

BENCO Personnel Manual

FAMILY MEDICAL LEAVE ACT (FMLA)

Benco recognizes that employees need support in balancing their work with personal and family responsibilities. The following outlines Benco's policy in compliance with the Federal and State of Oregon leave laws. Not every detail of those laws can be included, and Benco will administer this policy in accordance with all legal requirements. Requests for FMLA, OFLA, OMFLA and Military Family Leave under these laws are reviewed on a case-by-case basis.

FAMILY MEDICAL LEAVE ACT ELIGIBILITY

To be eligible for FMLA, an employee must have worked for Benco for at least 12 months, not necessarily consecutive, and during the 12 months immediately preceding the leave, must have worked at least 1,250 hours.

REASONS FOR LEAVE

- Recover from or seek treatment for the employee's own serious health condition that renders them incapacitated. This includes pregnancy related disability and absence for prenatal care.
- Tend to the serious health condition of the employee's:
 - Spouse or same sex domestic partner;
 - Parent: the employee's biological or adoptive mother or father, or an individual who stood in loco parentis, in place of a parent, when they were a child.
 - Child: the employee's biological, adopted, foster, or stepchild, a legal ward, or a child of whom the employee stands in loco parentis. The child must be 17 years of age or younger. The age limit does not apply if the child is incapable of self-care because of mental or physical disability.
- Parental leave: to care for their own newborn child, newly adopted child or newly placed foster child.

AMOUNT OF LEAVE EMPLOYEE IS ENTITLED TO:

- The employee is entitled to 12 weeks of leave during a 12-month period if the employee meets the eligibility requirements. Benco determines the leave as a 12-month period beginning with the date that the employee's first FMLA leave begins.

IF AN EMPLOYEE DOES NOT WANT TO USE FMLA LEAVE:

- If an employee is eligible for FMLA leave and is absent from work for a reason that qualifies as FMLA leave, Benco has no choice but to designate the absence as FMLA leave. The amount of paid leave the employee has accrued or the employees desire to “save FMLA leave until later” are not a factor. FMLA leave is not a benefit. FMLA leave is an entitlement that must be applied as the need occurs.

THERE ARE THREE TYPES OF FMLA LEAVE SCHEDULES:

- Continuous leave: leave taken in a block of time. For example, the employee can take six weeks of leave at once.
- Intermittent leave: leave taken sporadically. For example, the employee misses five days of work a month. If the employee is a part-time employee, their leave entitlement is pro-rated. For example, if the employee normally works 30 hours per week, the employee is entitled to up to 12 weeks of leave at 30 hours per week. Leave taken on an intermittent basis is calculated by the hours. If the employee is a full-time employee working 40 hours per week, the employee is entitled to up to 480 hours of leave. A part-time employee’s hourly entitlement is pro-rated. For example, if the employee normally works 30 hours per week, the employee’s entitlement is 360 hours.
- Reduced schedule leave: Leave taken where the employee is scheduled to work less than their normal work hours in a day or week. For example, the employee normally is scheduled to work 8 hours a day, instead works six hours and takes the remaining two hours as FMLA leave.

MORE THAN ONE QUALIFYING CONDITION:

- Employees may need FMLA and/or OFLA leave for more than one qualifying condition or purpose at the same time or in the same leave year. Having more than one qualifying condition does not extend the amount of the employee’s leave entitlement, unless the employee is a female who is eligible for pregnancy disability leave, parental leave and/or sick childcare leave. In this case the female employee may be eligible for up to 36 weeks of leave.

IF AN EMPLOYEE IS ON TIME LOSS DUE TO WORKER’S COMPENSATION:

- If the employee meets the eligibility and purpose requirements, FMLA leave is applied when an employee is absent from work for a disabling compensable injury or the employee has a pending determination of workers’ compensation claim.

TO REQUEST FMLA LEAVE:

- An employee must generally give 30 calendar days-notice for planned absences (paid or unpaid) related to family and medical leave. If an employee is unable to

request leave in advance due to an emergency or unforeseeable event, the employee must let the Benco Personnel Director know as soon as possible. Employees are not required to specifically state the leave is for FMLA leave but the employee must provide enough information so Benco can determine if the leave qualifies. Benco may ask for more information if necessary.

ONCE AN EMPLOYEE HAS REQUESTED FMLA LEAVE:

- When an employee has requested leave, Benco will notify the employee within five business days if the employee is eligible for the leave entitlement and if Benco needs more information such as a medical certification.
 - The employee is required to provide a medical certification for their own serious health condition or the employee's family member's serious health condition. Benco will use this information to determine if the employee's reason for the leave qualifies under FMLA leave. The medical certification must be returned within 15 days of the employee's request for leave or the employee's leave may be denied. Denied leave means that the employee would not have job protection under FMLA leave. Employees may be asked to provide another medical certification under certain circumstances. At times, Benco may have enough information to designate FMLA leave without requesting medical certification.

DO EMPLOYEES GET PAID WHILE ON FMLA LEAVE:

- FMLA leave is an unpaid leave. If an employee has sick time and/or vacation time the employee must use their sick and vacation time while on FMLA leave. The employee must use their sick time first and vacation time next before going into FMLA leave without pay.
- All paid and unpaid leave used for FMLA leave purposes counts against the employee's FMLA leave entitlement.

DOES THE EMPLOYEES HEALTH INSURANCE CONTINUE:

- Under FMLA leave, if the employee uses any amount of FMLA leave, Benco continues to pay part of the premium for the employee's medical, vision, dental and employee-only basic life insurance. If the employee normally pays a portion of the premiums for their health insurance, the employee must continue timely payments during the period of FMLA leave to avoid cancellation either through payroll deduction or check.
- The employee's insurance will continue normally unless the employee extends the 12-week time frame (with approval for the extension of FMLA leave) the employee must work a minimum of 80 hours in the month to receive the employer contribution for the following month.
- If the employee does not return to work following the FMLA leave, the employee may be required to reimburse Benco for the full premium cost of health care coverage paid on the employee's behalf, unless a recurrence of the employee's

own serious health condition, continuation, or serious illness or injury of a covered service member occurs or the reason for not returning is beyond the employee's control.

WHAT HAPPENS WHEN THE EMPLOYEE RETURNS TO WORK:

- Before the employee returns from FMLA leave, Benco may require the employee to provide a statement from their medical provider verifying the employee is able to return to work, and if the employee has work restrictions.
- If an employee is returning from FMLA leave, the employee has a right to be restored to the position they held prior to their FLMA leave or a position with equivalent pay and benefits. If the employee's position was eliminated through a layoff process, the employee must be treated as if they were not on FMLA leave and must be treated the same as similarly situated employees according to Benco policy. If the employee is unable to perform an essential function of their position and reasonable accommodations are not appropriate, the FMLA leave job protection ends. The employee may be subject to termination under an applicable law, rule or Benco policy.

Approved By: 
Julie Hansen, Benco Board President

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