

# WESTMORELAND COUNTY

## POLICY AND PROCEDURES

### Subject: FAMILY AND MEDICAL LEAVE (FMLA) POLICY

**Policy Number: II.10**

**Effective Date: Aug 5, 1993**  
**Revised Date: Aug 1, 2019**

The Family Medical Leave Act (FMLA) allows employees to balance their work and family life by taking reasonable leave for certain family and medical reasons. In order to be eligible for an FMLA leave, you must have worked for Westmoreland County (“the County”) for at least 12 months, have worked 1,250 hours during the past 12 months, and work at a site where at least 50 employees are employed by the County within a 75 mile radius.

<b>REASON FOR LEAVE</b> <i>(According to FMLA law, “immediate family member” includes spouse, parent and child)</i>	<b>Max length of unpaid, job-protected leave/12-month period*</b>
Employee’s own serious health condition	12 weeks
Birth of a child and to care for the newborn child	12 weeks
Placement of a child with you for adoption or foster care	12 weeks
To care for an immediate family member with a serious health condition	12 weeks
To respond to an urgent situation arising out of an immediate family member’s active duty or call to active duty (deployment to a foreign country) in the National Guard, Reserves or Regular Armed Forces (qualifying exigencies)	12 weeks
To care for an immediate family member who has incurred a serious injury or illness while on active duty in the Armed Forces, including a veteran discharged within past five years	26 weeks
To attend to an immediate family member who is on “rest and recuperation” from military service	15 days

*This policy is effective as of August 1, 2019 and supersedes all prior versions published or distributed by Westmoreland County.*

\*With the exception of the 26-week Military Caregiver leave, the County uses a rolling calendar that looks backward from the first day of FMLA leave used to measure this 12-month period. Each time you take leave, the remaining leave entitlement would be the balance of the time allowable under FMLA which has not been used during the preceding 12-month period. For Military Caregiver leave, the 12 months begins on the first day you take leave and ends twelve months later.

**Benefits and Protections:** During FMLA leave, you maintain health coverage under any “group health plan” on the same terms as if you had continued to work. Upon return from FMLA leave, you will be returned to your original or equivalent positions with equivalent pay, benefits, and other employment terms. If you do not return to work after your FMLA leave expires, the County reserves the right to recoup the money spent on health insurance benefits during your leave period in accordance with applicable law. While on FMLA leave, any paid time off accruals will be consistent with the County’s non-union work rules or your applicable collective bargaining agreement. The County reserves the right to deny reinstatement to key employees as defined by and in accordance with applicable law.

**Definition of Serious Health Condition:** A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents you from performing the functions of your job, or prevents your qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a healthcare provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**Use of Leave by Spouses Employed by the County:** If you and your spouse both work for the County and each of you wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care of a parent (but not a “parent in-law”) with a serious health condition, you may only take a combined total of 12 weeks of leave. If you and your spouse both wish to take leave to care for a covered injured or ill service member, you each may only take a combined total of 26 weeks of leave.

**Requesting FMLA Leave:** If your need for FMLA leave is foreseeable, you must provide our FMLA Administrator at least 30 days' prior notice via phone at 844-865-3126 or email at [FMLA@eastcoastrm.com](mailto:FMLA@eastcoastrm.com). If this is not possible, you must give notice as soon as practicable (within one to two business days of learning of your need for leave) via email or phone to our FMLA Leave Administrator. Failure to provide such notice may be grounds for delaying FMLA-protected leave, depending on the particular facts and circumstances. In addition to contacting our FMLA Administrator, you must also comply with the County’s normal call-in procedures.

If you are planning a medical treatment or a series of treatments or you are taking military caregiver leave, you must consult with the County first regarding the dates of

such treatment to work out a schedule that best suits the needs of the employee or the covered military member, if applicable, and the County.

**Certification Process:** Within five business days after you have provided notice of a request for FMLA leave, or after the County has become aware of your need for leave, the Department of Labor's (DOL) Notice of Eligibility and Rights Form, as well as the appropriate DOL certification form, will be provided to you. You are responsible for ensuring that we receive a completed certification form for us to determine if the request qualifies for FMLA leave. Completed certifications must be received by our FMLA Administrator within 15 days of the request. Failure to provide the required certification for FMLA leave may result in the denial of leave or continuation of leave.

