



Washington State Paid Family and Medical Leave

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This policy applies to all Whitman County employees as defined under the Washington State Paid Family and Medical Leave Act, unless otherwise covered by a collective bargaining agreement.

Definitions:

Child – A biological, adopted or foster child, a stepchild or a child to whom the employee stands in loco parentis, is a legal guardian or is a de facto parent, regardless of age or dependency status.

Employment – Service performed for wages. Includes: service within Washington State; service not localized in Washington but part of the service is performed in Washington and the employee's base of operations is in Washington; or the base of operations from which service is controlled is not in any state where services are performed but the employee's residence is in Washington. Exclusions apply as defined by RCW 50A.05.010.

Family Member – a child, grandchild, grandparent, parent, sibling or spouse of an employee.

Grandchild – a child of the employee's child

Grandparent – a parent of the employee's parent

Healthcare Provider – a person licensed as physician under RCW 18.71 or an osteopathic physician and surgeon under RCW 18.57; a person licensed as an advanced registered nurse practitioner under RCW 18.79; or any other person determined by the state to be capable of providing health care services.

Parent – the biological, adoptive, de facto or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or an individual who stood in loco parentis to an employee when the employee was a child.

Serious Health condition - an illness, injury, impairment, or physical or mental condition that involves:

(i) Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or

(ii) Continuing treatment by a health care provider. 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 of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(I) Treatment two or more times, within thirty days of the first day of incapacity, unless extenuating circumstances exist, 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, such as a physical therapist, under orders of, or on referral by, a health care provider; or

(II) 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;

(B) Any period of incapacity due to pregnancy, or for prenatal care;

(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:

(I) Requires periodic visits, defined as at least twice a year, for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;

(II) Continues over an extended period of time, including recurring episodes of a single underlying condition; and

(III) May cause episodic rather than a continuing period of incapacity, including asthma, diabetes, and epilepsy;

(D) A period of incapacity which is permanent or long term due to a condition for which 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, including Alzheimer's, a severe stroke, or the terminal stages of a disease; or

(E) Any period of absence to receive multiple treatments, including any period of recovery from the treatments, 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: (I) Restorative surgery after an accident or other injury; or (II) a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

(b) The requirement in (a)(i) and (ii) of this subsection for treatment by a health care provider means an in-person visit to a health care provider. The first, or only, in-person treatment visit must take place within seven days of the first day of incapacity.

(c) Whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty-day period shall be determined by the health care provider.

(d) The term extenuating circumstances in (a)(ii)(A)(I) of this subsection means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider. Whether a given set of circumstances are extenuating depends on the facts. For example, extenuating circumstances exist if a health care provider determines that a second in-person visit is needed within the thirty-

day period, but the health care provider does not have any available appointments during that time period.

(e) Treatment for purposes of (a) of this subsection includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under (a)(ii)(A)(II) of this subsection, a regimen of continuing treatment includes, but is not limited to, a course of prescription medication, such as an antibiotic, or therapy requiring special equipment to resolve or alleviate the health condition, such as oxygen. A regimen of continuing treatment that includes taking over-the-counter medications, such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of this title.

(f) Conditions for which cosmetic treatments are administered, such as most treatments for acne or plastic surgery, are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, and periodontal disease are examples of conditions that are not serious health conditions and do not qualify for leave under this title. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this section are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(g)(i) Substance abuse may be a serious health condition if the conditions of this section are met. However, leave may only be taken for treatment for substance abuse by a health care provider or by a licensed substance abuse treatment provider. Absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this title.

(ii) Treatment for substance abuse does not prevent an employer from taking employment action against an employee. The employer may not take action against the employee because the employee has exercised his or her right to take medical leave for treatment. However, if the employer has an established policy, applied in a nondiscriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking medical leave. An employee may also take family leave to care for a covered family member who is receiving treatment for substance abuse. The employer may not take action against an employee who is providing care for a covered family member receiving treatment for substance abuse.

(h) Absences attributable to incapacity under (a)(ii)(B) or (C) of this subsection qualify for leave under this title even though the employee or the family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive, full calendar days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to

stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Spouse – a husband or wife as the case may be or state registered domestic partner.

1. Paid Family and Medical Leave is a mandatory statewide insurance program

Washington Paid Family and Medical Leave (PFML) is a mandatory statewide insurance program that will provide almost every Washington employee with paid time off to give or receive care.

Whitman County will not discriminate or retaliate against an employee for requesting or taking paid leave.

To apply for leave give Whitman County Human Resources at least thirty (30) days written notice. If thirty days is not possible, notification must be provided as soon as possible. Then apply for benefits through the Washington State Employment Security Department (ESD) at <https://paidleave.wa.gov>.

