

# FMLA FAQs

## *Family Medical Leave Act*

### What is FMLA?

The Family Medical Leave Act of 1993 (FMLA) provides unpaid, job-protected leave to eligible employees, allowing up to 12 work weeks of unpaid leave for certain family and medical reasons during a 12-month period.

### What types of leave qualify for Family Medical Leave (FML)?

Four types of leave available; designated as Continuous (consecutive absences) or Intermittent:

- Leave for the birth of an employee's child or the placement of an adoptive or foster child in the employee's home. Leave must be taken within 12 months of the birth or placement of the child.
- Leave to care for the employee's spouse, child or parent who has a serious health condition.
- Leave for an employee with a serious medical condition, which hinders him or her from performing essential job functions.
- Leave to care for a covered service member with a serious injury or illness. Eligible employees must be the service member's spouse, child, parent, or next of kin (military service caregiver).

### Who is eligible?

To be eligible for FML, you must have worked for the Town for at least 12 months **and** have worked a minimum of 1,250 hours within the past 12 months prior to the start of the leave.

### What benefits will FML provide?

1. The Town is required to reinstate you in the same or equivalent position, with the same pay and benefits as the position you held before your leave.
2. Your benefits must be maintained through a FMLA-covered leave.
3. If you request FML to care for a family member, you will be able to use your accrued sick leave. Certain union contracts have a limit on the sick time you may access.
4. Absences that are covered under the FMLA cannot be held against you in any employment decisions.

### What is a serious health condition?

The most common serious health conditions that qualify for FML are:

- Conditions requiring an **overnight stay in a hospital** or other medical facility.
- Conditions that incapacitate an employee or family member (for example, unable to work or attend school) **for more than three consecutive days** and require ongoing medical treatment (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication).
- **Chronic conditions** that cause occasional periods in which an employee or family member is incapacitated and requires treatment by a health care provider at least twice a year.
- **Pregnancy**, including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest.

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### What is not a serious health condition?

Minor ailments such as:

- Common cold
- Flu
- Earaches
- Upset stomach
- Minor ulcers
- Headaches (other than migraines for which you are receiving medical treatment)

### Do I have to take my leave all at once?

You can take FML as either a continuous, single block of time or intermittently, in multiple, smaller blocks of time, if medically necessary. You can also take leave on a part-time basis if medically necessary and if schedule accommodations are possible.

### Will I be paid during my FML?

FML grants you the right to unpaid leave. However, pursuant to Town practices, you may substitute your accrued leave time (sick, personal, vacation), which is taken concurrently through an FML qualified leave.

### How do I request my FML?

When the need for leave is foreseeable, the FMLA requires that the request be made at least 30 days before your leave begins. Examples of leave requiring a 30-day notice include a placement for adoption or foster care, or planned medical treatment for the employee or a family member related to a serious health condition.

If a 30-day notice is not possible due to lack of knowledge when the leave will begin, a change in circumstances or a medical emergency, notice must be given to your supervisor as soon as possible. Department Heads will notify Human Resources once a need for leave arises. Human Resources will determine eligibility and contact the employee.

*All eligible leaves will be designated as FML even if you did not specifically request FML leave.* Federal and State laws require an employer to grant FML for all eligible leaves of absence.

### How are my insurance premiums paid while I am on FML?

The Town will continue to pay the employer portion of health and life insurance premiums. You will continue to be responsible for your portion of insurance premiums, if any, while on leave. If payroll is unable to collect insurance premiums from your paycheck, premiums will be paid directly to the Benefits Office.

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### What happens when my 12 weeks of FML are exhausted?

The Town will pay for its portion of your benefits for the 12 weeks while you are out on FML, and any additional time you are absent and using sick time. If you are provided with additional unpaid leave time, you will be required to pay the entire amount of your benefits (employer and employee portion) during that unpaid absence. You have the option to cancel your group insurance benefits while you are on leave if you have other insurance options available to you. You must contact the Benefits Office if you plan to cancel your insurance.

### When can I use my FML again once it is exhausted?

FML is granted to the employee within the boundaries of 12 work weeks within a 12-month period. The Town uses a 'rolling calendar' to determine your eligibility for FMLA. This means that when you request leave, only the leave taken within the past 12 months will count against your 12 week maximum. *Example: Mary took 2 weeks of leave December 1 - December 14. She requests a leave a few months later that will begin April 5 and end April 30. Looking back over the past 12 months, Mary only used 2 weeks so she is entitled to 10 of the maximum 12 weeks.*

### What if my spouse is also a Burlington employee and we want to take leave at the same time?

If FML is taken for a medical leave, each employee is entitled to 12 weeks of their own under certain circumstances. However, if FML is taken for childbirth/bonding both employees are limited to a total of 12 weeks between them.

### Does FML cover military leave?

Military Leave is not covered under the umbrella of FML. Employees may request a military leave pursuant to Town policies for specified reasons related to certain military deployments. However, an employee may take up to 26 weeks of FML in a single 12-month period to care for a covered service member with a serious injury or illness.

### How will I know if I'm eligible and approved for FML?

Once you have requested leave, Human Resources will advise you of your FML status. Some leaves may be preliminarily designated as FML pending medical certification. Once the medical information is received, you will receive communication confirming whether or not FML is approved.

### Will I be required to provide other information for my leave to be approved?

To determine eligibility for FML, Human Resources may provide you with the Certification for Healthcare Provider form for a physician to complete. You are given a 15 day period to submit the completed certification. If the certification is not provided in a timely manner, FML may not be approved. In any instance that you are using your sick time, medical information should be submitted to document its use. All medical information received is maintained confidentially.

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### What do I have to do when I am ready to come back to work?

In all cases, you must contact your supervisor before returning to work. You must, with the exception of Care for Family Member or maternity/paternity leave, provide your supervisor with a medical release (fitness for duty) before returning. The Fitness for Duty release should include any necessary work restrictions or modifications. You will be expected to perform the essential functions of your job when you return. If you require assistance to perform these functions, your supervisor and Human Resources will work with you to determine if an accommodation is possible.

### What if I am not eligible for FML?

Generally, employees who are not eligible for leave under FMLA are employees who have worked less than a year full-time, or who are part-time. If FML is not available, you may have other contractual or State/Federal leave options available to you. You may always contact Human Resources to explore any other options available to you.

### What if am enrolled in Short Term Disability insurance?

Short Term Disability is a separate program from FML, but can be used concurrently during any FML absence. Short Term Disability must be applied for separately by submitting the appropriate documentation. If approved, a member can be awarded up to 13 weeks for Short Term Disability. This program will only cover absences related to the employee's illness or condition. Disability benefits are not granted to cover care for family members.

### I have plenty of sick time, can I waive FML?

The FMLA provides a benefit that protects your job, including maintenance of your benefits and seniority. No adverse employment actions can be taken because of your absence for an FMLA-qualifying purpose. The Town is obligated by federal law to provide this benefit to you once we learn of a qualifying absence. You cannot waive your rights under the FMLA.