

HUMAN RESOURCES DEPARTMENT



Family and Medical Leave Act

EMPLOYEE HANDBOOK

Updated: August 13, 2002

FMLA

Q'S AND A'S

1. What is FMLA?

The Family and Medical Leave Act (FMLA) is a federal statute. Under the statute, eligible employees may take FMLA leave for the following three reasons:

- The birth of your child, or the placement of a child with you for adoption or foster care;
- To care for your own serious medical condition;
- To assist in the care of your spouse, parent, or child with a serious health condition

2. What is a serious health condition?

A serious health condition is an injury, illness, or physical or mental condition that involves inpatient care (overnight stay in a medical facility) or continuing treatment by a health care provider. Examples of conditions that normally do not meet the standard of a serious health condition include minor illnesses such as a cold or flu, for which recovery is generally rapid.

3. Isn't every employee eligible for FMLA?

No. To be eligible, you 1) must have been an Amtrak employee for at least 12 months and 2) have worked a minimum of 1250 hours during the previous 12-month period. Although the federal statute permits Amtrak to exclude employees who work at locations with less than 50 employees in a 75-mile radius, every attempt will be made to extend FMLA leave provisions to all employees.

4. I need to take my grandmother to her doctor each week for her serious illness. Can I take FMLA leave one day each week to do this?

Generally, no. FMLA leave may only be used for an employee's own serious illness or the serious illness of the employee's parent, spouse, or child. There are exceptions, so contact Human Resources Services if in doubt.

5. Do I get paid if I take FMLA leave?

Generally, FMLA leave is unpaid; however, approved FMLA leave will run concurrently, and not consecutively, with any accrued paid sick leave and scheduled vacation for agreement-covered employees. If you are an agreement-covered employee, you may elect to use vacation, which will run concurrently with the leave. For non-agreement-covered employees, FMLA leave will normally run concurrently with sick leave and then all earned vacation.

6. My union agreement provides for FMLA leave. Am I allowed to take leave under my union agreement and federal FMLA leave?

Yes. You may take both; however, the leaves will run concurrently.

7. How much leave time can I take?

Eligible employees normally may take up to 12 weeks of unpaid FMLA leave in a 12-month time period; however, the amount of time you can take varies by state. You may check with your local Human Resources Services representative for the guidelines that apply to your particular state.

8. How does Amtrak calculate the "12-month period"?

Amtrak uses a "rolling system," which means the 12-month period begins the first day you use the leave and runs for 12 months afterward. For example, an employee who takes leave for the first time on January 15th of the current year would be entitled to use up to twelve weeks before January 15th of the following year. The next 12-month period will start the first time you take leave, January 15th or later.

9. Will I be able to go back to my job after my leave is over?

You will be restored to the same position or an equivalent position with equivalent pay, benefits, and working conditions that would exist if you had not taken a leave.

10. Who is a "key employee"?

You are a "key employee" under FMLA regulations if you are a salaried employee and your pay ranks in the top 10% of pay earned by employees within 75 miles of your work location. A key employee is not guaranteed job restoration if returning would cause "substantial and grievous economic injury" to the Corporation. In this event, the employee is notified in writing of the option to return to work after receiving this notice.

11. Are there any circumstances in which I can get paid while on FMLA leave?

Yes. If your union agreement provides for paid sick leave, it will be applied to FMLA leave if the reason for leave is your own serious health condition.

If you work under the collective bargaining agreement between Amtrak and ARASA-OBS, ARASA-Crew Management, or ARASA-Mechanical, you will be paid under Amtrak's Short-Term Disability policy when leave is taken for your own serious health condition. All agreement-covered employees have the option of scheduling earned vacation time during a leave period.

Management employees must use any earned vacation time when taking FMLA leave. When paid vacation or sick leave is combined with unpaid FMLA leave, the entire period will be counted toward the twelve-week FMLA leave entitlement.

12. I am an On-Board Services employee. Will I still get my monthly guarantee under my labor agreement if I am off on FMLA leave?

No. FMLA protections will not prevent absences from breaking a monthly guarantee.

13. Will I keep my benefits while I am out on FMLA leave?

Yes. You and your family will receive the same medical and dental insurance benefits as you had before the leave. If you normally pay a portion of any benefit premium, you will need to continue paying your portion of the premium while on leave. Your local Human Resources office can give you specific information about any premium cost and payment instructions, if applicable.

14. What happens if I use all 12 weeks and am unable to return to work as planned?

Any absence that is not part of an approved FMLA leave will be handled in accordance with normal attendance and absenteeism policies. If you do not return to work at the scheduled time, you may forfeit certain employment rights and may also be required to repay the cost of maintaining any benefits Amtrak paid on your behalf.

