Objectives

Understand what the FMLA is

Understand what makes a leave an FMLA leave

Understand what the FMLA does

Know who to contact and when

Answer your Questions
The FMLA - BASICS

What is it?
The Family and Medical Leave Act of 1993
It is a federal law

What does it do?
It provides *eligible* employees up to 12 weeks of unpaid job-protected leave *entitlement* in a 12-month period for specific *qualifying leave reasons*
Three Elements of FMLA

Eligibility

“Who”

Entitlement

“What & When”

Qualifying Leave Reasons

“Why”
ELIGIBILITY – “Who”

An employee is eligible for FMLA leave if:

1. They have been employed by Wayne State University for at least 12 months
   • “On the payroll”
   • 12 months need not be consecutive, but must be within the last 7 years

   **AND**

2. They have worked at least 1250 hours in the 12 months immediately preceding the leave
   • Actual hours worked
ENTITLEMENT – “What and When”

What does an eligible employee get?

• 12 workweeks of unpaid, job protected leave

Can an eligible employee get more than 12 weeks?

• Yes, but only for a specific type of leave

• Military Caregiver Leave – could get up to 26 weeks (capped at 26 weeks for Military Caregiver and all other FMLA leave types)
ENTITLEMENT – “What and When”

When does a Wayne State University employee get the 12 weeks of leave?

When they become eligible (12 months and 1250 hours)

Entitlement is earned back on the anniversary date of when the time was used in the previous year.
ENTITLEMENT – “What and When”

The FMLA leave can be certified to be taken in three different frequencies:

 › Continuous (missing every day of work).
 › Reduced schedule (pre-arranged schedule for days and hours to be missed).
 › Intermittent (sporadic or episodic absences).
Does FMLA leave need to be taken all at once?

• No. It can be taken in parts and intermittently.

Intermittent and reduced schedule:

• Only when “medically required.”
• Employees must make “reasonable efforts” not to “unduly disrupt” Wayne State University’s operations in scheduling the time.
• Employers do not have to offer for birth, adoption or foster care.
QUALIFYING LEAVE REASONS – “Why”

Qualifying Leave Reasons:

• For the birth of a child.

• For the placement of a child through adoption or foster care.

• For one’s own serious health condition.

• For the serious health condition of the employee’s child, spouse, or parent.

• And . . .
QUALIFYING LEAVE REASONS – “Why”

“Qualifying Exigency”
• Eligible employees are entitled to 12 weeks of leave for any “qualifying exigency” arising out of the fact that the spouse, son, daughter or parent of employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces during **active duty service in a foreign country**.
• Available to family members of active duty military (not just National Guard and Reserves).

Military Caregiver
• Eligible Employee is entitled to 26 weeks in a single 12-month period, measured forward, if the employee is spouse, son, daughter, parent or next of kin of a covered service member who is undergoing medical treatment, recuperation, or therapy, is otherwise on the temporary disability retired list, for a serious injury or illness.
• Available to relatives of veterans (not just current Armed Forces)
What is a “Serious Health Condition”? 

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:  
• Any period of incapacity or treatment connected with inpatient care; 
• A period of incapacity requiring absence of more than three calendar days and involves continuing treatment by (or under the supervision of) a health care provider;  
• Any period of incapacity due to pregnancy, or for prenatal care;  
• Any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.);  
• A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.);  
• Any absences to receive multiple treatments (including any period of recovery therefrom) for a condition that likely would result in incapacity of more than three consecutive days if left untreated.
Maternity & Parental Leaves

Maternity Leave

Leave an eligible female employee may take prior to the date of delivery for bed-rest, prenatal appointments and any medical necessity related to pregnancy or child birth.

› **Bed Rest:** Leave prior to delivery date due to a medical condition or high-risk pregnancy.
› **Pre-Natal Treatments:** Leave prior to the delivery date for appointments with a healthcare provider that follow a standard prenatal treatment schedule.

Leave an eligible female employee may take after the date of delivery. For Wayne State University employees, this leave is typically 8 weeks for both natural and Caesarean delivery.
Maternity & Parental Leaves

Parental Leave (aka Bonding leave)

- Leave taken after the birth of a child for a parent to bond with his/her child. This leave is not for a medical condition.

- For the childbearing parent of a newborn child, this leave is typically 4 weeks, depending on how long the employee is eligible for, and opts to take, of their entire 12-weeks of FMLA entitlement.

- The non-childbearing parent of a newborn child who is eligible for FMLA and have their full FMLA entitlement may take up to 12 weeks of leave to bond with the child.

- Parental leave must be taken within one (1) year of the birth of the child.

