

MENDOCINO COUNTY POLICY # 27	FAMILY AND MEDICAL LEAVE
ADOPTED: FEB. 8, 1994	ADOPTED BY: RESOLUTION #94-023
AMENDED: December 20, 2016	AMENDED BY: RESOLUTION #02-087

PREAMBLE:

To the extent not already provided for under current leave policies and provisions, Mendocino County will provide family, medical, and pregnancy disability leave for eligible employees as required by state and federal law. Rights and obligations which are not specifically set forth below are set forth in the FMLA (Family and Medical Leave Act), CFRA (California Family Rights Act–Gov. Code Sections 12945.1, 12945.2, and 19702.3) and PDL (California Pregnancy Disability Leave–Gov. Code Sections 12945(b) and 12945(c)). Unless otherwise provided by this policy, “leave” under this policy shall mean leave pursuant to FMLA, CFRA, and PDL.

ARTICLE I: DEFINITIONS

- A. “12-Month Period” means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- B. “Single 12-Month Period” means a 12-month period which begins on the first day the eligible employee takes FMLA leave to care for a covered servicemember and ends 12 months after that date.ⁱ
- C. “Child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster, or step-child.

A child is “incapable of self-care” if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones, and directories, etc.

- D. “Parent” means the biological, adoptive, step, or foster parent of an employee, or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- E. “Spouse” means a husband or wife as defined or recognized under California State law for purposes of marriage. “Spouse” also includes registered domestic partners and same-sex partners in marriage.
- F. “Domestic Partner,” as defined by Family Code sections 297 and 299.2, shall have the same meaning as “spouse” for purposes of CFRA leave.

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G. “Serious Health Condition” means an illness, injury, impairment, or physical or mental condition that involves:

1. Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered an “inpatient” when a health care facility formally admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or
2. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - a. A period of incapacity (i.e., inability to work or perform other regular daily activities) due to a serious health condition of more than three full consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:
 - 1) Treatment two or more times within 30 days of the first day of incapacity—unless extenuating circumstances exist—by a health care provider, by a nurse, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by, a health care provider. The first in-person treatment visit must take place within seven days of the first day of incapacity; or
 - 2) Treatment by a health care provider on at least one occasion which: (a) must take place within seven days of the first day of incapacity; and (b) results in a regimen of continuing treatment under the supervision of the healthcare provider. This includes, for example, a course of prescription medicine or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over-the-counter and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
 - b. Any period of incapacity due to pregnancy or for prenatal care. This entitles the employee to FMLA leave but not CFRA leave. (Under California law, an employee disabled by pregnancy is entitled to Pregnancy Disability Leave (“PDL”). See below for a description of how FMLA and PDL interact.)
 - c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

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- 1) Requires periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse;
 - 2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - 3) May cause episodic incapacity rather than a continuing period (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- d. A period of incapacity which is permanent or long-term due to a condition for which the treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
- e. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- f. Voluntary or cosmetic treatments that are not medically necessary (e.g., treatments for orthodontia or acne) are not “serious health conditions” unless inpatient hospital care is required or complications develop. Routine preventive physical examinations are also excluded from FMLA leave.

H. “Health Care Provider” means:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
2. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;
3. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of the manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California state law;

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4. Nurse practitioners and nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under California state law and who are performing within the scope of their practice as defined under California state law;
 5. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
 6. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.
- I. "Covered active duty" means: (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; or (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of a member of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.
- J. "Covered Servicemember" means: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces—including a member of the National Guard or Reserves—at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- K. "Outpatient Status" means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- L. "Next of Kin of a Covered Servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions; or brothers and sisters, grandparents, aunts and uncles, and first cousins—unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.
- M. "Serious Injury or Illness": (1) in the case of a member of the Armed Forces—including a member of the National Guard or Reserves—means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the

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beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

ARTICLE II: ELIGIBILIY

- A. Family Medical Leave (FMLA & CFRA) – Family medical leave is available by law to all County employees who meet the following requirements:
 - 1. Have been employed by the County for at least 12 months prior to the beginning of the family or medical leave; and
 - 2. Have worked 1,250 hours in the 12 months immediately preceding the commencement of the leave.
- B. Pregnancy Disability Leave (PDL) – Female employees are eligible for Pregnancy Disability Leave upon employment with the County. There is no length of service or hours worked requirement to be eligible.

