



Family and Medical Leave Act

1. SCOPE

- 1.1. System Wide (see section 2.1)

2. DEFINITIONS & EXPLANATIONS OF TERMS

- 2.1. Marshfield Clinic Health System, Inc. and all its entities (with the exception of Marshfield Information Systems, Inc. and Marshfield Food Safety, LCC) hereinafter referred to as "System".
- 2.2. FMLA – Family and Medical Leave Act.
- 2.3. Individual(s) – Physicians and staff of the System.
- 2.4. PTO – Paid time off or vacation.

3. POLICY BODY

To set forth the System's policy for providing leaves of absence to eligible individuals to the extent required by any applicable state and/or federal Family and Medical Leave Act (FMLA) and to provide notice and guidance as to rights, responsibilities, expectations and consequences associated with such leave. It is the policy of the System to provide eligible individuals with unpaid family and/or medical leave of absence from work to the extent required by any applicable state and/or federal FMLA. It is not the intent of this policy to extend state or federal FMLA rights to individuals that are not eligible for such protection. It is not the intent of this policy to conflict with any applicable state or federal law. It is also not the intent of this policy to extend or create any rights for individuals not granted under any applicable FMLA. The System expressly reserves all rights afforded to employers either expressed or implied, under any applicable FMLA as well as any rules or regulations promulgated thereunder. No individual is entitled to any right, benefit, or position other than that to which the individual would have been entitled had he or she not taken FMLA leave.

3.1. Individual Eligibility

a. Federal Eligibility

1. To be eligible for federal FMLA, an individual must:

- i. Work for a covered employer;
- ii. Have worked for the System a total of at least 12 months;
- iii. Have worked for at least 1,250 hours over the 12-month period preceding the leave commencement date; and
- iv. Worked at a location where at least 50 employees are employed by the System within 75 miles.

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b. Wisconsin State Eligibility

1. To be eligible for Wisconsin FMLA, an individual must:

- i. Work for a covered employer;
- ii. Have worked for the System for a total of at least 52 consecutive weeks and
- iii. Have worked for the System at least 1,000 hours during the 52-week period preceding the leave commencement date.

c. Other States

1. Individuals employed in states other than Wisconsin may be governed by any respective applicable state laws relating to leave.

3.2. Twelve Month Period

For purposes of this policy, the System uses the calendar year as the applicable 12-month period for state and federal FMLA purposes.

3.3. Types of Eligible Leave

a. Federal Leave: Eligible individuals may take leave for the following reasons:

1. The birth of the individual's son or daughter, and to care for the newborn son or daughter;
2. The placement with the individual of a son or daughter for adoption or foster care, and to care for the newly placed son or daughter;
3. To care for the individual's spouse, parent or covered son or daughter with a serious health condition;
4. Because of the individual's own serious health condition that makes the individual unable to perform the functions of his or her job;
5. Because of a qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the individual is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation; or
6. To care for a covered service member who (a) is the spouse, son, daughter, parent, or next of kin of the individual and (b) was injured or is ill resulting in the line of duty and undergoing medical treatment, recuperation or therapy, in an outpatient status or is on the temporary disabled retired list for a serious injury or illness. Next of kin is defined as the nearest blood relative (siblings, parents, aunts, uncles and grandparents) of the service member.

b. Wisconsin Leave: Eligible individuals may take leave for the following reasons:

1. The birth of the individual's son or daughter, and to care for the newborn son or daughter;
2. The placement with the individual of a son or daughter for adoption, and to care for the newly placed son or daughter;

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3. To care for the individual's spouse, domestic partner, parent, parent-in-law, a parent of the domestic partner or covered son or daughter with a serious health condition; or
4. Because of the individual's own serious health condition that makes the employee unable to perform the functions of his or her job.

3.4. Leave Duration

a. Federal

1. An individual eligible under the federal FMLA only is limited to a total of 12 workweeks of unpaid leave during the 12-month period for any reason or combination of reasons set forth in paragraph 3.3(a) (1 through 6) above.
2. An individual eligible under the federal FMLA only is limited to a total of 26 workweeks of unpaid leave during a single 12-month period for reasons set forth in paragraph 3.3(a)(6) above.
3. During the single 12-month period described in paragraph 3.3(a) (6), an eligible individual shall be entitled to a combined total of 26 workweeks of leave under paragraphs 3.3(a) (1 through 6). Nothing under paragraph 3.3(a)(6) shall be construed to limit the availability of leave under paragraph 3.3(a)(1 through 5) during any other 12-month period.

