

# FAMILY & MEDICAL LEAVE

*A Guide for City of Garden Grove Employees*



# FAMILY & MEDICAL LEAVE

## AN INTRODUCTION TO THE FAMILY AND MEDICAL LEAVE ACT

When you or a loved one experiences a serious health condition that requires you to take time off from work, the stress from worrying about keeping your job may add to an already difficult situation.

The Family and Medical Leave Act (FMLA) may be able to help. Whether you are unable to work because of your own serious health condition, or because you need to care for your parent, spouse, or child with a serious health condition, the FMLA provides unpaid, job-protected leave. Leave may be taken all at once, or may be taken intermittently as the medical condition requires.

This guide provides a simple overview of how the FMLA may benefit you. In your time of need, sometimes you just need time.

This guide will explain:

- Who can use FMLA leave?
- Am I eligible for FMLA leave?
- When can I use FMLA leave?
- What can the FMLA do for me?
- How do I request FMLA leave?
- Communication with the City
- Medical certification
- Returning to work

## WHO CAN USE FMLA LEAVE?

In order to take FMLA leave, you must have first worked for a covered employer. Under the law, government agencies (including local, state and federal employers) and elementary and secondary schools are covered by the FMLA, regardless of the number of employees. In the private sector, only companies with at least 50 employees are covered by the FMLA. If they have fewer than 50 employees, they are not covered by the FMLA, but may be covered by state family medical leave laws.

Since the City of Garden Grove is a covered employer, employees need to meet additional criteria to be eligible to take FMLA leave. Not everyone who works for the City is eligible for FMLA leave.

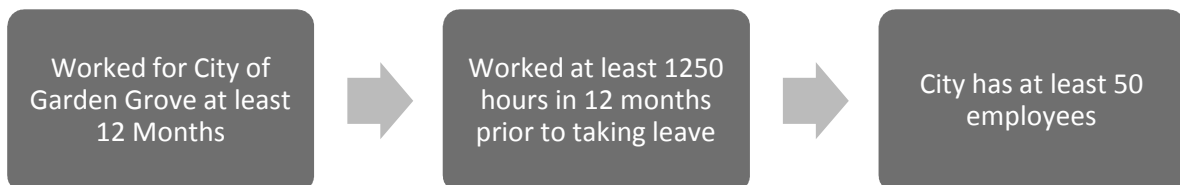
## AM I ELIGIBLE FOR FMLA LEAVE?

To determine if you are eligible for FMLA leave, you must have met the following requirements.

First, you must have worked for the City of Garden Grove for at least 12 months. You do not have to have worked for 12 months in a row (so seasonal work counts), but generally if you have a break in service that lasted more than seven (7) years, you cannot count the period of employment prior to the seven-year break.

Second, you must have worked for the City of Garden Grove at least 1250 hours in the 12 months before you take leave. That works out to an average of 25 hours per week over the course of a year here at the City.

Lastly, you must work at the location where the employer has at least 50 employees within 75 miles of your worksite, which the City of Garden Grove has.



## WHEN CAN I USE FMLA LEAVE?

Since you work for the City of Garden Grove, you are eligible to take up to 12 weeks of FMLA leave in any 12-month period for a variety of reasons. These reasons include:

### *Serious Health Condition*

You can take FMLA leave when you have your own serious health condition that makes you unable to work or to care for your family member who has a serious health condition. Qualified family members include: parent, spouse, or child.

The most common serious health conditions that qualify for FMLA leave are:

- Conditions requiring an overnight stay in a hospital or other medical care facility.
- Conditions that incapacitate you or your family member (for example, unable to work or attend school) for more than three consecutive days and have an ongoing medical treatment (either multiple appointments with a health provider, or a single appointment and follow-up care such as prescription medication).
- Chronic conditions that cause occasional periods when you or your family member are incapacitated and require 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).

### *Expanding your Family*

You may take FMLA leave for the birth of a child and to bond with the newborn child, or for the placement of a child for adoption or foster care and to bond with that child. Men and women have the same right to take FMLA leave to bond with their child, but it must be taken within one year of the child's birth or placement and must be taken as a continuous block of leave unless the City agrees to allow intermittent leave (for example, a part-time schedule).

### *Military FMLA Leave*

The FMLA also provides certain military family leave entitlements. You may take FMLA leave for specified reasons related to certain military deployments. Additionally, you may take up to 26 weeks of FMLA leave in a single 12-month period to care for a covered service member with a serious injury or illness.

## WHAT CAN THE FMLA DO FOR ME?

If you are faced with a health condition that causes you to miss work, whether it is because of your own serious health condition or to care for a family member with a serious health condition, you may be eligible to take up to 12-weeks of job-protected time off under the FMLA.

If you take FMLA leave, the City must continue your health insurance as if you were not on leave (you may be required to continue to make your normal employee contributions).

As long as you are able to return to work before you exhaust your FMLA leave, you must be returned to the same job (or one nearly identical to it). This job protection is intended to lessen the stress that you may otherwise feel if forced to choose between work and family during a serious medical situation.

Time off under the FMLA may not be held against you in employment actions such as hiring, promotions or discipline.

