

<b>MENDOCINO COUNTY POLICY #27</b>	<b>FAMILY MEDICAL LEAVE</b>
ADOPTED: February 8, 1994	ADOPTED BY: Resolution #94-023
MODIFIED: May 7, 2002	MODIFIED BY: Resolution #02-087

**PREAMBLE:**

It is the policy of Mendocino County to provide family, medical and pregnancy disability leave in order to facilitate the employee's recovery from a personal illness and to allow for the care of family members. It is the intent of this Policy to enact the terms and conditions and to comply with the federal and state laws regarding family, medical and pregnancy leaves including 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)].

**ARTICLE 1: PURPOSE AND REQUIREMENTS**

**A. Eligibility.**

1. Family Medical Leave [FMLA & CFRA] - Family medical leave is available by law to all County employees who meet the following requirements:
  - a. Have been employed by the County for at least 12 months prior to the beginning of the family or medical leave; and
  - b. Have worked 1,250 hours in the 12 months immediately preceding the commencement of the leave.
2. Pregnancy Disability 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.
  - a. The employee shall be entitled to utilize any accrued vacation leave during this period of time.
  - b. Reasonable period of time means that period during which the female employee is disabled on account of pregnancy, childbirth, or related medical conditions.
3. Medical Certification - In compliance with federal and state law and regulations, the County requires that a supportive medical certification be provided by the employee whenever the medical leave is for the employee's own serious health condition, or to care for the employee's seriously-ill spouse, son, daughter or parent.
  - a. The medical certification must:
    - (1) Be on the County's certification form;
    - (2) Be signed by the treating physician or health care provider;
    - (3) State - for the employee's own serious health condition - that the employee is unable to perform one or more of the essential functions of the employee's job or duties; and
    - (4) Be submitted timely to Human Resources.
  - b. For the duration when sick leave, vacation, or personal leave is applied by the County to the employee's applicable medical leave, the medical certification only needs to match the sick leave medical certification requirements for sick leave.
  - c. Failure to provide the required medical certification may result in delay or denial of FMLA leave benefits.

**B. Applicability.**

Family medical leave under this policy may be applied for the following reasons:

1. The employee's own medical disability or serious health condition.
  - a. a serious health condition is defined under FMLA and CFRA as a condition requiring in-patient care or continuing treatment by a health care provider;
  - b. FMLA or CFRA for medical leave will not be applied by the County until after the employee has been absent for three [3] days or longer – though the employee may request FMLA medical leave without having to wait for the three [3] days;

2. The birth, adoption or accepting of a child as a foster placement;
  3. Caring for an employee's sick family member, such as a child, spouse, or parent;
  4. Medical disability caused by, or the recovery from, pregnancy, adoption, or the placement of a child (as defined in FMLA and/or PDL).
- C. Maintenance of benefits:
1. During an authorized family medical leave, the County will maintain its share of the employee's insurance premium or payment for up to 12 weeks per identified rolling 12 month period, as set forth in this Policy.
  2. To the extent applicable and verified by a return to work certification by the employee's medical provider or a fitness for duty examination, the employee will be returned to the same or comparable or equivalent position, unless laid off in accordance with general County procedures during the leave.

## ARTICLE 2. GENERAL PROCESSES AND PROCEDURES

- A. Family, medical and pregnancy leaves are administered by Human Resources.
1. An eligible employee must submit to Human Resources the Family Medical Leave Request and supportive medical certification, in a manner set forth by Human Resources, PRIOR to commencing a leave for family, medical or pregnancy purposes.
  2. The employee must submit along with the Request, a physician's medical certification in compliance with County Policy and state and federal law.
  3. The medical certification must include a statement that the employee can not perform the essential duties of his or her job, an outline of the medical condition and treatment, the estimated time the employee will be off work and an estimated date when the employee can return to work without medical restrictions.
  4. If it is impossible to file the Family Medical Request PRIOR to commencement of the leave or absence, the Request must be submitted no later than two [2] business days after the leave or absence has commenced, unless a physician certifies that the medical condition of employee was such that he or she was unable to comply with these deadlines.
  5. Any Leave Request filed later can only be made for extraordinary reasons with the permission of Human Resources.
  6. 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.
- B. 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 [3] 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.
- C. Physician's or Health Provider's Certification.
1. If the leave is for the serious health condition of the employee or family member, the employee must submit a supportive physician's medical certification.
    - a. The physician or medical provider must provide - to the extent allowed by law - information regarding the employee's current serious health condition only, including but not limited to:
      - (1) stating the medical facts which support the certification that the employee is unable to perform the essential duties of his or her own job,
      - (2) a brief statement as to how the medical facts meet the criteria of the definition,

