

5. IMPACT OF FMLA LEAVE ON EMPLOYEE PAY, BENEFITS, OR OTHER ELIGIBILITIES

a. An employee on FMLA leave is entitled to maintain health benefits coverage and must arrange to pay the employee's share of the premium while on family and medical leave or when he or she returns to work.

b. Upon return from FMLA leave, an employee must be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

6. REQUIRED RECORD KEEPING. WHS-serviced Component administrative personnel, as designated by the Component Head, shall maintain records concerning the administration of FMLA and may be required to produce such information as necessary to evaluate the use of this entitlement. These records shall include:

a. The employee's rate of basic pay.

b. The occupational series for the employee's position.

c. The number of hours of leave taken including any paid leave substituted for LWOP.

d. The reason the FMLA leave was used.

e. Any additional information that may be required by the OPM or the BWD Division,-HRD, WHS.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

AI	Administrative Instruction
AWOL	absence without leave
BWD	Benefits and Worklife Division
CFR	Code of Federal Regulations
E.O.	Executive Order
FMLA	Family and Medical Leave Act
FWS	Federal Wage System
HRD	Human Resources Directorate
LWOP	leave without pay
NCR	National Capital Region
OPM	Office of Personnel Management
PCS	Permanent Change of Station
RIF	reduction-in-force
SES	Senior Executive Service
SL	senior level
U.S.C.	United States Code
WHS	Washington Headquarters Services

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this AI.

accrued leave. The leave earned by an employee during the current leave year that is unused at any given time in that leave year.

administrative error. An agency error that adversely affects an employee's ability to

use forfeited leave (e.g., agency miscalculated annual leave balance).

administrative workweek. Any period of seven consecutive 24-hour periods designated in advance by the head of the agency consistent with chapter 61 of Reference (f).

adoption. A legal process in which an individual becomes the legal parent of another's child.

advanced leave. Chargeable leave (either annual or sick leave) given to an employee, after being approved by their leave-approving official, that has yet to be earned.

compensatory time. Time off from work without charge to leave in lieu of paid compensation for an equal amount of irregular or occasional overtime work.

contagious disease. A disease that is ruled as subject to quarantine, requires isolation of the patient, or requires restriction of movement by the patient for a specified period, as prescribed by the health authorities having jurisdiction.

contingency operation. A military operation designated by the Secretary of Defense as an operation in which members of the Military Services are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or results in the call or order to, or retention on, active duty of members of the uniformed services during war or during a national emergency declared by the President or Congress.

disaster or emergency. A major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees (e.g., loss of life or property, serious injury, or mental illness because of a direct threat to life or health).

employee. An individual to whom this AI applies.

essential functions. The fundamental duties of the employee's position.

excused absence. An authorized absence from duty without loss of pay or charge to leave, when the employee's absence is directly related to the agency's mission, officially sponsored by the agency head, determined to enhance the professional skills of the employee in his or her current position, and determined to be in the interest of the Department of Defense.

family member. For sick leave, funeral leave, and leave sharing programs, this includes an individual with any of the following relationships to the employee: spouse (and his or her parents); children including adopted children, parents, brothers and sisters, grandparents and grandchildren (and the spouse of any of the aforementioned family members), and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. For FMLA entitlements, this includes only the employee's spouse, son, daughter, or parent.

foster care. 24-hour care for children in substitution for, and away from, their parents, or

guardian. Such placement is made by or with the agreement of the State because of a voluntary agreement by the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family to take the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

in loco parentis. A situation in which an individual has day-to-day responsibility for the care and financial support of a child or, in the case of an employee, had such responsibility for the employee when the employee was a child. A biological or legal relationship may or may not be necessary.

incapacitation. The inability to work, attend school, or perform other regular daily activities because of a serious health condition or treatment for or recovery from a serious health condition.

intermittent leave. Leave taken in separate blocks of time, rather than for one continuous period and may include leave periods of 15 minutes to several weeks.

intimidate, threaten, or coerce. Includes promising to confer or conferring any benefit (e.g., an appointment, promotion, or compensation); or effecting or threatening to effect any reprisal (e.g., deprivation of appointment, promotion, or compensation).

leave-approving official. The agency official, and normally the first level supervisor, who receives and acts on employees' leave requests.

leave year. The period beginning with the first day of the first full biweekly pay period in a calendar year and ending with the day immediately before the first day of the first full biweekly pay period in the following calendar year.

medical emergency. A medical condition of the employee or a family member of such an employee that is involuntary and beyond the control of the leave recipient and is likely to require an employee's absence from duty for a prolonged period of time and result in a substantial loss of income to the employee because of the unavailability of paid leave that is appropriate to the medical emergency.

month. A period that runs from a given day in one month through the date preceding the numerically corresponding day in the next month.

paid leave status. The administrative status of an employee while the employee is using annual or sick leave, accrued or advanced, under the applicable provisions of law.

parent. A biological or adoptive parent or an individual who stands or stood in loco parentis to an employee when the employee was a son or daughter. This term does not include parents "in law". Individuals may be "in loco parentis" when they have day-to-day responsibility for the care and financial support of a child, or who did when the employee was a child; a biological or legal relationship is not necessary to establish this relationship.

regularly scheduled. Work that is scheduled in advance of an administrative workweek under an agency's procedures for establishing workweeks.

regularly scheduled administrative workweek. For a full-time employee, the period within an administrative workweek, established in accordance with part 610 of Reference (*ed*), in which the employee is regularly scheduled to work. For a part-time employee, the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work.

serious health condition. An illness, injury, impairment, or physical or mental condition that involves inpatient care; continuing treatment by a health care provider; any period of incapacity due to pregnancy or prenatal care; incapacity or treatment of chronic health condition; conditions of a permanent or long-term nature that are under the supervision of a health care provider; and any period of absence to receive multiple treatments and to recover.

shared leave status. The administrative status of an employee while the employee is using transferred leave under a Federal Leave Transfer Program.

son or daughter. A biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing in loco parentis who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability. Individuals may be in loco parentis when they have day-to-day responsibility for the care and financial support of a child, or who did when the employee was a child; a biological or legal relationship is not necessary to establish this relationship.

spouse. An individual who is a husband or wife by virtue of entry into marriage as defined or recognized under State law for purposes of marriage in the State where the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:

Was entered into in a State that recognizes such marriages; or

If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

tour of duty. The hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.