ARTICLE III: REASONS FOR LEAVE

Leave is only permitted for the following reasons:

- A. The birth of a child or to care for a newborn of an employee;
- B. The placement of a child with an employee in connection with the adoption or foster care of a child;
- C. Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition;
- D. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position (i.e., an employee is unable to perform any one or more of the essential functions of his/her position);

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- E. Disability due to pregnancy, childbirth or related medical conditions (PDL/FMLA only). This includes time off needed for prenatal or postnatal care; doctor-ordered bed rest; gestational diabetes; pregnancy-induced hypertension; preeclampsia; childbirth; postpartum depression; loss or end of pregnancy; or recovery from childbirth,
- F. Leave for a “qualifying exigency” may be taken arising out of the fact that an employee’s spouse, son, daughter, or parent is on covered active duty or call to active duty status (under the FMLA only, not the CFRA); or
- G. Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered servicemember of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty, or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (this leave can run up to 26 weeks of unpaid leave during a single 12-month period;under the FMLA only, not the CFRA).

ARTICLE IV: AMOUNT OF LEAVE

A. FMLA/CFRA

1. Amount of Leave

Eligible employees are entitled to a total of 12 workweeks of leave or 26 weeks to care for a covered servicemember during any 12-month period. Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

2. Minimum Duration of Leave

If leave is requested for the birth, adoption, or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for child, parent, spouse, or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certifications of this policy must be complied with.

3. Parents Both Employed by the County

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In any case in which both parents are employed by the County, and are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). Similarly, where married spouses both work for the County, they may be limited to a total of 12 weeks of FMLA leave for bonding leave (6 weeks each).

In any case in which a husband and wife both employed by the County are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered servicemember.

Except as noted above, this limitation does not apply to any other type of leave under this policy.

B. PDL

1. Amount of Leave

Female employees are eligible under the law to take a leave on account of pregnancy for a reasonable period of time not to exceed four months, or the working days in one-third of a year or 17 ½ weeks. "Reasonable period of time" means that period during which the employee is disabled on account of pregnancy, childbirth, or related medical conditions.

2. Minimum Duration of Leave

There is no minimum duration of leave for PDL.

ARTICLE V: MAINTENANCE OF BENEFITS

Leave under this policy is unpaid. During an authorized FMLA/CFRA, the County will maintain its share of the employee's health benefit insurance premium or payment for up to 12 weeks per identified 12-month period, as set forth in this Policy. Benefits will be maintained to the same extent that coverage is provided while the employee is on the job. Health benefit coverage will be maintained for an employee utilizing PDL to the same extent that coverage is provided while on the job, for the period in which the employee is disabled by pregnancy, childbirth, or related medical conditions, up to four months. In the event an employee is disabled by pregnancy, childbirth, or related medical conditions and uses leave under the CFRA (i.e., bonding leave) after the conclusion of her PDL, the County will maintain the employee's health benefit coverage while the employee is disabled by pregnancy, childbirth, or related medical conditions

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(up to four months or 17 ½ weeks or the working days in one-third of a year) and during the employee’s CFRA leave (up to 12 weeks).

Employees may make the appropriate contributions for continued coverage under the preceding non-health benefit plans by payroll deductions or direct payments made to these plans. Depending upon the particular plan, Benefit Administration will inform the employee whether the premiums should be paid to the carrier or the County. An employee’s coverage on a particular plan may be dropped if the employee is more than 30 days late in making a premium payment. However, the employee will receive a notice at least 15 days before coverage is to cease, advising that the employee will be dropped if the premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the County shall have the right to recover its share of health benefit premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave; or because of circumstances beyond the employee’s control. The County shall have the right to recover premiums through deduction from any sums due the County (e.g., unpaid wages, vacation pay, etc.).

ARTICLE VI: SUBSTITUTION OF PAID ACCRUED LEAVES

A. Employee’s Right to Use Paid Accrued Leaves Concurrently with Family Leave

1. An employee may substitute any accrued paid leave for all or part of any otherwise unpaid leave under this policy.
2. The County will apply accrued paid leave in the following order: sick leave (where sick leave is applicable, pursuant to B., below), personal leave, or vacation.
3. Use of Vacation: The County will maintain up to 40 hours of vacation in the employee’s accrual banks, though the employee may request in his or her Leave Request to use all or some of these 40 hours.

B. Sick Leave

The County will apply accrued paid sick leave (60 hours allowed per calendar year for family leave), during such time as the employee is absent on FMLA or CFRA qualifying leave, if:

1. The leave is for the employee’s own serious health condition; or

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2. The leave is for another reason mutually agreed upon between the County and the employee.