- (3) when the serious health condition began,
      - (4) the probable duration of the medical disability, and
      - (5) how the leave or time off is to be used – in a block of time or intermittently.
    - b. If the leave is to be used intermittently, the medical provider must provide clear guidelines and times of use – the health care provider must consult with the employee’s department to attempt to arrange the times of intermittent treatment so as to minimally impact the department.
  2. For the birth, adoption or placement of a child, the certification should clearly indicate the estimated date of birth, adoption or placement.
    - a. 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.
- D. 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 physician’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 physician’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 medical 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 [2] 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 medical provider can not certify that the employee may return to work without restrictions, the medical provider must identify the 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.
- E. Payment of Insurance Costs during leave.
1. For the duration of the Family and Medical Leave the County shall continue to pay the County’s share of health insurance cost.
  2. The County is only required to pay the County’s share of health insurance premiums for a maximum of 12 weeks of family or medical leave per identified rolling 12-month period.
  3. The employee’s share of cost shall be the responsibility of the employee.
  4. Arrangements for payment of the employee’s share must be made with Risk Management.

ARTICLE 3. USE OF ACCRUED LEAVES AND LEAVE WITHOUT PAY

- A. Use of accrued leaves during family medical leave.
1. Any paid or unpaid leave or absence, including sick leave, workers compensation (to the extent allowed by law), personal leave, vacation or unpaid leave or absence taken for a family medical leave qualifying reason, or that otherwise qualifies, will be designated by the County as FMLA, PDL and/or CFRA leave, as appropriate.
  2. The County will apply accrued paid leave (except compensatory time off [CTO]), during such time as the employee is absent on FMLA or CFRA qualifying leave.
    - a. 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. The County will apply accrued paid leave in the following order: sick leave, personal leave, vacation.
  3. 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.
  4. 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.
- B. Applying for additional leave without pay.
1. Should an employee need additional time off after the expiration of FMLA, PDL, and/or CFRA leave, the employee must file the Request for LWOP, following normal unpaid LWOP procedures with his or her department head.
  2. The Human Resources Director must approve any LWOP of more than five [5] days.
  3. The HR Director may approve LWOP requests to three [3] months in length, thereafter the Civil Service Commission may grant requests up to one [1] year in length.
  4. Any requests for greater than one [1] year must be submitted to and approved by the Board of Supervisors, in accordance with the County Code and Civil Service Rules.
- C. Lengths of Family Medical Leaves.
1. FMLA and CFRA allow up to 12 weeks of unpaid family medical leave, with proper supportive certification from his or her health care provider, during an identified rolling 12-month period. The County uses the rolling identified method of calculating the 12 month period to determine how much time the employee is eligible for under FMLA and CFRA.
  2. With proper supportive certification from her health care provider an employee may also receive up to four [4] months of unpaid leave for medical disability due to pregnancy, adoption or placement, or the recovery there from under the California Pregnancy Disability Leave Act [PDL].
- D. Interaction between Family Medical Leaves.
1. FMLA and PDL normally run concurrently.
  2. FMLA and CFRA normally run concurrently, except when the employee is out for PDL.
  3. Under PDL, FMLA will normally run concurrently [at the same time], but CFRA will begin after the PDL ends [sequentially], or after the employee has been out for four [4] months on PDL, whichever is first.
  4. However, the 12 weeks of benefits maintenance provided by FMLA and CFRA is not extended beyond the 12 weeks.

E. California Pregnancy Disability Leave

1. If an employee is seriously ill or disabled due to pregnancy, she may be eligible for up to four [4] months of unpaid Pregnancy Disability Leave [PDL], upon supportive certification by her physician.
2. The employee's physician must state when the medical disability related to the pregnancy or recovery therefrom will begin and end.
3. An employee who is taking family medical leave for the birth of a child, will automatically be allowed six weeks post partum for sufficient time to recover from the birth and assigned PDL for this six weeks.
4. The employee's physician may extend this time to whatever is medically certifiable up to the statutory maximum of four [4] months, before accrediting the time off or leave to CFRA.
5. PDL only lasts for the time a medical disability exists related to pregnancy or childbirth, as certified to by the employee's physician.
6. Depending upon the circumstances, an employee may be eligible for both the four [4] months of PDL and the 12 weeks of CFRA, for up to seven [7] months of leave, but the insurance coverage of 12 weeks remains the same, regardless of the time allowed off under these laws.
7. To the extent there is an overlap of FMLA and PDL, paid leave accruals will be apportioned to the time that FMLA applies.