2. Eligibility

If qualified, employees may take up to twelve (12) weeks of leave if they:

- Welcome a child into their family (through birth, adoption or foster placement)
- Experience a serious illness or injury
- Need to care for a seriously ill or injured relative
- Need time to prepare for a family member's pre- and post-deployment activities, as well as time for childcare issues related to a family member's military deployment. For specifics on military-connected paid leave, visit www.dol.gov/whd/regs/compliance/whdfs28mc.pdf

Starting Jan. 1, 2020, employees who have worked 820 hours in the qualifying period (equal to 16 hours a week for a year) will be able to apply to take paid medical leave or paid family leave. The 820 hours are cumulative, regardless of the number of employers or jobs someone has during a year. All paid work over the course of the year counts toward the 820 hours, including part-time, seasonal and temporary work.

If employees face a medical and a family event in the same twelve month period, they might be eligible to receive up to 16 weeks of leave, and up to 18 weeks if they experience a serious health condition during pregnancy that results in incapacity.

To be eligible, an employee must give Whitman County Human Resources thirty (30) days' notice when practical. If not practical, notice must be given as soon as possible. Failure to provide adequate notice may result in delay or denial of benefits.

Evidence of eligibility will be required by the state and should be provided to Whitman County Human Resources. This includes, but is not limited to: certification of a serious health condition by a qualified physician; proof of active duty for military related leave; and the birth certificate or adoption papers for bonding with a child.

Eligibility under the PFML is determined by the Washington State Employment Security Department. A seven day waiting period from the date of application applies.

3. Whitman County departments notify employees of possible eligibility

Whitman County departments must notify employees of possible eligibility under the paid family or medical leave. When an employee has been away from work for seven (7) consecutive days, and for reasons that could be covered by this program, the employee's department must provide written notice within five (5) days of his/her possible eligibility for PFML.

4. Payment of premiums

The program is funded by premiums paid by both employees and Whitman County. It is administered by the Employment Security Department (ESD). Premium collection started on Jan. 1, 2019. Premiums are withheld from paychecks and sent, with the employer portion, to ESD on a quarterly basis.

In accordance with state law, all employees pay premiums unless they will work less than 11 days per quarter. If a conflict arises between this policy and state law, the law will take precedence.

5. Wage replacement

While on leave, employees are entitled to partial wage replacement, meaning they receive a portion of their average weekly pay. The benefit is generally up to ninety (90) percent of the weekly wage, with a minimum of \$100 per week and a maximum of \$1,000 per week. They will be paid directly by the Employment Security Department rather than Whitman County. Employees may go to paidleave.wa.gov for more information.

An employee's total leave pay shall not exceed his/her regular salary. See provision eight (8).

6. Employee protections

Employees who return from leave under this law will be restored to a same or equivalent job if they have worked for Whitman County for at least twelve (12) months, and have worked one thousand, two hundred fifty (1,250) hours in the twelve (12) months before taking leave (about twenty-four (24) hours per week, on average). An employee on medical leave will be required to provide a physician certification releasing the employee back to work.

Whitman County may request periodic updates on the employee's status and intention to return to work.

7. Health Insurance is maintained under the same circumstances as prior to leave in most cases

Employees may keep their health insurance while on leave in most cases. Employees must be eligible for continued benefits under the federal FMLA law to receive them under the PFML. Employees are not required to be on federal FMLA to have continued benefits under PFML. If they contribute to the cost of their health insurance, they must continue to pay their portion of the premium cost while on leave.

8. Coordination with other leave

Employees may choose when to take PFML. However, when coordinating with other leave policies and laws some parameters apply.

Leave from employment under the PFML is in addition to leave from Industrial Insurance and Unemployment during which benefits are paid. In any week in which an employee is eligible to receive benefits through Unemployment or Industrial Insurance, the employee is disqualified from receiving PFML.

An employee's total leave pay from Whitman County plus PFML, shall not exceed his/her regular wages. It is an employee's choice to use accruals (sick, sick bank, vacation, compensatory time, floating holiday, additional straight hours) but they shall not exceed the difference between their full pay and the PFML benefit. **Accruals are not considered supplemental** as defined by the PFML. Employees must report the use of accruals when applying for PFML. The state will then pro-rate the employee's benefit accordingly.

PFML and federal FMLA may run concurrently or consecutively, at the employee's request, if the employee is eligible and requests both forms of leave. Reviews for eligibility under the federal FMLA are completed by the Human Resources Department in accordance with Whitman County policy.

9. Information pertaining to PFML must be retained in accordance with RCW 50A.020.030

All information pertaining to PFML must be retained for a period of at least six (6) years. Such information is confidential except for disclosures to ESD and public employees in the performance of their official duties.