b. Wisconsin

1. An individual eligible under the Wisconsin FMLA is limited to up to six (6) weeks of unpaid leave in the 12-month period within 16 weeks of the birth of the individual's son or daughter or placement with the individual of a son or daughter for adoption;
2. An individual eligible under the Wisconsin FMLA is limited to up to two (2) weeks of unpaid leave in the 12-month period to care for a spouse, domestic partner, parent, parent-in-law, a parent of the domestic partner or covered son or daughter with a serious health condition; or
3. An individual eligible under the Wisconsin FMLA is limited to up to two (2) weeks of unpaid leave in the 12-month period for the individual's own serious health condition.

c. Dual Coverage

An individual under both state and federal law may not "stack" or run leave eligibility under both state and federal FMLA consecutively. Leave that qualifies under both state and federal law shall run concurrently. Individuals eligible under both Acts may apply the protection of the Acts that the individual believes is more beneficial to his or her circumstances. It shall not be the responsibility of the System to make such determinations as each individual's circumstances are different and individual preferences may vary.

d. Part-Time Individuals

Eligible part-time individuals are provided FMLA leave on a pro rata, proportional basis.

e. Irregular Schedule

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If an individual's work schedule varies from week to week, the average weekly hours worked during the 12 weeks prior to the start of the FMLA leave will be used to calculate the individual's "normal" work schedule for purposes of calculating FMLA leave.

f. Jointly Employed Spouses

Under federal FMLA, and not inconsistent with any state FMLA, a husband and wife who are both employed by the System are limited to a combined total of 12 weeks of leave during the 12-month period if the leave is taken:

1. For birth of the individual's son or daughter or to care for the son or daughter after birth;
2. For placement of a son or daughter with the individual for adoption, foster care, or to care for the son or daughter after placement; or
3. To care for the individual's parents with a serious health condition.

g. Reduced or Intermittent Leave

1. Birth or placement: When federal FMLA leave is taken for the birth of a son or daughter or the placement of a son or daughter for adoption or foster care, reduced or intermittent leave shall only be allowed for business reasons with the manager's authorization and approval by Human Resources. This provision may be applied to the extent not inconsistent with state law.
2. Medical Necessity: Leave may be taken intermittently or on a reduced leave schedule when medically necessary due to a serious health condition which incapacitates the individual.
3. Transfer: If an individual has a serious health condition which necessitates intermittent leave or leave on a reduced leave schedule or if such leave is voluntarily granted, the System may require the individual to transfer temporarily, during the period the intermittent or reduced leave schedule is required or allowed, to an available alternate position for which the individual is qualified and which the System believes better accommodates the reduced or intermittent leave. The alternate position will have the same pay and benefits; however, earned PTO may be proportionately reduced for earned PTO normally based upon the number of hours worked. This provision may be applied to the extent not inconsistent with state law.
4. Increments: The smallest measure that hourly individuals may take partial leave is 15 minutes. The smallest increment of partial leave that exempt individual may take is 4 hours.

h. Additional Leave

Leave not covered by any state or federal FMLA may be considered to the extent required by any other applicable local, state, or federal law and/or consistent with other System policies.

3.5. Notice/Scheduling

a. Foreseeable Leave

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1. An individual must provide at least 30 days advance notice before FMLA leave is to begin if the need for leave is foreseeable based upon an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the individual or of a covered family member. If 30 days is not practicable, notice must be given as soon as practicable. Ordinarily this would mean at least verbal notice within one or two business days of when the need for leave becomes known to the individual.
2. An individual shall provide at least verbal notice sufficient to make the employer aware that the individual needs FMLA qualifying leave and the anticipated timing and duration of the leave. Individuals are required to comply with the usual and customary System and any applicable departmental notice and procedural requirements for requesting leave.

b. Unforeseeable Leave

When leave is unforeseeable, it is expected that an individual shall give notice to his or her manager within one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible.

c. Medical Treatment

When planning medical treatment, the individual must consult with their departmental manager and make a reasonable effort to schedule the leave so as not to disrupt unduly the department's or System's operations. The individual must endeavor to secure the approval of his or her own or covered family member's health care provider to reasonably schedule the treatment to avoid such disruption.

d. Reduced or Intermittent Leave

In the case of reduced or intermittent leave which is medically necessary, an individual must advise his or her manager of the reasons why the reduced or intermittent leave schedule is necessary and of the schedule for treatment if applicable. The individual and his or her manager shall attempt to work out a schedule which meets the individual's medical necessities without unduly disrupting the department's or System's operations, subject to the approval of the health care provider.

