

DEPARTMENT OF EMPLOYEE RELATIONS

10/01/2019

FMLA Notice of Eligibility – Supervisor/Manager Instructions

All managers and supervisors have responsibility to ensure compliance with the FMLA Notice of Eligibility requirements. The City of Milwaukee is required to provide a written notice of eligibility to any employee who might qualify for Federal FMLA leave within five days of being informed that an employee may need FMLA leave. Employees are not required to use any “magic words” signal that they may need protected leave and employees may not know to contact their departmental FMLA administrators. It is imperative that all supervisors and managers identify situations when an employee might be eligible to take protected FMLA leave to ensure compliance with the law. Once a supervisor or manager has identified such a situation, it is the supervisor or manager’s responsibility to inform the departmental leave administrator of that situation.

Instances in which a manager must contact the departmental FMLA administrator and provide the administrator’s contact information to an employee:

1. When the employee requests FMLA leave
2. When an employee has not requested leave but might qualify for FMLA leave because:
 - a. an employee has been out for four or more consecutive calendar days for their own illness or to care for a family member who is ill;
 - b. an employee has indicated that they or their partner is pregnant, that they are in the process of adopting a child or that they are in the process of having a child placed with them for foster care;
 - c. an employee indicates that they or a family member has a planned surgery or suffer from a chronic condition requiring ongoing treatment; or
 - d. an employee indicates that a family member has been called to active military service.

If a manager or supervisor learns that an employee may qualify for FMLA leave, the manager or supervisor should, as soon as possible, and no later than four days after becoming aware of the possible need for FMLA leave, send the following information to the departmental FMLA leave administrator:

1. Employee name
2. FMLA qualifying event
3. Date supervisor or manager learned of FMLA qualifying event

While Federal and Wisconsin FMLA only cover leave for certain family members, the Federal FMLA allows employees to take leave for the care of a minor child to whom they stand *in loco parentis* as well as a disabled adult to whom they stand *in loco parentis* regardless of their biological or legal relationship. Employees are also granted rights to leave to care for an individual who stood *in loco parentis* to the employee when they were a child. For instance, an employee may provide consistent care and financial support of a minor grandchild or a friend with a disability and could still qualify for Federal FMLA to care for them. If an employee might need leave for an individual to whom they stand *in loco parentis* the leave administrator should be alerted, and if there are concerns regarding whether the relationship qualifies the administrator can address them during the certification process.

Employees cannot be required to use protected leave, however, they must be informed of their eligibility for protected leave and their rights under the Federal FMLA. Managers and supervisors should not request any confidential medical information from employees and any such information they receive should be provided to the departmental FMLA administrator in a means other than email.

Please contact your departmental FMLA leave administrator with questions.