



NOTICE OF ELIGIBILITY & RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT - Statewide	
DHR Form #: DHR-STW-403.1-SD1	Authority: The Family and Medical Leave Act of 1993, as amended February 25, 2015; M.R. 5.7
Effective Date: November 20, 2019	Revision Date: December 2, 2022
Supersedes: November 20, 2019; January 2009	

In general, to be eligible to take leave under the Family and Medical Leave Act (FMLA), an employee must have worked for an employer for at least 12 months, meet the hours of service requirement in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. While use of this form is optional, a fully completed Form provides employees with the information required by 29 C.F.R. §§ 825.300 (b),(c) which must be provided within five business days of the employee notifying the employer of the need for FMLA leave. Information about FMLA may be found on the WHD website at www.dol.gov/agencies/whd/fmla.

Date: _____

From (Employer): _____ To (Employee): _____

On _____, we learned that you need leave (*beginning on*) _____ for one of the following reasons: (*Select as appropriate*)

- The birth of a child, or placement of a child with you for adoption or foster care, and to bond with the newborn or newly-placed child.
- Your own serious health condition
- You need to care for your family member due to a serious health condition. Your family member is your: Spouse Parent Child under the age 18 Child 18 years or older and incapable of self-care because of a mental or physical disability
- A qualifying exigency arising out of the fact that your family member is on covered active duty or has been notified of an impending call or order to covered active duty status. Your family member on covered active duty is your: Spouse Parent Child of any age
- You are needed to care for your family member who is a covered servicemember with a serious injury or illness. You are the servicemember's: Spouse Parent Child Next of Kin

Part 1: Notice of Eligibility

This notice is to inform you that you are:

- Eligible** for FMLA leave. (See Part 2 for any Additional Information Needed and Part 3 for information on your Rights and Responsibilities.)
- Not eligible** for FMLA leave because (Only one reason need be checked):
 - You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately: _____ (months) towards this requirement.
 - You have not met the FMLA's 1,250 hours of service requirement. As of the first date of requested leave, you will have worked approximately: _____ (hours) towards this requirement.
 - You do not work at and/or report to a site with 50 or more employees within 75 miles as of the date of your request.

If you have any questions, please contact your HR Representative: _____

Telephone Number: _____ Email Address: _____

Part 2: Additional Information Needed

As explained in Part 1, you meet the eligibility requirements for taking FMLA leave. Please review the information below to determine if additional information is needed in order for us to determine whether your absence qualifies as FMLA leave. Once we obtain any additional information specified below we will inform you, **within 5 business days**, whether your leave will be designated as FMLA leave and count towards the FMLA leave you have available. **If complete and sufficient information is not provided in a timely manner, your leave may be denied.**

(Select as appropriate):

- No additional information requested. If no additional information is requested, go to Part 3.
- We request that the leave be supported by a certification, as identified below.
 - Health Care Provider for the Employee Health Care Provider for Employee's Family Member
 - Qualifying Exigency Serious Illness or Injury (*Military Caregiver Leave*)

Selected certification form is (attached / not attached).

If requested, medical certification must be returned by _____. (Must allow at least 15 calendar days from the date the employer requested the employee to provide certification, unless it is not feasible despite employee's diligent, good faith efforts.)

- We request that you provide reasonable documentation or a statement to establish the relationship between you and your family member, including in loco parentis relationships. The information

requested must be returned to us by _____. You may choose to provide a simple statement of the relationship or provide documentation such as a child's birth certificate, a court document, or documents regarding foster care or adoption-related activities. Official documents submitted for this purpose will be returned to you after examination.

Other information needed (e.g., *documentation for military family leave*): _____

The information requested must be returned to us by: _____

If you have any questions, please contact your HR Representative: _____

Telephone Number: _____ Email Address: _____

Part 3: Notice of Rights and Responsibilities

Part A: FMLA Leave Entitlement

You have a right under the FMLA to take unpaid, job-protected FMLA leave in a 12-month period for certain family and medical reasons, including up to **12 weeks** of unpaid leave in a 12-month period for the birth of a child or placement of a child for adoption or foster care, for leave related to your own or a family member's serious health condition, or for certain qualifying exigencies related to the deployment of a military member to covered active duty. You also have a right under the FMLA to take up to **26 weeks** of unpaid, job-protected FMLA leave in a single 12-month period to care for a covered servicemember with a serious injury or illness (*Military Caregiver Leave*).

