

Leave Administration Procedure Benefits & Retirement Operations Section

Cancels:
See Also:

Effective Date: 2/20/2024

DETERMINATION OF FAMILY AND MEDICAL LEAVE ACT (FMLA)

It is the overall responsibility of King County to properly designate employee leaves of absence for family and medical reasons. The following steps will help human resources personnel and supervisors determine FMLA eligibility. The Protected Family and Medical Leave Request Response Form can be completed as you progress through these procedures. The form can be found on the Benefits website at http://www.metrokc.gov/employees/benefits/health_and_insurance/forms.aspx.

Step One: Determine leave eligibility

FMLA leave must meet both of these separate requirements:	Has the employee worked for King County for at least a cumulative total of 12 months?
	Has the employee worked 1,250* hours during the 12 months immediately preceding their anticipated start date? (The calculation only refers to hours actually worked and does not include other hours such as sick leave, vacation leave or holidays.) (*1,040 hours if you are a full-time Local 587 employee)

If the answer is no to either one of these eligibility questions then the employee is not eligible to receive FMLA benefits. Determination should be made from the anticipated start date of the leave of absence and not from the date the employee submits the form. If the employee is not eligible for FMLA leave they still may be eligible for other protected family and medical leaves of absence.

Step Two: Determine the reason for the leave of absence

FMLA leave is for one of these reasons:*	1.	Serious health condition of: <input type="checkbox"/> Self <input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Parent or an individual who stands or stood in loco parentis
	2.	<input type="checkbox"/> Birth of son/daughter, care for newborn, placement for adoption/foster care
	3.	<input type="checkbox"/> Employee's Workers' Compensation injury/illness Claim # _____
	4.	Serious health condition of: <input type="checkbox"/> Military Service Member
	5.	<input type="checkbox"/> Active Duty Military Family Leave

If the reason for the leave of absence does not meet one of the above criteria then the employee is not eligible for FMLA. If the leave reason is for a domestic partner or the child or parent of a spouse or domestic partner please refer to the KCFML determination procedure.

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Step Three: Determine FMLA available hours for use and availability of full FMLA entitlements

FMLA leave calculation must include both entitlements:	Regularly scheduled weekly hours multiplied by 12 weeks = total hours of available FMLA entitlements
	Determine the available hours by subtracting all FMLA hours used in the previous 12 months from the hours calculated above.

To determine the total number of hours available for use you must multiply the regular number of weekly hours scheduled by 12 weeks to establish the total number of hours available. If the employee does not work an established number of hours each week then the average number of hours over the last 3 months is used as a baseline for this calculation.

The employee is eligible to receive up to 12 weeks of FMLA leave every 12 months. King County has adopted a rolling year which is calculated 12 months backwards from the first day of leave. This means that to determine if the employee is entitled to 12 full weeks of FMLA leave, you must look back in the 12 months preceding the anticipated leave start date and determine if other FMLA hours were used. If so, then you must deduct the amount of time used from the full 12-week entitlement. The employee is entitled to the remainder of the available time. If the employee has used all of their 12-week entitlement within the last 12 months then they are not eligible for FMLA at that time.

Step Four: Determine the leave schedule and nature of assistance (if applicable)

FMLA leave will be taken:	<input type="checkbox"/> Continuously <input type="checkbox"/> Reduced schedule* <input type="checkbox"/> Intermittently *
	*Must be medically necessary
If caring for a family member, the nature of assistance to be provided includes:	<input type="checkbox"/> Basic medical needs <input type="checkbox"/> Personal needs <input type="checkbox"/> Transportation <input type="checkbox"/> Safety <input type="checkbox"/> Emergency Room <input type="checkbox"/> Care of minor <input type="checkbox"/> Psychological Comfort

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FMLA leave can be used on a continuous, intermittent or reduced leave schedule. Intermittent and reduced leave schedules must be medically necessary and be of such a nature that the medical need can be best accommodated through an intermittent or reduced leave schedule. Employees with an approved intermittent or reduced leave schedule must attempt to schedule their leave so as not to disrupt normal business operations.

Examples:

#1 Jacob Doe has worked for King County in two consecutive TLT positions (separate bodies of work) that lasted 6 months and 7 months in length and wishes to take a continuous leave of absence to recover from his own serious health condition. Jacob is a full time regular employee that works 40 hours per week. Is Jacob entitled to FMLA leave?

Answer: Jacob has worked 13 months for King County and at least 1,250 hours to qualify for FMLA eligibility. Jacob is entitled to a full 12 weeks of FMLA using up to 480 hours (12 weeks x 40 hours per week) for his continuous leave of absence.

#2 Stephanie Walters has worked for King County for five years in a career service position and wishes to take intermittent leave to care for her mother who has a serious health condition. Stephanie does not work a set number of hours per week and has worked 28, 32, 36, 25, 40, 31, 38, 24, 25, 21, 34, 27 hours during the last 12 weeks. Stephanie used 120 hours of FMLA leave six months earlier for her own serious health condition. How much FMLA leave, if any, is she entitled to?

Answer: Stephanie has worked the required 12 months for King County and worked enough hours in the past 12 months to qualify for FMLA. She is entitled to use up to 360 hours of FMLA (12 weeks x 30 hours per week average) leave for her mother's intermittent serious health condition. However, in this scenario she had used four weeks of FMLA within the last 12 months and those four weeks must be subtracted from her total FMLA entitlement for this leave of absence. Stephanie would thus be entitled to use up to 240 hours of FMLA (8 weeks x 30 hours per week average).

#3 Brad London has worked for King County for 27 years in five consecutive career service positions but only four months in his current position. Brad works four days a week on a 32-hour schedule and wishes to take time off to care for the serious health condition of his domestic partner. Is Brad eligible for FMLA leave?

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Answer: Brad has worked the required 12 months for King County and worked enough hours in the past 12 months to qualify for FMLA. However, since domestic partners are not eligible under FMLA's definition of an eligible family member this employee would not be entitled to FMLA. Refer to the KCFML designation procedure for possible rights and entitlements.

#4 Brenda Wells has worked for King County for the past 3 years as a Transit Operator and is a member of ATU587. Brenda started her career as a part-time Transit Operator and became a full-time operator 9 months ago. She was recently diagnosed with a serious health condition that restricts her from performing the essential functions of the Transit Operator position and therefore requires a continuous leave of absence for treatment and recovery. When looking back 12 months from the leave request start date, she worked a total of 1,160 hours. Is Brenda eligible for FMLA/KCFML leave?

Answer: Brenda would qualify for FMLA/KCFML leave as she has worked the required 12 months for King County and worked enough hours in the past 12 months to qualify for FMLA/KCFML. As an ATU587 member, Brenda is only required to work 1,040 hours as a full time employee to qualify for FMLA/KCFML.

#5 Bruce Wilkinson has worked for King County for five years in two consecutive TLT positions (separate bodies of work) working 33 hours per week. He has been in his current TLT position for only nine months. He recently filed a Workers' Compensation claim due to an injury to his right leg. Bruce works three days a week, 11 hours per day. Does Bruce qualify for FMLA?

Answer: Bruce has worked the required 12 months for King County regardless of the duration of his current position. Bruce is entitled to use up to 396 hours of leave (12 weeks x 33 hours per week) for this concurrently designated FMLA/Workers' Compensation leave of absence. This leave is designated as a Workers' Compensation and FMLA leave of absence. FMLA rights and entitlements would provide both job and benefits protections for the duration of the FMLA leave, and end once FMLA/KCFML is exhausted.