- If both spouses work for Wayne State University, they must share the 12-weeks of parental leave between them, subject to each of them being eligible for FMLA and having enough FMLA entitlement to cover the requested period of time.
**Spousal Combined Leave**

Spouses who are both employed by Wayne State University are limited to a **combined** total of 12 workweeks of leave for the following reasons:

- The birth and care of a child;
- The placement of a child for adoption or foster care, and to care for the newly placed child.

**Example:**

- Husband and wife are both eligible and both have 12 weeks of leave
- Wife has baby and takes 8 weeks for the birth and recovery. She then takes 4 weeks to bond with the child – thus using her full 12 weeks of leave.
- Husband may only take 8 weeks to bond with the child, even though he has a full 12 weeks of leave available.
Certification of FMLA Leave

In order to get an FMLA leave approved, employees are required to have their need for leave certified by an appropriate healthcare provider

What is an appropriate Healthcare Provider?
› Examples: a doctor, dentist, optometrist, podiatrist, clinical psychologist, chiropractors (in some cases) or licensed mid-wife.
› Nurse practitioners, nurse-midwives, clinical social workers, authorized physician assistants (but not R.N.s).
› Anyone recognized under Wayne State University’s group health plan.

How long does the employee have to submit certification?
› 15 days.
Second and Third Opinions

Wayne State University may, at its own expense, require the employee to obtain a second medical certification from a health care provider.

• Wayne State may choose the health care provider for the second opinion, except that in most cases it may not regularly contract with or otherwise regularly use the services of the health care provider.

• If the opinions of the employee's and Wayne State's designated health care providers differ, Wayne State may require the employee to obtain certification from a third health care provider, again at Wayne State's expense.

• The third opinion shall be final and binding. The third health care provider must be approved jointly by Wayne State and the employee.
What Do Employees Care About?

If you were taking a leave of absence, what kinds of things would you be concerned about?

• What happens to my job? (Job protection)
• What happens to my pay? (Income replacement)
• What happens to my benefits? (Benefit continuation)
Job Protection

Upon return from FMLA leave, employees must be returned to the same job or an equivalent job.

For intermittent leaves, employees can be temporarily transferred to an alternative job.
Income Replacement

FMLA provides “unpaid leave”

Can be supplemented by:
› PTO (vacation, sick pay)
› STD, if applicable. Refer to your Collective Bargaining Agreement
Benefit Continuation

Under the FMLA, employers must maintain the employee’s coverage under any group health plan while the employee is on FMLA leave.

The employer does not have to pay employee contributions.

There is no qualifying period when employee returns.
Submitting a Leave Request

Employees may submit a request for FMLA leave via any of the following methods:

› Phone: 1-877-GO2-FMLA  
(1-877-462-3652)
› Online: [www.FMLASource.com](http://www.FMLASource.com)
› Email: [FMLACenter@FMLASource.com](mailto:FMLACenter@FMLASource.com)
› Fax: 1.877.309.0218
› Smartphone App – “FMLASource Now” (available on Apple and Android devices)

FMLASource’s customer service representatives are also available to answer any questions you have regarding the FMLA or your leave needs at 1-877-462-3652.
Thank you for your time and attention.

Questions?
Understanding FMLA: Medical Leave at Wayne State University
Helpful Insight from Q&A Sessions

Eligibility – Who?

Are all Wayne State employees eligible for FMLA? What if I’m on a grant-funded project?

Full and part-time employees directly employed by the university are eligible provided they met the eligibility requirements (one year of total service within the past seven years and worked at least 1250 regular hours in the past rolling calendar year prior to their FMLA leave). Temporary and contract employees should contact FMLASource to verify their eligibility.

When can I earn back FMLA time after using it? When is my FMLA bank renewed? Are the full 12 weeks available at the start of each year?

No. You earn back each day of FMLA one year after you used it. This is called a rolling calendar year. For example, 2 consecutive weeks of FMLA leave were taken on 2/15/2019, with 10 weeks FMLA remaining. On 2/15/2020, 2 weeks are earned back giving you a total of 12 weeks of FMLA bank.

However, when you earn back your entitlement, you must meet the eligibility requirements to be eligible to use FMLA again (employed for 12 months and worked at least 1250 hours). Typically, the way in which an employee would not be eligible to use time they have earned back is because they haven’t worked 1250 hours in the previous 12 months.

Entitlement – What?

Can I use FMLA to request a reduced work schedule?

Only if it is medically required and certified by an appropriate health care provider.

For intermittent scheduled (planned) treatments, can I just use sick time instead of filing for FMLA?

An employee is not required to file for FMLA, however it is in the best interest of the employee to request and use FMLA because if provides job and benefit protection while on leave. It is recommended the employee contact FMLASource and use FMLA when appropriate. Absences reported as sick time are considered separate events, whereas FMLA leave is counted as a single
absence, regardless of the length of leave. You cannot be accused of excessive absences if those absences are protected under FMLA.