The 12-month period for FMLA leave is calculated as the 12-month period measured forward from the date of your first FMLA leave usage.

If applicable, the single 12-month period for *Military Caregiver Leave* started on _____.

You (**are** / **are not**) **considered a key employee** as defined under the FMLA. Your FMLA leave cannot be denied for this reason; however, we may not restore you to employment following FMLA leave if such restoration will cause substantial and grievous economic injury to us.

We (**have** / **have not**) determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. Additional information will be provided separately concerning your status as key employee and restoration.

Part B: Substitution of Paid Leave – When Paid Leave is Used at the Same Time as FMLA Leave

Any approved leave used during the FMLA period will run concurrently in accordance with the [FMLA Policy](#) and Merit Rules, as applicable. Concurrent leave use means the absence will count against both the designated paid leave and unpaid FMLA leave at the same time. If you do not meet the requirements for taking paid leave, you remain entitled to take available unpaid FMLA leave in the applicable 12-month period. Even if you do not request it, the FMLA allows us to require you to use your available sick, vacation, or other paid leave during your FMLA absence. (Check all that apply)

- Some or all of your FMLA leave will not be paid.** Any unpaid FMLA leave taken will be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- You have requested to use some or all of your available paid leave** (e.g., sick, vacation, etc.) during your FMLA leave. Any paid leave taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- We are requiring you to use some or all of your available paid leave** (e.g., sick, vacation, etc.) during your FMLA leave. Any paid leave taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- Other:** (e.g., short- or long-term disability, workers' compensation, state medical leave law, etc.)

Any time taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.

The applicable conditions for use of paid leave include: _____

For more information about conditions applicable to sick/vacation/other paid leave usage please refer to: _____ available at: _____.

Part C: Maintain Health Benefits

Your health benefits must be maintained during any period of FMLA leave under the same conditions as if you continued to work. During any paid portion of FMLA leave, your share of any premiums will be paid by the method normally used during any paid leave. During any unpaid portion of FMLA leave, you must continue to make any normal contributions to the cost of the health insurance premiums. To make arrangements to continue to make your share of the premium payments on your health insurance while you are on any unpaid FMLA leave, contact _____ at _____.

You have a minimum grace period of (30-days or _____ *indicate longer period, if applicable*) in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave and recover these payments from you upon your return to work.

You may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave if you do not return to work following **unpaid** FMLA leave for a reason other

than: the continuation, recurrence, or onset of your or your family member's serious health condition which would entitle you to FMLA leave; or the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or other circumstances beyond your control.

Part D: Other Employee Benefits

Upon your return from FMLA leave, your other employee benefits, such as pensions or life insurance, must be resumed in the same manner and at the same levels as provided when your FMLA leave began. To make arrangements to continue your employee benefits while you are on FMLA leave, contact _____ at _____

Part E: Return-to-Work Requirements

You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. An equivalent position is one that is virtually identical to your former position in terms of pay, benefits, and working conditions. At the end of your FMLA leave, all benefits must also be resumed in the same manner and at the same level provided when the leave began. You do not have return-to-work rights under the FMLA if you need leave beyond the amount of FMLA leave you have available to use.

Part F: Other Requirements While on FMLA Leave

While on leave you (will be / will not be) required to furnish us with periodic reports of your status and intent to return to work every _____. (Indicate interval of periodic reports, as appropriate for the FMLA leave situation).

If the circumstances of your leave change and you are able to return to work earlier than expected, you will be required to notify us at least two workdays prior to the date you intend to report for work.

By using this form, the parties acknowledge their agreement to conduct transactions by electronic means. A party's electronic signature for purpose of the Uniform Electronic Transactions Act, 6 Del. C. Ch. 12A may be provided by checking a box as indicated, electronic initials or name, or email confirmation

Paperwork Reduction Act Notice And Public Burden Statement

It is mandatory for employers to inform employees in writing whether leave requested under the FMLA has been determined to be covered under the FMLA. 29 U.S.C. § 2617; 29 C.F.R. §§ 825.300(d), (e). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions

for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210.

**DO NOT SEND THE COMPLETED FORM TO THE DEPARTMENT OF LABOR. EMPLOYEE
INFORMATION.**