Look for the **FMLA date** in the SAP system (**Infotype 0041**)
- Worked 1250 **actual** hours in the preceding 12 month period
  - Military time away counts as hours worked

### Step 1.

The employee **MUST** be notified of their rights as required by law. You must fill out the correct documents and send to your employee.

There are 4 HCP forms....select the CORRECT one from the four bullets below. This form **MUST** be completed by the treating Health Care Provider, not the employee. *This form must be returned in 15 days.*

- Certification of Health Care Provider Form for Employee
- Certification of Health Care Provider Form for Family Member
- Certification of Qualifying Exigency "**Military Family Leave**" (*The ONLY HCP form completed by the employee*)
- Certification for Serious Injury or Illness of Covered Service member "**Military Caretaker Leave**"
  
- **Department HR Rep completes this form:** Eligibility Notification "**Notice of Rights and Responsibilities**"
- **Employee completes this form:** FMLA HIPAA Authorization Form
- **Give copy to employee:** FMLA Policy (*Administrative Guide 4.6.11*)

**Select one of the following methods to ensure delivery of the documents:** Certified Mail, Regular Mail, Email with read receipt or Hand Delivery with a signed acknowledgement form. (*Technically, a letter is not delivered when the addressee proclaims he/she did not receive the document.*)

Create an **FMLA file** for your employee and secure it in a separate area from the department employee file. Only those with a need to know will have access to the information.

### Step 2.

Once you receive the **Health Care Provider & HIPAA Authorization** form back from your employee, you must do the following:

- Date stamp the HCP form the day you received it
- Review it to ensure it explains why the employee needs to miss work
- **RESPOND** to the request within **5** days by completing the "**Designation Notice**" form
  - Approval/ Denial/ Need Additional Information
  - Additional Information: Employees **MUST** be given **7** additional days to get info. When you receive the additional information, **ANOTHER** Designation Notification form must be completed for approval and denial.
- Deliver a copy of the **Designation Notice** to your employee. **By the same method as outlined above in Step 1.**

### Step 3.

- Once your employee is ready to return to work (this absence period is **NOT** related to intermittent leave) they **MUST** have a ***Fitness for Duty*** note from their Health Care Provider. This is on the **Designation Notice** form (make sure to check the correct box). The ***Fitness for Duty*** note is required for employee's who are returning to work due to their own illness related absence.
- When the 12 week of FMLA leave ends, you **MUST** inform your employee that their 12 weeks has expired by completing the **Designation Notice**. Deliver a copy to your employee by the same method outlined in Step 1
- If your employee **IS NOT** able to return to work once they have exhausted the 12 weeks, contact OHR, Employee Relations for further guidance. **DO NOT** terminate anyone on FMLA or immediately after they exhaust their 12 weeks prior to consulting with OHR, Employee Relations.
  - OHR must ensure the FMLA process was done correctly
  - Workers' Compensation review (if applicable)
  - Short Term Disability **MAY** be an option (contact OHR, Employee Services for guidance)
  - Long Term Disability
  - OHR will review if we **MUST** consider the **Americans with Disabilities' Act Amendment Act (ADAAA)**
- Use the ***FMLA Receipt Acknowledgement*** form throughout the FMLA process as a verification tool to ensure the employee received essential documents.

**Disclaimer:** *ALL possibilities CANNOT be outlined in simple form. If in doubt during any Step outlined above, contact OHR, Employee Relations for guidance @ 686-5650.*

### FACTS:

- Employees who feel their FMLA rights have been violated **MAY** file a complaint with the Department of Labor (DOL). When a complaint is filed, a DOL investigator will contact OHR/Legal and **MAY** want to interview the record keeper and others along with viewing the FMLA file.
- Employees have **5 days** to inform you that the absent day/hours away from work is related to FMLA.
- Employee must follow the established departmental "Call in policy."
- You **CANNOT** request an MD note when an employee has missed work while on FMLA Intermittent leave.
- Make sure you know the location of the required DOL postings for your work building. This information is required for the **Notice of Rights and Responsibilities** form.
- Employees are eligible to take up to 12 weeks (job protection) in a 12 month period. **Exception:** Military Caretaker Leave.
- UAMS can designate the absence from work as Family Medical Leave when there is enough information present to make the determination.
- Same sex married couples are eligible to take FML for their spouse. The FMLA does not protect *civil unions* or *domestic partnerships*.