

**CAYUGA COUNTY POLICY MANUAL**  
**Section 25**

**Subject:** Cayuga County Family & Medical Leave Policy  
**Effective Date:** 5/25/10; Res. 255-10  
**Supersedes Policy of:** 6/27/00

**Policy Title:** Family & Medical Leave Act (FMLA)

**Objective:** Consistent with the federal Family and Medical Leave Act (FMLA) the County of Cayuga recognizes the right of eligible employees to unpaid family and medical leave for up to twelve (12) weeks during a twelve-month period as determined by the County.

**Policy:**

1. **Eligibility:** An employee is eligible for FMLA leave if s/he has been employed by the County for at least twelve months and has rendered at least 1,250 hours of service to the employer during the twelve (12) month period immediately preceding the commencement of the leave.
  
2. **Leave Entitlement:** Eligible employees shall be entitled to a total of twelve (12) weeks of leave during a twelve (12) month period for one or more of the following:
  - (a) To care for a son or daughter who is born or placed with the employee for adoption or foster care; or
  - (b) To enable an employee to care for a parent, dependent child or spouse who has a serious health condition; or
  - (c) A serious health condition, which renders the employee unable to perform his or her job duties.

The National Defense Authorization Act (H.R. 4986) provides additional FMLA leave for military families. Specifically, Section 585 of the bill adds two new employees caring for an injured service member as well as family members who have a family member called to active duty. Under the new law, FMLA-eligible employees will now be entitled to the following):

- (d) **Family Leave due to a Call to Active Duty:** This benefit provides 12 weeks of FMLA leave due to a spouse, son, daughter or parent being on active duty or having been notified of an impending call or order to active duty in the armed forces. Leave may be used for any “qualifying exigency” arising out of the service member’s current tour of active duty or because the service member is notified of an impending call to duty in support of a contingency operation.

- (e) Caregiver Leave for an Injured Service Member: This benefit provides 26 weeks of FMLA leave during a single 12-month period for a spouse, son, daughter, parent, or nearest blood relative caring for a recovering service member. A recovering service member is defined as a member of the Armed Forces who suffered an injury or illness while on active-duty that may render the person unable to perform the duties of the member's office, grade, rank or rating.

The entitlement to family leave described in sub-paragraph (a) above shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement.

If both spouses work for the County of Cayuga, their total FMLA leave in any twelve (12) months period shall be limited to an aggregate of twelve (12) weeks if such leave is taken due to either the birth or placement for adoption or foster care of a child; or to care for a sick parent.

3. Designation of FMLA Leave: An employee need not specifically identify the FMLA or request FMLA leave. If an employee requests any leave which would constitute an FMLA qualifying leave, as set forth above under "Leave Entitlement," then the County of Cayuga will apply such leave to the employee's twelve (12) workweek entitlement.
4. Designation of Twelve (12) Month Period: The County shall use a "forward rolling" twelve (12) month period to compute FMLA leave entitlement. Accordingly, an employee's annual twelve (12) week entitlement to FMLA leave will be computed forward for one year from the first day of such use.
5. Substitution of Paid Leave: The County requires an employee to substitute accrued paid vacation or personal leave for unpaid family leave, as described in sub-paragraphs, (a) or (b) above. The County requires an employee to substitute accrued paid family illness leave for unpaid family medical leave, as described in sub-paragraph (b) above. The County requires an employee to substitute accrued vacation, personal or medical/sick leave for purposes of a medical leave, as described in sub-paragraph (c) above. When an employee has used accrued paid leave for a portion of FMLA leave, the employee shall be entitled to an additional period of unpaid leave so that the total of paid and unpaid leave provided equals twelve (12) weeks.
6. Serious Health Condition: "Serious Health Condition" shall be defined as an illness, injury, impairment or physical or mental condition which involves either:
  - (a) inpatient care in a hospital, hospice, or residential medical care facility;
  - (b) a period of incapacity requiring absence from work for more than three (3) calendar days, which also involves continuing medical treatment; or
  - (c) continuing medical treatment for a chronic or long-term health condition that is incurable or which, if left untreated, would result in a period of incapacity of more than three (3) calendar days.

