

Leave for My Family Member's Health Condition

SICK LEAVE

What is it?

Sick leave is hours of paid leave that may be used by employees to receive pay while absent from work in order to provide care for qualifying family members.

Who is Eligible?

Nearly all County employees receive sick leave hours except elected officials and retirees who receive a SAMCERA pension and work in an Extra Help status.

Employees can use sick leave in order to provide care for a family member who is ill or receiving treatment for an existing health condition or for their preventative care.

Family member includes:

- Parent
- Child
- Spouse
- Registered Domestic Partner
- Grandparent
- Grandchild
- Sibling
- Mother-in-law
- Father-in-law
- A designated person

(a) For the purpose of sick leave, a designated person means someone designated by the employee at the time sick leave is requested. Once an employee designates a person, they may not change their designated person for 12 months.

Full time Regular, Extra Help-Limited Term, Provisional and Temporary employees accrue 3.7 hours of sick leave every pay period. Such accrual is prorated for those employees that work less than full time during a pay period. Extra Help Employees receive a specified amount of sick leave hours at the beginning of their employment and again at the beginning of each fiscal year, except retirees receiving a SAMCERA pension working in an Extra Help capacity who do not receive sick leave.

How Long is the Leave?

It depends on the employee's specific circumstances. Sick leave hours are not intended to provide extended leaves of absence. However, an extended leave of absence to care for a family member may qualify for another type of leave covered in this policy such as FMLA/CFRA. While on such leave the employee may be eligible to use accrued sick leave in order to receive pay.

Is it paid?

Sick leave is paid so long as the employee has sufficient accrued sick leave hours available. It is paid at

the employee's applicable rate of pay in accordance with the appropriate MOU provision or resolution.

Benefits?

Employees using accrued paid sick leave continue to receive the same benefits as they would if they were working regular hours.

How Do I request the Leave?

Procedures for Requesting and Approving Sick Leave.

- When the requirement for sick leave is known to the employee in advance of the absence, the employee shall request authorization for sick leave at such time. In all other instances the employee shall notify their supervisor as promptly as possible. Employees shall provide notice in the manner set forth by their supervisor, manager or division/department policy or practice.
- The department may require a physician's statement from an employee who applies for sick leave, or make whatever investigation into the circumstances that appears warranted before taking action on the request.

FMLA AND CFRA: LEAVE FOR MY FAMILY MEMBER'S SERIOUS HEALTH CONDITION

What is it?

The Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) provide eligible employees with up to 12 workweeks of unpaid, job protected leave to care for a qualifying family member with a serious health condition.

“Serious health condition” means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of a qualifying family member of the employee that involves either inpatient care or continuing treatment, including, but not limited to, treatment for substance abuse. A serious health condition may involve one or more of the following:

- Hospital Care Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care. A person is considered an “inpatient” when a health care facility formally admits the person to the facility with the expectation that the person will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.
- Absence Plus Treatment
 - (a) A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

- (1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
 - (2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- Pregnancy: {covered in detail in the Pregnancy, Child Bonding and Parental Leave policy}
- Chronic Conditions Requiring Treatment: A chronic condition which:
 - (1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - (3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
- Permanent/Long-term Conditions Requiring Supervision: A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
- Multiple Treatments (Non-Chronic Conditions): 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, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

Who is Eligible?

Employees who:

- Have been employed by the County for 12 months in the preceding 7 years (need not be continuous); **AND**
- Have worked at least 1,250 hours during the 12 months immediately preceding the requested start of leave date; **AND**
- Have a qualifying family member with a serious health condition requiring care; **AND**
 - Qualifying family member means:
 - (a) Under the FMLA: a spouse, parent, or child under 18 years old or a disabled adult child incapable of self-care because of a mental or physical disability
 - (b) Under the CFRA: a spouse, registered domestic partner, parent, child (of any age), grandparent, grandchild, sibling, or a designated person.
 - A designated person under the CFRA means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person must be identified by the employee at the time the employee requests the leave. Once an employee designates a person, they may not change their designated person for 12 months
- Have documentation from a healthcare provider confirming the need for leave is medically

necessary for care of or to assist in recovery of the family member specifying the expected duration and schedule of the leave.

How Long is the Leave?

FMLA and CFRA provide up to 12 weeks of unpaid, job protected leave per year. (For purposes of this calculation the County uses a calendar year.) If the leave is taken intermittently, the hours used will be tracked and employees will have a maximum number of hours to use per year based on the average number of hours the employee works per week multiplied by 12 weeks. FMLA and CFRA often run concurrently. However, there are situations in which they will not run concurrently, such as leave to care for a registered domestic partner, grandparent, grandchild or sibling which qualifies as a family member under the CFRA but not the FMLA.)

Is it paid?

FMLA and CFRA provide for unpaid leave.

However, employees may elect to use accrued sick leave, vacation, compensatory leave and/or floating holidays.

Please note: Some employees have approved Voluntary Time Off (“VTO”). VTO may be used during FMLA/CFRA leave. However, if the employee goes into an unpaid status while receiving VTO, there are specific parameters that surround the use of VTO and reimbursement to the County for the VTO hours. Employees should consult the County’s VTO [web page](#) and the employee’s VTO acknowledgment form in Workday.