**Substitution of Paid Leave for Unpaid Leave:** While on FMLA leave, you must first exhaust all available sick time if FMLA is being used for your own serious health condition. If FMLA is being used for the serious health condition of an immediate family member or military caregiver leave, you must first use five (5) of your sick days, if available. Once sick time has been used in accordance with the aforementioned rules, all available personal time must then be exhausted. Subsequently, all available vacation time must be exhausted before FMLA can be taken unpaid. These same rules apply to those taking FMLA for the birth of a child for any period the employee is unable to work due to such condition.

For all other qualifying FMLA reasons, the following rules apply on substitution of paid leave. Employees must first exhaust all available personal time then all available vacation time before taking FMLA unpaid.

If your collective bargaining agreement ("CBA") conflicts with these rules on substitution of paid leave, your CBA will control.

Your absence due to a workers' compensation injury will run concurrently with unpaid FMLA leave provided that the absence is due to a qualifying "serious health condition" as defined under the FMLA. Please be aware that employees receiving workers' compensation payments are not able to substitute accrued paid time off for any part of the leave of absence unless state law permits and employer and employee agree to have paid leave supplement workers' compensation benefits, such as in the case where workers' compensation only provides partial replacement of an employee's salary.

**Intermittent Leave or Reduced Work Schedule:** You may take the leave continuously, intermittently or on a reduced work schedule basis when medically necessary. However, in all cases, the leave may not exceed a total of 12 weeks (60 days or 480 hours), or 26 weeks to care for an injured or ill service member. In each case, leave requests must be initiated with our FMLA Administrator as described under the "Requesting FMLA Leave" Section. In addition, you must follow the County's normal call-in procedures when both initiating a FMLA request and any time you take continual, intermittent or reduced work schedule FMLA leave. You must also contact our FMLA Administrator by phone or email prior to using any intermittent or reduced work schedule leave.

You must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt County operations. Leave due to qualifying exigencies may also be taken on an intermittent basis. Intermittent time cannot be taken in increments of less than thirty (30) minutes.

**Reporting While on Leave:** If you take leave because of your own serious health condition or to care for a covered relation, the County may require you to contact the County and/or our FMLA Administrator during your leave regarding the status of the condition and your intention to return to work. In addition, you must give notice as soon as practicable (within two business days if feasible) if the dates of leave change or are extended or initially were unknown. Employees on intermittent leave must follow our Attendance policy whenever reporting off from work.

**Recertification:** We may request recertification for the serious health condition of you or your family member when circumstances have changed significantly, or if we receive information casting doubt on the reason given for the absence, or if you seek an extension of your leave. Otherwise, we may request recertification for the serious health condition of you or your family member every six months in connection with an FMLA absence.

**Returning from FMLA Leave:** If you take leave because of your own serious health condition (except if you are taking intermittent leave), you are required, as are all employees returning from other types of medical leave, to provide medical certification that you are fit to resume work with or without a reasonable accommodation. Otherwise, you will not be permitted to resume work until it is provided.

**Notices Sent by Employer:** We will send all Notices of Rights and Eligibility Forms, Designation Notices and letters regarding expiration of FMLA leave/return to work orders to you by email, certified mail or via hand delivery.

**Unlawful Acts by Employers:** FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

**Enforcement:** You may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**Additional Information:** For additional information about your rights and obligations, see the Family Medical Leave Act poster in your workplace, visit the U.S. Department of Labor's website ([www.wagehour.dol.gov](http://www.wagehour.dol.gov)) or contact the Human Resources Department.

## Family Medical Leave Policy Acknowledgment

I acknowledge that I have received a copy of Westmoreland County's Family Medical Leave Policy that is effective August 1, 2019.

I am aware that if, at any time, I have questions regarding the FMLA policy I should direct them to the Human Resources Department, the FMLA Administrator or visit the U.S. Department of Labor's website ([www.wagehour.dol.gov](http://www.wagehour.dol.gov)).

I also am aware that the County, at any time, may on reasonable notice, change, add to, or delete from the provisions of this FMLA policy, unless an applicable collective bargaining agreement requires otherwise.

I understand that neither this FMLA policy nor any other communication by a management representative or any other employee, whether oral or written, is intended in any way to create a contract of employment. I understand that, unless I have a written employment agreement or I am subject to a collective bargaining agreement ("CBA") between a union and the County, I am employed at will and this policy does not modify my at-will employment status. If I have a written employment agreement or I am subject to a CBA and this Policy conflicts with the terms of such, I understand that the terms of my employment agreement or applicable CBA will control.

I also understand that this version of the FMLA Policy supersedes all prior versions published or distributed by Westmoreland County.

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Employee's Printed Name

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Employee's Signature

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Date