C. Special Request to Substitute Paid Leaves

1. If a Leave Request and completed supportive Medical Certification is timely filed and submitted, the employee may request that:
 - a. His or her accrued leave be applied in a different order than set forth by the County;
 - b. Compensatory Time Off (CTO) be applied; and
 - c. That some or all of the 40 hours of vacation leave be used.
2. This Policy constitutes notice to the extent allowed by the law to all employees that any paid or unpaid leave for any of the identified qualifying reasons will be applied to FMLA or CFRA as appropriate.

D. County’s Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any reason which is FMLA/CFRA-qualifying, the County may designate that non-FMLA/CFRA leave as running concurrently with the employee’s 12-week FMLA/CFRA leave entitlement. The only exception is for peace officers and firefighters who are on leave pursuant to Labor Code §4850.

E. County’s and Employee’s Rights if an Employee Requests Accrued Leave, Other Than Accrued Sick Leave, Without Mentioning Either the FMLA or CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off, other than accrued sick leave, without reference to a FMLA/CFRA-qualifying purpose, the County may not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. However, if the County denies the employee’s request and the employee provides information that the requested time off is for a FMLA/CFRA-qualifying purpose, the County may inquire further into the reason for the absence. If the reason is FMLA/CFRA-qualifying, the County may require the employee to exhaust accrued leave as described above.

ARTICLE VII: INTERACTION OF LEAVES

- A. FMLA and PDL normally run concurrently (at the same time).

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- B. FMLA and CFRA normally run concurrently, except when the employee is out for PDL.
- C. Under PDL, FMLA will normally run concurrently, but CFRA will begin after the PDL ends, when the employee is no longer disabled by the pregnancy, childbirth, or related medical conditions.

ARTICLE VIII: GENERAL PROCESSES AND PROCEDURES

FMLA, CFRA and PDL are administered by Human Resources.

A. Medical Certification – FMLA/CFRA

1. Employees who request leave for their own serious health condition, or to care for a child, parent, or spouse who has a serious health condition, must provide written certification from the health care provider of the individual requiring care.
2. If the leave is requested because of the employee’s own serious health condition, the medical certification must include a statement that the employee is either unable to work at all, or cannot perform the essential duties of his or her job; appropriate medical facts about the condition; the estimated time the employee will be off work; and an estimated date when the employee can return to work without medical restrictions.
3. For the birth, adoption, or placement of a child, the certification should clearly indicate the estimated date of birth, adoption, or placement. If the medical provider is certifying to pre-natal care or pregnancy disability (as defined in FMLA or PDL), the medical provider must provide information regarding when the employee needs to begin the leave and an estimated time for preparation and recovery from the birth and/or for adoption or placement of a child.
4. Employees who request leave to care for a covered servicemember who is a child, spouse, parent, or “next of kin” of the employee must provide written certification from a health care provider regarding the injured servicemember’s serious injury or illness.
5. The first time an employee requests leave because of a qualifying exigency, an employer may require the employee to provide a copy of the military member’s active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member’s active duty service. A copy of new active duty orders or similar documentation shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member.

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6. If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide the medical certification within the time frame established by this Policy, the County may delay the taking of FMLA/CFRA leave until the required certification is provided.
7. If the County has a good faith, objective reason to doubt the validity of a certification, the County may require a medical opinion of a second health care provider chosen and paid for by the County. If the second opinion is different from the first, the County may require the opinion of a third provider jointly approved by the County and the employee, but paid for by the County. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.
8. If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.
9. All certifications must be completed on a County-approved form. The form can be obtained from Human Resources.

B. Employee Notice of Leave – FMLA/CFRA

1. Although the County recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. Where possible, an eligible employee must submit to Human Resources the County's Family Medical Leave Request form and supportive medical certification, in a manner set forth by Human Resources, *prior* to commencing a leave. Except for qualifying exigency leave, if leave is foreseeable, at least 30 days' prior notice is required. In addition, if an employee knows that he/she will need leave in the future but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. If the County determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the County may delay the granting of the leave until it can, at its discretion; adequately cover the position with a substitute.
2. If it is impossible to file the Family Medical Leave Request *prior* to commencement of the leave or absence, the Request must be submitted, with the medical certification, no

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later than two business days after the leave or absence has commenced, unless a Health Care Provider certifies that the medical condition of employee was such that he or she was unable to comply with these deadlines.

3. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. Any Leave Request filed later can only be made for extraordinary reasons with the permission of Human Resources.
5. In the Leave Request, the employee must identify the form and nature of the leave requested (including but not limited to FMLA, CFRA, Leave Without Pay [LWOP], Pregnancy Disability Leave [PDL], or Parental Leave) and the reasons for the leave.
6. The employee must submit along with the Request a Health Care Provider's medical certification as set forth above.

