University of Minnesota FMLA Flow Chart

This flowchart is to help supervisors and HR practitioners determine if FMLA leave is applicable in an employment situation and, if so, to manage the leave in compliance with laws and the University’s FMLA policy and FMLA procedures.

Determine if FMLA is Implicated

• Employee requests FMLA leave from the supervisor; or
• Employee provides enough information for you to know absence is likely FMLA qualifying; or
• Employee is absent for more than three calendar days.

YES NO

Determine Employee Eligibility

• Employee has been employed with the University for at least 12 months (not necessarily consecutive); and
• Employee has worked (i.e., been paid) at least 1,250 hours in the last 12 months; and
• Employee has not exceeded 12 weeks FMLA leave in this fiscal year.

YES NO

Determine if Qualifying Condition

(See “serious health condition” and other terms in Policy definitions)

• Leave is for the employee’s own serious health condition; or
• Leave is to care for the employee’s spouse, registered same-sex domestic partner, son/daughter, or parent with a serious health condition; or
• Leave is for the birth or care of a newborn child or placement of an adopted or foster son/daughter; or
• Leave is for a qualifying exigency due to the employee’s spouse, registered same-sex domestic partner, son/daughter, or parent’s military covered active duty; or
• Leave is for the employee to care for a covered servicemember with a serious injury or illness.

YES NO

Provisionally Designate Leave as FMLA and Request Certification

Within 5 business days of request for or need for FMLA leave, provide the employee with:

A. University Form UM1516, FMLA: Notice of Eligibility and Rights and Responsibilities; and

B. The appropriate University certification form to complete:

• UM1515 (employee’s own serious health condition)
• UM1602 (birth/care of newborn)
• UM1603 (adoption/foster care placement)
• UM1701 (for family member with serious health conditions)
• care for covered servicemember
• care for veteran covered servicemember
• qualifying exigency for military family

Notify Employee of Non-Eligibility

• Notify employee of non-eligibility using University Form UM1516, FMLA: Notice of Eligibility and Rights and Responsibilities.

- Indicate either reason: “You have not met the FMLA’s 12-month length of service requirement.” or “You have not met the FMLA’s 1,250 hours-worked requirement.”
- Otherwise, notify employee of non-eligibility using University Form UM1700, FMLA Designation Notice.

- Indicate either reason: “Your FMLA request is not approved.” or “You have exhausted your FMLA leave entitlement in the applicable 12-month period.”
• Make sure paid and unpaid leave provisions of other applicable University contracts, rules, or policies are followed.
• Monitor situation if employee will meet these eligibility criteria while on leave, and if so, begin processing it as FMLA leave at that time.

Notify Employee of Non-Eligibility

• Notify employee of non-eligibility using University Form UM1700, FMLA: Designation Notice.

- Indicate reason: “The FMLA does not apply to your leave request.”
• Make sure paid and unpaid leave provisions of other applicable University contracts, rules, or policies are followed.
• Monitor situation if it changes to be a qualifying condition for FMLA designation, and if so, begin processing it as FMLA leave at that time.

Non-Receipt of Certification

If employee fails to return certification within 15 calendar days, or as soon as practicable under the circumstances, consult with human resources regarding handling. FMLA leave may be denied or denied. Attendance should be addressed under other leave provisions based on the applicable labor contract, rules, or policies.

Incomplete or Unclear Certification

If certification is incomplete or unclear, using University Form UM1700, FMLA: Designation Notice, advise the employee what exact information or clarifications are necessary. Supervisors cannot contact health care providers directly. Give the employee seven calendar days (or as soon as practicable under the circumstances) to remedy.

Failure to Return Complete and Clear Certification

If employee fails to return complete and clear certification, consult with human resources regarding handling. FMLA leave may be denied. Attendance should be addressed under other leave provisions based on the applicable labor contract, rules, or policies.
FMLA Practice Pointers

Obtaining Complete and Clear Certification

- Don’t accept responses on certifications of “unknown” (e.g., for duration and frequency of leave). The employee has the burden to provide complete and clear certification supporting the need for FMLA leave.
- Incomplete or unclear responses are the only valid reasons to ask for certification to be fixed. You might want more information but are only entitled to sufficient responses to questions on the applicable form.
- Consult with human resources about any concerns over the validity of the certification. Obtaining second and third opinions about need for leave are available options but are rarely used due to employer cost.
- Make sure the certification is signed. Also make sure the signatory is a professional who can complete the certification. (See explanation of “authorized health care provider” in FMLA Policy definitions.)
- Remember that supervisors cannot contact health care providers directly. Human resources practitioners may be able to contact providers directly about insufficient certification, but generally the employee should be the one interacting with the provider. Disability Services/UReturn interacts with the health care provider regarding FMLA certification for an employee’s own serious health condition when the employee already is working with UReturn or accommodation issues beyond FMLA leave arise.

Managing Intermittent Leave Well

- Communicate with the employee up front about the requirement to coordinate planned FMLA absences (e.g., medical appointments, treatments) with the supervisor in advance. Work with the employee to understand the provider’s availability in scheduling and ensure work coverage needs are best met.
- Consult with human resources if moving the employee temporarily to perform alternative job duties would make sense during a planned intermittent leave. In these situations, the law permits temporarily transferring an employee to other work at equivalent pay to reduce work operations interruption.
- Communicate with the employee that the usual work unit requirements of calling in or reporting absences still apply (unless it is not medically possible to do so).
- Establish an FMLA calendar to record dates and hours of leave and track patterns of absence. Compare absences to the certification and consult with human resources if leave usage does not match the amount or frequency of leave indicated in current certification; recertification might be appropriate.

Facilitating a Successful Return to Work

- At a time before the return to work date provided on the FMLA certification, confirm return to work arrangements with the employee. Be sensitive in your communications remembering that the employee is on leave – sometimes for the employee’s own serious health condition.
- Fitness-for-duty certification supporting the employee’s return to work is required only where the employee was previously advised that such certification would be required (in UM Form 1700: FMLA Designation). To ensure consistent application, consult with human resources about the appropriateness of fitness-for-duty certification. Restrictions listed in the fitness-for-duty certification should be evaluated as a request for reasonable accommodations.
- Consult with human resources if additional leave beyond 12 weeks of FMLA leave is indicated. Depending on the circumstances, the need for additional leave might need documentary support and might need to be analyzed as a reasonable accommodation.
- Consult with Disability Services/UReturn as soon as possible regarding any reasonable accommodations that might be needed for the employee’s return to work. It takes time to figure out the need for and the details of these arrangements, and everyone wants the employee to be able to return to work as soon as it’s medically indicated.