

# Initiating the Family Medical Leave Act (FMLA) Process

## Fact Sheet

(UAMS, Office of Human Resources)

Eligible employees may take up to 12 weeks (job protection) 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; an illness, injury, financial exigency related to military service.

All FMLA forms are located at: <https://hr.uams.edu/forms/manager/>

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 (**Info type 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 Health Care Provider (HCP) forms. **Select the correct form from the four bullets below.** The form **MUST** be completed by the treating Health Care Provider, not the employee. The Health Care Provider must be an "attending physician."

**Forms should be returned in 15 days: (If additional time is needed, allow an additional 7 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**"

#### Other actions:

- Attach a copy of the "**essential job duties**" in instances when the reason for leave is for the employee.
- The department designated FMLA representative will complete this form: "**Notice of Rights and Responsibilities**" This is the eligibility notification to the employee
- Give a copy of the FMLA policy to the employee. (*Administrative Guide 4.6.11*)

**Select one of the following methods to ensure delivery of the documents:** certified mail, email with read receipt, courier, or hand delivery with a signed delivery acknowledgement form (**Technically, documents are not delivered when the addressee proclaims they weren't received.**)

Create a **confidential** 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 form** from your employee, you must do the following:

- Date stamp the form the day you receive it.
- Review form to ensure it explains why the employee needs to miss work. The form provides us with an **estimate** on how the employee should miss work.
- **RESPOND** to the request for time off, within **5 days**, by completing the "**Designation Notice**" form to note:
  - Approval/ Denial/ Need Additional Information/Need additional time to turn in HCP form
  - **Additional Information is needed:** Employees **MUST** be given **7** additional days to get requested information. Be sure to detail specifically what the employee needs to do. When you receive the additional information, another **Designation Notification** form must be completed for approval or denial.
- Deliver a copy of the **Designation Notice** to your employee. **Use the same delivery method outlined in Step 1.**

### Step 3.

- Once your employee is ready to return to work (when the absence period is **not** related to intermittent leave) the employee **must** submit a **Fitness for Duty** note from their Health Care Provider. This request is on the **Designation Notice** form (make sure to check the correct box). The **Fitness for Duty** note is required for employees who are returning to work due to their own illness related absence.
- When the time missed is intermittent, a note from the treating physician is **not** required. The Health Care Provider form details how the employee will miss work.
- With hourly staff, the **Leave Request/Clocking and Exceptions Daily** form is used to request time off. It is essential for the approval person to complete the entire form, by checking the appropriate box (approval or denial) at the bottom of the form.
- Salaried staff time off is approved in ESS. Be sure to select the correct drop down selection for FMLA approvals.
- When the 12 weeks of FMLA leave end, you **must** inform your employee that the 12 weeks, of job protections, have expired by completing the **Designation Notice** form. **Deliver a copy to your employee using the same delivery method outlined in Step 1.**
- If your employee is not able to return to work, once the 12 weeks have exhausted, contact OHR, Employee Relations for further guidance.
- **DO NOT** terminate employees while they are on FMLA, or immediately after they exhaust the 12 weeks, prior to consulting with OHR, Employee Relations.
  - OHR must ensure the FMLA process was done correctly
  - Workers' Compensation case review (if applicable)
  - Short Term Disability (STD) **may** be an option (*contact OHR, Employee Services for guidance*)
  - Long Term Disability (LTD) **may** be an option (*contact OHR, Employee Services for guidance*)
  - OHR will review if we **must** consider the **Americans with Disabilities' Act (ADA)**
- Use the **FMLA Receipt Acknowledgement** form throughout the FMLA process as a verification tool to ensure the employee receives the required 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 believe their FMLA rights have been violated may file a complaint with the Department of Labor (DOL). When a complaint is filed, a DOL investigator may want to come onsite for an audit.
- Employees have **5** days to inform you that the absence from work is related to FMLA.
- Employees must follow the established departmental "call-in policy." Supervisors must be mindful of unusual circumstances prior to taking any adverse action.
- You cannot request a MD note when an employee has missed work while on FMLA Intermittent leave. If you have an extenuating circumstance, please contact OHR for guidance.
- Know the location of the required DOL postings for your work building. This information is required for the **Notice of Rights and Responsibilities** form.
- 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 Family Medical Leave for their spouse. The FMLA does not protect *civil unions or domestic partnerships*.
- Supervisors/Managers **cannot** call the employee's doctor to inquire about the FMLA paperwork.