

FAMILY AND MEDICAL LEAVE POLICY (MA)

The Town of Ware provides leave according to the Family and Medical Leave Act of 1993 (FMLA), which provides for unpaid, job-protected leave to covered employees in certain circumstances.

Eligibility

To qualify for FMLA leave, you must meet all of the following criteria:

- (1) have worked for the Town for at least 12 months, although it need not be consecutive;
- (2) have worked at least 1,250 hours in the last 12 months; and
- (3) be employed at a worksite that has 50 or more employees within 75 miles.

If you have any questions about your eligibility for FMLA leave, please contact the Human Resources Director.

Leave Policy

If eligible, you may take up to 12 or 26 weeks of family or medical leave under the FMLA, whichever is applicable (as explained below), within the relevant 12-month period defined below.

While you are on FMLA leave, the Town will maintain your group health insurance coverage at the same level and under the same circumstances as when you were actively working, as explained more fully under the section titled, *Medical and Other Benefits*. Upon returning from approved FMLA leave, you have the right to be restored to the same job or an equivalent position, subject to the terms, limitations, and exceptions provided by law.

FLMA Leave Entitlement

You may take **up to 12 weeks** of unpaid FMLA leave in a 12-month period, which is defined using a "rolling" method that is measured backward from the date you use any FMLA leave for any of the following reasons:

- the birth of a child and in order to care for that child (leave to be completed within one year of the child's birth);
- the placement of a child with you for adoption or foster care and in order to care for the newly placed child (leave to be completed within one year of the child's placement);
- to care for a spouse, child, or parent with a serious health condition;
- to care for your own serious health condition, which renders you unable to perform any of the essential functions of your position; or
- a qualifying exigency of a spouse, child, or parent who is a military member on covered active duty or called to covered active duty status (or has been notified of an impending call or order to covered active duty).

You may take **up to 26 weeks** of unpaid FMLA leave in a single 12-month period, beginning on the first day that you take FMLA leave to care for a spouse, child, parent, or next of kin who is a covered service member and who has a serious injury or illness related to active duty service, as defined by the FMLA's regulations (known as military caregiver leave).

Both Spouses Employed by the Town of Ware

Spouses who are both employed by the Town and eligible for FMLA leave may be limited to:

- A combined total of 12 weeks of leave during the 12-month period if leave is requested:
 - for the birth of a child and in order to care for that child;
 - for the placement of a child with the employee for adoption or foster care and in order to care for the newly placed child; or
 - to care for an employee's parent with a serious health condition.
- A combined total of 26 weeks in a single 12-month period if the leave is either for:
 - military caregiver leave; or
 - a combination of military caregiver leave and leave for other FMLA-qualifying reasons.

Notice of Leave

If your need for FMLA leave is foreseeable, you must give the Town at least 30 days' prior written notice. If this is not possible, you must at least give notice as soon as practicable (within one to two business days of learning of your need for leave). Failure to provide this notice may be grounds for delaying FMLA-protected leave, depending on the particular facts and circumstances.

Additionally, if you are planning a medical treatment or a series of treatments or you are taking military caregiver leave, you must consult with the Town first regarding the dates of this treatment to work out a schedule that best suits the needs of the employee or the covered military member, if applicable, and the Town.

Where the need for leave is not foreseeable, you are expected to notify the Town within one to two business days of learning of your need for leave, except in extraordinary circumstances.

FMLA request forms are available from the **Director of Human Resources**. Please submit a written request, using this form, when requesting leave.

Certification of Need for Leave

If you are requesting leave because of your own or a covered relative's serious health condition, you and the relevant health care provider must supply appropriate medical certification. You may obtain Medical Certification forms from the **Director of Human Resources**. When you request leave, the Town will notify you of the requirement for medical certification and when it is due (at least 15 days after you request leave). If you provide at least 30 days' notice of medical leave, you should also provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may result in delay or denial of FMLA-covered leave until it is provided.

The Town, at its expense, may require an examination by a second health care provider designated by the Town. If the second health care provider's opinion conflicts with the original medical certification, the Town, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion.

The Town may require subsequent medical recertification. Failure to provide requested certification within 15 days, when practicable, may result in delay of further leave until it is provided.

The Town also reserves the right to require certification from a covered military member's health care provider if you are requesting military caregiver leave and certification in connection with military exigency leave.

Re-Certification for Leave

In general, the Town may require an employee to provide a recertification of a serious health condition, but no more often than every 30 days, only in connection with an absence, and in accordance with US Department of Labor guidelines.