3.6. Serious Health Condition, Certifications, Recertifications, Second/Third Opinions

a. Serious Health Condition

1. Federal - A serious health condition is an illness, injury, impairment or physical or mental condition that involves one of the following:
 - i. Inpatient Care: Inpatient care (i.e. overnight stay) in a hospital, hospice or residential medical facility, including any period of incapacity or subsequent treatment in connection with such inpatient care.
 - ii. Incapacity plus Treatment: Incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves: treatment two or more times by a health care provider on at least one

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occasion or results in a regimen of continuing treatment under the supervision of a health care provider.

- iii. Pregnancy/Prenatal: Incapacity due to pregnancy or prenatal care.
- iv. Chronic Conditions requiring Treatment: A chronic condition which requires periodic visits for treatment by a health care provider which continues over an extended period of time AND may cause episodic rather than a continuing period of incapacity (i.e. migraine, diabetes, epilepsy, etc.)
- v. Permanent/Long-Term Condition requiring Supervision: Incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The patient must be under the continuing supervision but need not be receiving active treatment by a health care provider: (i.e. Alzheimer's disease, severe stroke, terminal stages of a disease, etc.)
- vi. Multiple Treatment (non-chronic conditions): Any absence to receive multiple treatments (including recovery) by a health care provider for either the restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment such as cancer (i.e. chemotherapy, radiation), severe arthritis (i.e. physical therapy) or kidney disease (i.e. dialysis) etc.

2. Wisconsin – A serious health condition means a disabling physical or mental illness, injury, impairment or condition involving any of the following:

- i. Inpatient care in a hospital, nursing home, or hospice.
- ii. Outpatient Care requiring "Continuing Treatment or Supervision by a Health Care Provider": Direct, continuous and first-hand contact by a health care provider subsequent to the initial outpatient contact.

b. Certifications

Individuals are required to provide a medical certification from appropriate health care provider(s) on a form provided by the System for leave requests for the serious health condition of the individual or a covered family member.

c. Clarification and Authenticity

The System may request clarification and/or authenticity of the medical certifications consistent with the state and/or federal law.

d. Recertifications

The System may request Recertifications if a question as to the appropriateness of the leave or its duration or for other reasons consistent with state and/or federal law.

e. Timeliness

When the leave is foreseeable, the individual should provide the medical certification to the System's Human Resources department at least 30 days before the leave begins. If the leave is not foreseeable, the individual must

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provide the medical certification or recertification within 15 calendar days after the request.

f. Second and Third Opinions

The System may require that the individual or covered family member be examined by a health care provider of the System's choice for a second opinion at any time at its discretion and at the expense of the System. In the event a conflict exists between the medical opinion of the individual's or covered family member's health care provider and that of the System in the second opinion examination, a third examination will be required to be performed by a health care provider mutually agreed upon by the individual and the System, and will be paid for by the System. The opinion of the third health care provider shall be binding upon the System and the individual.

g. Reports

The System may require periodic reports during FMLA leave regarding the individual's status and intent to return to work.

3.7. Pay and Benefits During FMLA Leave

a. Unpaid Leave

Both state and federal FMLA leaves provide for UNPAID leaves. Under certain circumstances, individuals may choose to substitute and may be required to substitute earned PTO.

b. PTO and/or Reserve Sick Leave

Use of earned PTO or reserve sick hours (hourly staff accrued reserve sick hours until 10/01/98 and the leftover balances will be eliminated as of 09/30/2018)

1. An individual taking leave under federal FMLA leave because of the individual's own serious health condition may choose to use any earned PTO and/or reserve sick hours, if applicable, and may be required by the System to use earned PTO.
2. An individual taking FMLA leave to care for a spouse, domestic partner, parent, parent in-law, a parent of the domestic partner, or covered son or daughter with a serious health condition may choose to use any available earned PTO. Hourly staff may be able to use up to a maximum of two (2) weeks of any reserve sick hours for such leave, if applicable. Individuals may be required by the System to use earned PTO.
3. An individual taking FMLA leave for the birth of a son or daughter or the placement with the individual of a son or daughter for adoption or foster care may choose to use earned PTO and/or reserved sick hours, if applicable. Hourly staff may use a maximum of six (6) weeks of any reserved sick hours for such leave, if applicable. Individuals may be required by the System to use earned PTO.
4. An individual allowed additional leave beyond FMLA leave is required to use all/any earned PTO for such additional leave to the extent available.