You can take FMLA leave as either a single block of time (for example three weeks of leave for surgery and recovery) or multiple, smaller blocks of time if medically necessary (for example, occasionally absence due to cancer treatments). You can also take leave on a part-time basis if medically necessary (for example, if after surgery you are able to return to work only four hours a day or three days a week for a period of time). The City refers to this modified work as “light duty” and has a time limit on this type of assignment of 60 calendar days. If you need multiple periods of leave for planned medical treatment such as physical therapy appointments, you must try to schedule the treatment at a time that minimizes the disruption to the City.

FMLA leave is unpaid leave. However, the City requires employees to substitute accrued paid leave for unpaid FMLA leave. The order in which you use your paid leave is dependent on the type of FMLA leave you are taking. Generally sick or family sick are used first, followed by vacation and compensatory time.

## HOW DO I REQUEST FMLA LEAVE?

To take FMLA leave, you must provide the City with a request form, which serves as notice of your request to take FMLA leave. If you know in advance that you will need FMLA leave (for example, if you are planning on having surgery or you are pregnant), you must give both Human Resources and your supervisor at least 30 days advance notice. If you learn of your need for leave less than 30 days advance notice, you must give Human Resources notice as soon as you can (generally either the day you learn of the need or the next working day). When you need FMLA leave unexpectedly, (for example, if a family member is injured in an accident), you **MUST** inform both Human Resources and your supervisor as soon as you can. You must follow the City's usual notice or call-in procedures unless you are unable to do so (for example, if you are receiving emergency medical care).

You do not have to tell the City your medical diagnosis, but you do need to provide information indicating that your leave is due to an FMLA protected condition. This can be done by completing the medical certification form for either your own medical condition, or a family member's medical condition. In lieu of medical certification, you may be permitted to submit a doctor note.

## COMMUNICATION WITH THE CITY

Ongoing communication between you and the City will make the FMLA process run much more smoothly. The City and the employee must follow guidelines about notifying the other party when FMLA leave is being used.

You will need to inform both Human Resources and your supervisor if your need for FMLA changes while you are out (for example, if your doctor determines that you can return to work earlier than expected). You must notify both Human Resources and your supervisor of your intent to return to work at least two (2) business days prior to your return. The City may require you to provide periodic updates on your status or a Fitness for Duty / Medical Certification prior to your return.

The City must notify you if you are eligible for FMLA leave within five (5) business days of your leave request. If you are not eligible, the City must state at least one reason why you are not eligible. At the same time that the City gives you an eligibility notice, it must also give you a notice of your rights and responsibilities under the FMLA.

## MEDICAL CERTIFICATION

If the City requires medical certification, you only have 15 calendar days to provide it in most circumstances. You are responsible for the cost of getting the certification from your health care provider and for making sure that the certification is provided to Human Resources. If you fail to provide the requested medical certification, your FMLA leave may be denied. The medical certification must include some specific information:

- Contact information for the health care provider
- When the serious health condition began and how long the condition is expected to last
- Appropriate medical facts about the condition (which may include information on symptoms, hospitalization, doctors' visits, and referrals for treatment).
- Whether you are unable to work or your family member is in need of care
- Whether you need leave continuously or intermittently. If you need to take leave a little bit at a time, the certification should include an estimate of how much time you will need for each absence, how often you will be absent, and information establishing the medical necessity for taking such intermittent leave.

If Human Resources finds that necessary information is missing from your certification, you will be notified in writing of what additional information is needed to make the certification complete. You must provide the missing information within seven (7) calendar days. If Human Resources has concerns about the validity of your certification, a second opinion may be requested, but the cost must be covered by the City. The City may request a third opinion if the first and second differ, but must cover the cost.

If your need for leave continues for an extended period of time, or if it changes significantly, the City may require you to provide an updated certification.



## RETURNING TO WORK

When you return to work, the FMLA requires that the City return you to the same job that you left, or one that is nearly identical. If you are not returned to the exact same job, the new position must:

- Involve the same or substantially similar duties, responsibilities, and status.
- Include the same general level of skill, effort, responsibility and authority.
- Offer identical pay, including equivalent premium pay, overtime and bonus opportunities.
- Offer identical benefits (such as life insurance, health insurance, disability insurance, sick leave, vacation, educational benefits, pensions, etc.)
- Offer the same general work schedule, and be at the same or nearby location.

Please keep in mind that if you exhaust your FMLA leave entitlement and are unable to return to work, your employer is not required to restore you to your position.

### *“Key” Employee*

Certain “key” employees may not be guaranteed reinstatement to their positions following FMLA leave. A “key employee” is defined as a salaried, FMLA-eligible employee who is among the highest paid ten percent of all the employees working for the employer within 75 miles of the employee’s worksite.

### *Fitness for Duty / Medical Clearance*

The City may require you to present a Fitness for Duty / Medical Clearance prior to being reinstated to employment. This certification ensures the City is aware of any work restrictions you may have and can determine if the restrictions can be accommodated. If you do not have any work restrictions, you may submit a doctor’s note stating you can “return to work full-duty, with no work restrictions.” This certification is generally requested for returning to work after the employees own serious health condition (for example, pregnancy, surgery or other medical treatments). Employees who do not provide a Fitness for Duty / Medical Clearance may not be allowed to return to work until they provide the appropriate documentation.