Employees on intermittent or reduced schedule leave will be required to periodically recertify in accordance with the US Department of Labor guidelines. Recertification is required at least every 6 months for ongoing medical conditions.

Recertification may also be required where the circumstances described in a previous FMLA certification have changed significantly, or if the Town receives information that casts doubt on the employee's stated reason for the absence or the continuing validity of the certification.

In order to recertify, the employee will be required to submit a new certification to the Department of Human Resources.

Failure to provide requested medical re-certification in a timely manner may result in delay or denial of FMLA-covered leave until it is provided.

Reporting While on Leave

If you take FMLA leave because of your own serious health condition or to care for a covered relative, you must contact the Town at least two (2) business days before your return to work □ regarding the status of the condition and your intention to return to work. In addition, you must give notice as soon as practicable (within two business days if feasible) if the dates of leave change, are extended, or initially were unknown.

FMLA Leave Is Unpaid

FMLA leave is unpaid. You will be required to substitute and run concurrently with FMLA any accrued and unused paid leave time (e.g., vacation/paid time off/sick days/personal days) for unpaid FMLA leave.

In determining which accrued and unused paid leave time will be substituted and run concurrently first, the Town will review eligibility and draw from benefits in the following order:

- Sick leave
- Vacation

- Personal days

The substitution of paid leave time for unpaid FMLA leave time does not extend the 12 or 26 weeks (whichever is applicable) of the FMLA leave period. In no case can the substitution of paid leave time for unpaid leave time result in your receipt of more than 100% of your salary. Your FMLA leave runs concurrently with other types of leave, for example, accrued vacation time that is substituted for unpaid FMLA leave and any state family leave laws, to the extent allowed by state law.

Medical and Other Benefits

During approved FMLA leave, the Town will maintain your health benefits as if you continued to be actively employed. If paid leave is substituted for unpaid FMLA leave, the Town will deduct your portion of the health plan premium as a regular payroll deduction. Premium payments must be made by the 1st day of each month and should be delivered to the Town Accountant's Office. You have a thirty-day grace period in which to make premium payments. If payment is not made timely, your group health insurance and other coverage may be canceled, provided we notify you in writing at least fifteen (15) days before the date that your health coverage will lapse.

Exemption for Key Employees

Key employees, defined as salaried and FMLA-eligible employees who are among the highest paid 10% of all employees at a worksite or within 75 miles of that worksite, may not be returned to their former or an equivalent position following FMLA leave if restoration of employment will cause substantial and serious economic injury to the operations of the Town. This fact-specific determination will be made by the Town on a case-by-case basis. The Town will notify you if you qualify as a key employee, if the Town intends to deny reinstatement and of your rights in these instances.

Intermittent and Reduced Schedule Leave

If medically necessary, leave occasioned by a serious health condition may be taken intermittently (in separate blocks of time due to a serious health condition) or on a reduced schedule leave (reducing the usual number of hours you work per workweek or workday). Leave may also be taken intermittently or on a reduced schedule leave for a qualifying exigency relating to covered military service. Employees who require intermittent leave or a reduced schedule must try to schedule their leave so that it will not disrupt the department's operations.

If leave is unpaid and you are classified as a salaried exempt administrative, professional, or computer employee, the Town will reduce your salary based on the amount of time actually worked.

While you are on an intermittent or reduced schedule leave, the Town may temporarily transfer you to an available alternative position that better accommodates your leave schedule and has equivalent pay and benefits.

Returning from Leave

If you take leave because of your own serious health condition (except if you are taking intermittent leave), you are required, as are all employees returning from other types of medical leave, to provide medical certification that you are fit to resume work. Otherwise, you will not be permitted to resume work until it is provided.

Employees Covered Under a Collective Bargaining Agreement

The employment terms set out in this policy work in conjunction with, and do not replace, amend, or supplement any terms or conditions of employment stated in any collective bargaining agreement that a union has with the Town. Wherever employment terms in this policy differ from the terms expressed in the applicable collective bargaining agreement with the Town, employees should refer to the specific terms of the collective bargaining agreement, which will control unless prohibited by law.

Pregnancy-Related Reasonable Accommodations and Breast Feeding/Lactation Policy

Purpose

As required by Massachusetts and Federal Law, the Town of Ware will provide reasonable accommodations to employees and applicants with limitations related to pregnancy, childbirth and pregnancy related conditions, unless the accommodation will cause undue hardship to the Town of Ware's operations. These accommodations include specific accommodations for those who are lactating or need to express breast milk for a nursing child

General Accommodations Policy

An employee or applicant may request an accommodation due to pregnancy, childbirth or pregnancy related condition by submitting the request in writing to the Director of Human Resources. The accommodation request should include an explanation of the pregnancy-related limitations, the accommodation needed and any alternative accommodation(s) that might be reasonable. Depending on the nature of the accommodation, the individual may be requested to submit a statement from a health care provider substantiating the need for the accommodation.