c. Group Health Plan

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1. Continuation: While an individual is on FMLA leave, the System will continue the individual's Group Health Plan during the leave period on the same basis as coverage would have been provided if the individual had been continuously employed during the FMLA leave period.
2. Share of Premiums: If the FMLA leave is substituted with PTO, the System will continue to make payroll deductions to collect the individual's share of the premiums. If the leave is unpaid leave, the individual's share of the premiums will go into arrears and be deducted from the individual's next available paycheck(s) until the amount is paid in full.
3. The System may recover premiums paid by the System to maintain benefit coverage for an individual who fails to return to work from FMLA leave.

d. Unpaid Time

1. Staff – Any unpaid time provided or elected under this policy will not be counted towards the determination of earned PTO. Benefits other than Group Health Plan benefits during a period of approved FMLA leave are determined by the System's established policy for providing such benefits when the individual is on other forms of leave.
2. Physicians and Ph.D.s – Individuals utilizing any unpaid leave will not earn seniority or other benefits such as vacation and meeting/travel (CME) days during such unpaid leave. If an Associate utilizes unpaid leave, the eligibility date for becoming a Class A, if applicable, will also be adjusted to reflect the unpaid leave. Benefits other than Group Health Plan benefits during a period of approved FMLA leave are determined by the System's established policy for providing such benefits when the individual is on other forms of leave.

e. Holidays

Eligible individuals on FMLA leave are required to use holiday benefit at the time of the designated holiday and such time will be tracked against the individual's FMLA entitlement.

f. Designation of Leave

The System designates all qualified leave of eligible individuals as FMLA leave and counts such leave towards FMLA leave time whether paid, unpaid, or holiday time is used. If such leave qualifies under both state and federal FMLA, such leave shall be counted towards both state and federal leave entitlements. If such leave is covered by workers' compensation, OSHA, short or long term disability or other such benefit and also qualifies as state and/or federal FMLA leave, such leave shall be counted towards the applicable state and/or federal FMLA leave.

3.8. Return to Work

a. Return to Work Certification

The System requires an individual whose leave of absence was because of the individual's own serious health condition and was absent from work for more than 5 consecutive calendar days to obtain and present a Return to Work/Physical Capability form (#9-39502) from the individual's health care provider certifying that the individual is able to resume work with or without

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restrictions. A Return to Work/Physical Capability form may also be required in other cases of the individual's own serious health condition as the System deems appropriate.

b. Job Restoration

If an individual returns to work during or immediately at the end of FMLA leave, the individual will be reinstated to the same position or to an equivalent position with equivalent pay, benefits and other terms and conditions of employment. An individual has no greater right to reinstatement or to other benefits and conditions of employment than if the individual had been continuously employed during the FMLA period.

c. Failure to Return

Failure to return at the end of the applicable FMLA leave may result in the individual's position being filled and/or termination of employment. If the individual is unable to perform the essential functions of their prior position because of a physical or mental condition, including continuation of a serious health condition, the individual has no right to another position under state or federal FMLA.

d. Light Duty

An individual on FMLA leave for his or her own serious health condition may be offered but is not required to accept light duty positions during such leave. However, refusal of such light duty may result in the denial or cessation of certain benefits such as worker's compensation payments, OSHA payments, and/or short or long term disability payments.

e. Non-Retaliation

The System will not unlawfully interfere with, restrain or deny the legitimate exercise of any rights under the FMLA. It will not discriminate against any individual for legitimately opposing any unlawful practice or because of honest involvement in any proceeding related to a right under FMLA.

3.9. Rights, Responsibilities, Obligations, and Consequences

Individuals and the System have rights, responsibilities, obligations, and related consequences under the Family and Medical Leave laws.

a. Leave Entitlement

The amount of qualified time used for family and/or medical leave will be subtracted from state and/or federal leave entitlement consistent with the applicable FMLA. Failure to report time off for a FMLA qualifying event may result in retroactive designation of FMLA and discipline up to and including termination. The System may make a preliminary designation that an absence qualifies as family and medical leave. After an individual provides the required documentation, the System will evaluate the information and make final determination and notify the individual as to whether the absence qualifies as family and medical leave. If the required information is not provided within fifteen (15) calendar days, the absence may be classified as other than FMLA and may result in discipline up to and including termination.

b. Notice

Failure to provide appropriate notice and documentation may lead to the delay or denial of leave. Providing false information or documentation relating to leave may result in discipline up to and including termination.

c. Medical Certification

Failure to provide the System's Human Resources department with timely required medical certification may result in denial or delay of a leave request. Any absence resulting therefrom may be subject to required use of earned PTO and/or discipline up to and including termination. Providing false information or documentation relating to leave may result in discipline up to and including termination.

d. Second and Third Opinions

Failure to submit to required second and/or third opinion examinations may result in the denial or delay of a leave request and could result in further discipline up to and including termination.