7. Intermittent Leave: An employee may take medical leave as described in sub-paragraph ( b ) or ( c ) above intermittently or on a reduced leave schedule when medically necessary. Leave increments shall be taken in half days or whole days. Employees taking intermittent FMLA leave may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave, when the leave is planned based on scheduled medical treatment. An employee requesting intermittent medical leave shall make reasonable efforts to schedule leave in order to minimize disruption of County operations.

An employee may take family leave, as described in sub-paragraph (a) above, intermittently or on a reduced leave schedule only with the approval of the Legislature Chairman.

### **Notice Requirement**

An employee shall notify his or her immediate supervisor and the Chairman of the Legislature of his or her request for FMLA leave, if foreseeable., at least thirty (30) days prior to the date when the leave is to begin. If such leave is not foreseeable. then the employee shall give as much notice as practicable. If an employee fails to give thirty (30) days notice of a foreseeable FMLA leave with no reasonable excuse for the delay, the leave may be denied until thirty (30) days after notice is received.

### **Medical Certification**

For requested medical leave, as described in sub-paragraphs (b) or (c) above, an employee shall submit a medical certification from a health care provider which shall indicate: (1) the name of the patient; (2) the date on which the serious health condition commenced; (3) the probable duration of the condition; (4) appropriate medical facts regarding the condition within the knowledge of the health care provider; (5) a statement that the employee is needed to care for the family member and an estimate of the length of time such need shall last, or a statement that the employee is unable to perform the functions of his or her position; and (6) the dates and duration of medical treatment if the request is for intermittent leave for a planned medical treatment.

An employee shall provide a medical certification within fifteen (15) days after the same is requested by the County. FMLA leave may be denied if requested medical certification is not provided to the County.

If the County doubts the validity of the medical certification submitted, then a second opinion may be required from a health care provider selected by the County. If the two opinions conflict, then a third health care provider may be chosen by the two providers to render a final opinion. Second and third medical opinions shall be paid for by the County.

The County may require that an employee on FMLA leave provide periodic reports of his or her status and intent to return to work. The County requires that an employee who has taken FMLA leave under subparagraph (c) provide a medical certification of fitness to return to work. Restoration to employment shall be denied in the absence of a certification of fitness to return to work.

All documentation relating to the serious health condition of an employee or his or her family member shall be maintained in confidence.

### **Maintenance of Health Benefits**

All eligible employees who take FMLA leave shall have their health insurance benefits, if any, maintained by the County under the same terms which health coverage would have been provided if not for the leave.

If an employee's required premium contribution is not received at the County by the date on which the employee was advised to remit payment, the County may terminate the employee's health insurance coverage.

### **Recovery of Premium Payments**

If an employee fails to return to work following FMLA leave for a reason other than a serious health condition which would have entitled him or her to FMLA leave, or other circumstances beyond his or her control, s/he may be required to reimburse the County the share of health insurance premiums paid on his or her behalf during his or her FMLA leave.

### **Restoration to Employment**

Employees taking FMLA leave shall be returned to an equivalent position at the conclusion of such leave, consistent with any applicable collective bargaining agreements and County policies and practices. Employees shall not accrue seniority during any portion of FMLA leave which is unpaid.

If an employee is among the highest paid ten percent ( 10%) of County employees, s/he may be denied restoration to an equivalent position if such a denial is necessary to prevent substantial and grievous economic injury to County operations.

### **Posting**

The County shall post a notice in each work site providing information pertaining to FMLA.

**Note: Policy shall be reviewed by the Human Resources Office periodically. Any revisions that are changed due to statute or approved by the Legislature shall be distributed to departments.**