Upon receipt of a request for accommodation, HR will contact the employee or applicant to discuss the request and determine if an accommodation is reasonable and can be provided without significant difficulty or expense, i.e., undue hardship.

While the reasonableness of each accommodation request will be individually assessed and supporting medical documentation may be required, possible accommodations include allowing the individual to:

- more frequent or longer breaks, such as water, bathroom or eating and rest breaks;
- the ability to sit if needed;
- accessing closer parking;
- appropriately sized uniforms and safety apparel required for the job;
- time off to attend to a pregnancy complication or recover from childbirth;
- acquisition or modification of equipment or seating;
- temporary transfer to a less strenuous or less hazardous position;
- job restructuring;
- private non-bathroom space for expressing breast milk; or
- avoiding strenuous activity or exposure to unsafe compounds.

An employee may request paid or unpaid leave for which they are eligible as a reasonable accommodation under this policy; however, the Town of Ware will not require an employee to take time off if another reasonable accommodation can be provided that will allow the employee to continue to work.

Moreover, the Town of Ware will not require you to provide medical documentation about the need for a pregnancy-related accommodation if the accommodation requested is for: (i) more frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting no more than 20 pounds; and (iv) private, non-bathroom space for expressing breast milk.

The Town of Ware prohibits any retaliation, harassment or adverse action due to an individual's request for an accommodation under this policy or for reporting or participating in an investigation of unlawful discrimination under this policy.

Specific Accommodations for Lactating Employees

Employees are eligible under this policy to take reasonable breaks to express breast milk as provided under Massachusetts and Federal law. While it is understood that the frequency and duration of breaks needed to express milk will vary depending on factors related to the nursing employee and the child and even how long it takes to set up a pump, eligible employees who intend to take breaks under this policy should discuss with their Supervisor of their needs—including any changes needed--so that appropriate accommodations can be made.

Supervisor will work with the employee and the HR Department to designate a private non-bathroom space for expressing breast milk that is shielded from view and free from intrusion from co-workers and the public.

Any employee storing expressed milk in any authorized refrigerated area shall clearly label it.

For non-exempt employees, breaks to breastfeed or express breast milk will be paid, to the extent that the employee is using a paid break for this purpose. For example, if an employee is using paid breaks provided under their collective bargaining to express milk, then that break will be paid for. However, if the employee is using normal work time to take a lactation break and the employee is not also working, then the employee needs to make sure the break is recorded and they will not be paid for that time.

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Town of Ware's Parental Leave Policy Pursuant to the Massachusetts Parental Leave Act

Full-time employees are eligible for eight (8) weeks of unpaid parental leave under the Massachusetts Parental Leave Statute, which shall run concurrently with any applicable FMLA leave.

To be eligible, you must have completed any initial probationary period you are required to complete under the Town's policies, the Collective Bargaining Agreement covering your employment, or the Civil Service laws covering your employment. In the event that your employment is not subject to a probationary period or your probationary period is longer than three months, you must have completed at least three consecutive months of employment to be eligible for Parental Leave. You must also provide at least two weeks' written notice of your date of departure and intention to return to work following the leave or provide notice as soon as is practicable if the delay in notice is for reasons beyond your control. Written notice should be provided to the Director of Human Resources.

Leave under this policy may be taken for the purpose of giving birth, for adopting a child under the age of eighteen (twenty-three if the child is mentally or physically disabled), for placement of a child under the age of eighteen (twenty-three if the child is mentally or physically disabled), or for the placement of a child pursuant to a court order. If two employees of the Town require leave to care for the same child, they are entitled to eight (8) weeks total parental leave between them.'

Employees on parental leave may, but are not required to, use any accrued vacation or personal time the employee has, concurrently with all or part of the parental leave taken under this policy.

Employees on paid parental leave may, but are not required to, use any accrued sick time concurrently with any part of the parental leave that satisfies the applicable sick time policy.

No vacation personal time, sick leave or other paid time off benefits will accrue during the leave. Health coverage will continue on the same basis as before the leave.

Upon returning to work, you will be restored to your position, or a similar one with the same status, pay, length of service credit and seniority as of the date of the leave, unless economic or business conditions during the leave period would have resulted in a lay-off had leave not been taken.

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