e. Recertification

An individual may be required to provide the System's Human Resources department with subsequent recertifications on a periodic basis substantiating the individual's serious health condition continues to prevent the individual from performing the individual's job functions or that the individual continues to be needed to care for a covered family member with a serious health condition. Failure to provide the required recertifications may result in the cessation of FMLA leave. Any resulting unexcused absences may result in the required use of earned PTO and/or discipline up to and including termination.

f. Light Duty

Failure to accept light duty during an FMLA leave may result in the denial or termination of benefits such as workers' compensation, OSHA payments, short or long term disability, or other such benefits.

g. Intent to Return to Work

Failure to provide information relating to the individual's status and intent to return to work may delay an individual's return to work, require the use of earned PTO and/or discipline up to and including termination.

h. Fitness for Duty Certification

Failure to provide the System's Human Resources department with a Fitness for Duty Certification as required will result in denial of reinstatement until required certification is provided. Resulting unexcused absences may require the use of earned PTO and may result in discipline up to and including termination.

i. Maintenance of Group Insurance Coverage

See section under 3.7(c).

j. Recovery of Payments

See section under 3.7(c).

POLICY

k. Failure to Return to Work

Failure to return to work on the next scheduled shift after the end of the certified leave or at the end of the available FMLA may result in discipline up to and including termination of employment.

3.10. Individual's Responsibilities

- a. Provide the manager with timely required notice of upcoming qualified leave, anticipated dates of and duration of the leave.
- b. Contact the System's Human Resources department to obtain the appropriate forms to be completed by the individual and the health care provider who is providing the continuing treatment. In the case of an adoption or foster care placement, the individual must obtain a letter from the agency stating the date of anticipated placement of the child and submit this letter to Human Resources with the individual's request for leave. Other documentation may be required for other types of leave, such as, but not limited to: proof of domestic partner relationship, military orders and events, etc.
- c. Provide your manager and Human Resources with periodic information on your status and intent to return to work.
- d. Report to work as scheduled at the start of the shift on the first scheduled workday following the leave expiration date.
- e. Prior to returning to work from leave of more than five consecutive calendar days for an individual's own serious health condition, individuals must submit a Return to Work/Physical Capability form to their manager and Human Resources, certifying that the individual is able to resume work with or without restrictions.

3.11. Manager's Responsibilities

- a. Monitor the individual's absences. If absence is potentially for a serious health condition or for birth or adoption, communicate information to Human Resources within 1-2 days from the start of the absence.
 1. The manager must obtain further information from the individual for all absences related to the individual's own illness/injury or the illness of the individual's family member. The Reporting Absences form was created to assist managers with obtaining the appropriate information and provide documentation.
- b. Obtain a written Leave of Absence Request form from the individual, which outlines reasons for using FMLA, anticipated dates of, and duration of the leave.
- c. Coordinate temporary replacement coverage for continuous, reduced, and intermittent leaves.
- d. At the end of the FMLA, if required, obtain a Return to Work/Physical Capability form of the individual's ability to perform the essential functions of the job, forward a copy of this form to Human Resources, and return the individual to the same job. If the individual is unable to return to his or her former position, contact Human Resources.

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- e. Review all Workday entries, timecard and/or Monthly Attendance Records entries and report any discrepancies to Human Resources prior to approval and before the end of the pay period in which the absence(s) occurred.
- f. Coordinate transfers if appropriate in cases of reduced or intermittent leaves. Work with Human Resources prior to these transfers.

3.12. Human Resources' Responsibilities

- a. Explain possible benefits available to the individual during FMLA leave.
- b. Based upon information and documentation obtained from the individual and the manager, determine whether leave request is covered under FMLA.
- c. Track FMLA leave used.
- d. Enter time off in Workday and/or timecard.
- e. Post state and federal posters regarding FMLA, accessible to individuals.
- f. Inform the individual requesting leave, that the leave will qualify under FMLA and will be counted against their total FMLA leave entitlement, if applicable.
- g. Be a resource to managers, individuals, and administration regarding questions relating to FMLA.

4. ADDITIONAL RESOURCES

4.1. References:

- [Paid Time Off Policy](#)
- [Frequently Asked Questions](#)

5. DOCUMENT HISTORY

Version No.	Revision Description
1.0	New Document – Formally 179.5 Revised 4/7/16 to reference Marshfield Clinic Health Systems, Inc., change Paid Leave to PTO and vacation, change "Clinic" to "System," and change physicians and employees to individuals.

6. DOCUMENT PROPERTIES

Primary Author: Schmidt, Kim M.

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Approver(s): This document has been electronically signed and approved by: Haney, Patti

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