C. Medical Certification and Employee Notice of Leave – Pregnancy Disability Leave and CFRA Bonding Leave

1. The employee must file a request for PDL leave from Human Resources prior to the commencement of the employee's leave. Employees shall file a Family Medical Leave Request. The employee must give reasonable advanced notice of the need for leave. Where the need for leave is foreseeable, the employee must give at least 30 days advanced notice. If the need for leave is not foreseeable, the employee must give notice of the leave for need as soon as practicable.
2. The employee's physician must provide a certification stating that the employee is disabled by pregnancy, childbirth, or related medical conditions, and state when the medical disability related to the pregnancy or recovery therefrom will begin and end. The physician certification must be provided within two business days after the request for leave. Failure to provide the medical certification within 15 days after the request may result in a delay of leave. If the leave is not foreseeable, the employee must provide the certification as soon as practicable.
3. An employee who is taking family medical leave for the birth of a child will automatically be allowed six weeks postpartum for sufficient time to recover from the birth and assigned PDL for these six weeks.

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4. The employee's Health Care Provider may extend this time to whatever is medically certifiable up to the statutory maximum of four months (or 17 ½ weeks or the workdays in one-third of a year).
5. PDL only lasts for the time a medical disability exists related to pregnancy or childbirth, or related medical conditions, as certified by the Health Care Provider's physician.
6. Depending upon the circumstances, an employee may be eligible for both the four months of PDL and 12 weeks of CFRA, for up to seven months of leave. The CFRA shall be used for "bonding" with the newborn after the employee is no longer disabled by pregnancy, childbirth, or related medical conditions.

D. Unauthorized Leave of Absence

1. Leaves or absences from work, including absences for medical purposes or treatment, must be accounted for by the employee.
2. Any unauthorized absence of three days or longer will be considered abandonment of the employee's job or an unexcused absence justifying discipline up to and including termination for job abandonment.

ARTICLE IX: REINSTATEMENT UPON RETURN FROM LEAVE

A. Right to Reinstatement

1. Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment, unless laid off in accordance with general County procedures during the leave. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the County, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

B. Employee's Obligation to Periodically Report on His/Her Condition

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Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

C. Fitness for Duty Examinations and Certification of Return to Work

1. If the employee has timely submitted a Family Medical Leave Request and Medical Certification stating when the serious health condition limiting the employee’s essential job functions ends, the County and employee may rely on the Health Care Provider’s certified statements and return to work without a fitness for duty examination and separate certification.
 - a. The original Medical Certification will suffice to return the employee to work if it contains the employee’s estimated date of return to work without restrictions.
 - b. The employee may also submit a Health Care Provider’s “release to work” statement or a separate medical certification from the employee’s medical provider releasing him or her to work without restrictions.
 - c. If there are any work restrictions or follow-up treatment required, the employee must bring the matter to the attention of the County. The employee’s Health Care Provider must identify the medical condition and essential duties limited or impacted by the employee’s continuing medical condition or treatment, and the course of treatment prescribed as it impacts the performance of the employee’s duties.
2. If an employee has been out on medical leave for his or her own serious medical condition for two weeks or longer—and has not timely submitted a properly completed Medical Leave Request and County Medical Certification—a certification of fitness for duty may be required.
 - a. The fitness for duty certification must be signed by the employee’s treating health care provider and state that the employee can return to work without restrictions.
 - b. Failure to provide the fitness for duty certification, when required, may prevent the employee from returning to work.
 - c. If the Health Care Provider cannot certify that the employee may return to work without restrictions, the Health Care Provider must identify the essential duties limited or impacted by the employee’s continuing medical condition or treatment, and

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the course of treatment prescribed as it impacts the performance of the employee's duties.

ARTICLE X: APPLYING FOR ADDITIONAL LEAVE WITHOUT PAY

- A. Should an employee need additional time off after the expiration of FMLA, PDL, and/or CFRA leave, the employee must file the Request for Leave Without Pay (“LWOP”), following normal unpaid LWOP procedures with his or her department head.
- B. The Human Resources Director must approve any LWOP of more than five days.
- C. The Human Resources Director may approve LWOP requests up to three months in length. Longer requests must be approved by the Civil Service Commission, which may grant requests up to one year in length.
- D. Any requests for greater than one year of additional leave must be submitted to and approved by the Board of Supervisors, in accordance with the County Code and Civil Service Rules.

ⁱ 29 C.F.R. §825.127(e)(1).