**What happens if I use all 12 weeks of my FMLA leave but cannot return to work?**
Contact the Wayne State Office of Total Compensation and Wellness. Your options will vary depending on your union contract and other factors.

**Qualifying Reasons – Why?**

*Can I use FMLA to care for my adult child?*
Maybe. A different standard is applied when employees ask to care for children 18 years of age or older. Generally, the adult child must have a condition covered by the Americans with Disabilities Act. A short-term condition without residual effects is not covered. Contact FMLASource to verify.

*I have legal guardianship of a person who is not my parent, spouse, or child. Can I use FMLA to care for her?*
Maybe. Contact FMLASource for more information.

*Is there a list of “serious health conditions”?*
No. As a general guideline, a serious health condition is one that prevents you from working for more than three consecutive days, requires inpatient hospital care, is a chronic condition, or requires multiple treatments. Contact FMLASource or your doctor with questions.

*Can medical certification be completed by a physician overseas?*
FMLASource must verify that the credentials are similar to those required by a physician in the U.S.

*Can I use FMLA to cover prenatal treatments and doctor-ordered bed rest?*
Yes. However, remember that you are only entitled to 12 weeks of job protection under FMLA. If you use FMLA leave prior to delivery, it reduces the amount of time you have after the birth of your child.

*Can expectant fathers use FMLA to take time off before the birth of their child?*
No. Men can only use parental leave after the birth of the child. Parental leave for both mothers and fathers must be used within one year of the child’s birth. Employees requesting parental leave will be required to submit proof of birth.
My spouse and I both work at Wayne State and are eligible for FMLA leave. Can we both take parental leave to care for our new baby?

Yes. However, the two of you may only take 12 weeks of parental leave combined, even if either one has more time FMLA leave time available. For example, the mother uses 6 weeks for birth and recovery, plus another 6 weeks of parental leave. The father may only use 6 weeks toward parental leave, even though he may have had a total of 12 weeks available.

Can I use FMLA leave for a death?

Bereavement is not covered, unless leave is used for your own serious health condition. FMLA leave to care for a family member ends upon date of death.

Income and Benefits

How do I still get paid?

FMLA provides for unpaid leave. In order to get paid while on FMLA leave, you must use your sick time and/or vacation time according to Wayne State policy:

- For your own medical condition (including maternity leave for the delivery and recovery): Use sick time first. If you run out of sick time, use vacation time.
- To care for someone else (including parental leave/bonding time): Use vacation time only.

Some—but not all—employees may qualify for short-term disability or worker’s compensation. Contact the WSU Office of Total Compensation and Wellness for more information.

Will I still receive my benefits while on FMLA leave?

Yes, the university pays its portion of your benefits costs during your approved FMLA leave. However, you are required to pay the employee-paid premiums of your benefits. If you use sick time or vacation time during your FMLA leave, your premiums will be covered as normal. If you do not, you must pay your portion of the premiums out of pocket. Contact the Office of Total Compensation and Wellness with questions.

Submitting a Leave Request

When should I submit a request for FMLA leave?

Ideally, 30 days prior to scheduled procedures or treatments. For emergencies or unexpected medical events, as soon as you can. There is a time limit for requesting FMLA to cover an absence after the fact. Contact FMLASource for more information.

I just found out that I’m pregnant. When should I apply for FMLA leave?

You do not need to apply right away, but you may. When requesting leave, you will need your anticipated delivery date, although your leave will not begin until you take time off for prenatal care or delivery.
What date do I use to request leave if the date is unknown or retroactively approved?
   If there is a conflict in dates, FMLASource will use the dates provided on the medical certification form.

After my doctor submits the medical certification document, how long does it take for FMLASource to approve or deny my leave?
   Legally, FMLASource must notify you of its decision within five days. In practice, expect an answer within two or three days.

I'm having problems getting my doctor to submit the medical certification form with 15 days. What do I do?
   Contact FMLASource before the 15-day deadline.

Can someone else file an FMLA request for me?
   Yes. FMLASource will open a leave request if they receive notice that you need medical leave. Others who could open a request on your behalf include your doctor, spouse, parent, child, manager, HR representative, or the WSU Office of Total Compensation or Wellness. FMLASource will request specific information to verify the contact knows the employee.

What happens if I use all 12 weeks of my FMLA leave before I can return to work?
   Contact the Wayne State Office of Total Compensation and Wellness. Your options will vary depending on your union contract and other factors.

FMLASource
1-877-GO2-FMLA (1-877-462-3652)
www.FMLASource.com
FMLACenter@FMLASource.com
Fax: 1.877.309.0218

WSU Benefits and Wellness, Human Resources
http://hr.wayne.edu/tcw/
313-577-3000
askhr@wayne.edu