If you wish to use any of these accrued paid hours during your leave, you must inform your supervisor as soon as possible and indicate the type of hours you would like to use and in what order. If possible, you should inform your supervisor well in advance of your anticipated leave in case your need for leave comes sooner than expected.

Please be aware: If you choose not to use any form of accrued paid hours you will likely owe certain costs such as the employee’s share of health insurance benefits.

An employee on FMLA/CFRA leave to care for a qualifying family member might be eligible for certain forms of salary replacement, including but not limited to:

- Paid Family Leave (PFL): PFL provides up to 6 weeks of partial salary replacement for employees who need to take time off work to care for a seriously ill child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner. Benefits are also available to new parents who need time to bond with a new child entering their life either by birth, adoption, or foster care placement. (See County’s Pregnancy, Child Bonding and Parental Leave Policy for more information) PFL is a part of the State Disability Insurance (SDI) program which is funded through payroll deductions and administered by the State Employment Development Department (EDD). Most but not all, County employees are covered.
- Some employees such as Extra Help Employees and members of DSA, OSS, and PDA do not participate in SDI.

How do I know if I am covered?

You can check your paycheck in Workday to see if you are paying into CASDI. The EDD requires that you have been paying into CASDI for a certain period of time in order to qualify for benefits. You may have satisfied this requirement at a prior job if you have not satisfied the requirement while employed with the County. Contact EDD with questions on this issue.

Additional information on PFL can be found at the following EDD links:

- Paid Family Leave page on the EDD's website https://www.edd.ca.gov/disability/paid_family_leave.htm
- Other Questions? – Ask EDD <https://askedd.edd.ca.gov/asp/frmEDDCOMM.aspx>[External PDF]

What happens to my Benefits while I'm on leave?

While Using Accrued Paid Leave Hours

- If the employee is receiving any pay through the use of accrued paid leave hours (such as sick leave, vacation or compensatory time), the Employee portion of Benefits will continue to be deducted from the employee's bi-weekly pay in the same manner that it is deducted while the employee is working.
- The Employer portion of Benefits will continue to be paid by the County, which includes the employee's health, dental, life, AD&D, and vision insurance.

Not Using Accrued Paid Leave Hours

- If the employee is not using accrued paid leave hours during an FMLA/CFRA Leave, the employee is entitled to continue to participate in the County's group health insurance plans on the same basis as active employees.
- Therefore, if an employee wishes to continue the coverage, the County will continue to pay the Employer portion of the employee's health, dental, life, AD&D and vision insurance as if the employee were still working.

However, since the County cannot deduct the employee's portion from the employee's pay, the County will send the employee a bill on a bi-weekly basis for their contribution. Failure to provide timely payment will result in cancellation of the employee's benefits.

How do I request FMLA/CFRA leave?

Employees should notify their supervisors or managers of the need for leave as soon as possible and request the leave in Workday.

An FMLA/CFRA covered leave of absence for a block of continuous time away from work can be requested in Workday. To find out how to request a leave in Workday, visit [the Leave of Absence Quick Reference Card \(QRC\)](#) on the [Workday Connect](#) resource site.

Intermittent leaves of absence are not entered in Workday. The following two forms must be completed by the employee and submitted to their department for signature. The forms should then be forwarded to Risk Management for processing. The Medical Certification form should provide information from the healthcare provider about the frequency and duration of the intermittent leave.

- [Leave of Absence Request Form](#)
- [FMLA/CFRA Medical Certification Form](#)

Although the County recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as practicable of their need for leave. Where the need for leave is foreseeable, employees must provide at least 30 days' notice. In addition, if an employee knows that employee will need leave in the future, but does not know the exact date(s) (e.g. a surgery tentatively scheduled for some time within a certain month depending on doctor availability), the employee must inform their supervisor as soon as possible that such leave is 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 adequately cover the position.

Employees must provide sufficient information and/or documentation to allow the County to determine if the leave qualifies for FMLA and/or CFRA protection, and the anticipated timing and duration of the leave. Sufficient information is generally provided by a certification from a healthcare provider.

A healthcare provider's certification must include a:

- A statement confirming the need for leave is medically necessary for care of or to assist in recovery of the family member,
- and specifying the expected duration and schedule of the leave.

Employees who know of a need for leave but do not yet have a medical certification should still inform their supervisor or manager of the need and timing of the leave and provide the certification through Workday as soon as possible thereafter.

Reinstatement after leave?

At the end of leave, an employee is entitled to reinstatement to the position the employee held when they went out on leave, or to an equivalent position. However, if an employee remains on leave beyond their entitlement under the FMLA/CFRA the employee forfeits the right to reinstatement. In addition, 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. (e.g. no right to reinstatement if position was eliminated through layoff.)

If an employee is ready to return from leave earlier than the original date set for return, the employee must notify the County as soon as possible and will be reinstated, where feasible, within two business days after receipt of notification.

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