However, if you need to be absent beyond the approved 12-week allowance, you must receive approval from your supervisor. Any absence beyond the 12-week allowance will not be covered under FMLA.

15. How do I request a FMLA leave?

FMLA Application Packets are available in all Human Resources Offices and on the Amtrak Intranet. The Packet contains the documents you will need to apply for FMLA leave.

When possible, you must request FMLA leave at least thirty (30) days in advance. To avoid processing delays, prior to submitting, check over your application and documentation for accuracy and completeness prior to submitting.

16. What kind of documentation do I have to provide?

You must provide certification of medical necessity ("Certification of Physician or Practitioner") from the treating health care provider when requesting FMLA leave. In the case of your own serious health condition, you should be prepared to provide your health care provider with a description of your job duties. If you are taking FMLA leave on an emergency basis, the certificate must be submitted no later than fifteen days after the date you learn of the need to take leave, except when the circumstances that prevent you from doing so are beyond your control.

When requesting FMLA leave for the birth of your child, or the placement of a child with you for adoption or foster care, you are not required to submit medical documentation. However, you are required to submit proof supporting your request for FMLA leave (For example, birth certificate, proof of adoption or foster care, etc.).

Amtrak reserves the right to ask for a second medical opinion regarding the appropriateness of the request for leave at the company's expense. If the two opinions differ, Amtrak will pay for a third, binding, medical opinion by a health care provider mutually selected by Amtrak and you.

When you are on a continuous leave for a period of thirty (30) days or more, you must resubmit medical documentation to Health Services every thirty (30) days.

17. What if I don't need to take all of my FMLA leave at once?

FMLA leave can be taken in increments of time appropriate to the particular need for leave. There are three types of FMLA leave:

- Continuous or Regular Leave
 - Reduced Leave
 - Intermittent Leave
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Continuous or Regular Leave occurs when the employee is off from work for an uninterrupted block of time. For example, an employee who takes leave and does not work from October 1st to December 1st would be on a continuous or regular leave.

Reduced Leave occurs when an employee works less than a full day on a planned basis.

Intermittent Leave occurs when an employee's leave requirements are medically certified as unpredictable. Your supervisor has the discretion to ask you for additional documentation concerning any period of intermittent FMLA leave.

In order to accommodate your need for intermittent or reduced leave, your supervisor may temporarily transfer you to an alternate position, with equivalent pay and benefits.

18. What kind of notice must I provide to Amtrak before I can begin FMLA leave?

To help the company plan effectively for your absence from the workplace, it is important that you provide as much advance notice as possible. Failure to provide sufficient notice could result in denial or delay in the start of your requested leave.

When the need is foreseeable, you should inform your supervisor at least thirty (30) days in advance of the requested leave and indicate its anticipated duration.

In emergency situations (not foreseeable), you should advise your supervisor as soon as practical after learning of the need for FMLA leave.

19. Will I have to take a return-to-work physical when I return from FMLA leave?

Consistent with standard Amtrak policy, if you are on leave for thirty days or more due to your own illness, in order to return to work you must successfully complete a return-to-work physical examination.

20. If I don't use all of my FMLA entitlement within a 12-month period, does it get added to my entitlement if I qualify for the following 12-month period?

No. A new application and medical documentation would be necessary.

21. Where do I get an application for FMLA?

The application is contained in the FMLA packet. You can get a packet from your local Human Resources Office or the Amtrak Intranet. In addition, many departments may also have packets available. Please check with your supervisor.

22. If I cannot pick up an application or packet, will one be mailed to me?

Yes. Contact your local Human Resources Office for a packet. For your convenience, forms can also be sent to you via facsimile or e-mail.

23. When do I have to submit medical documentation to Health Services?

Medical documentation should be submitted to Health Services at least thirty days prior to taking leave. In addition, if you are approved for continuous leave and are on leave for thirty (30) days or more, you are required to submit re-certification documentation to Health Services every thirty (30) days.

To expedite the process, as soon as you receive the FMLA packet, submit the certification form to your health care provider for completion. Double-check the form for completeness and accuracy prior to submission to Health Services.

24. Who do I contact if I have questions about FMLA?

For your convenience, attached is a list of Amtrak representatives (See FMLA Contact List) who can respond to your FMLA inquiries.

IMPORTANT REMINDERS ABOUT FMLA

- Approved FMLA leave will run concurrently, and not consecutively, with any paid sick leave and scheduled vacation for agreement-covered employees. For non-agreement employees, FMLA leave will run concurrently with any sick leave and all earned vacation.
 - Amtrak will maintain your health care benefits during FMLA leave under the same conditions as if you continued to work.
 - If you normally pay any portion of any benefit premium, you must continue such payment while on leave. Contact your local Human Resources offices or a representative on the attached FMLA Contact List.
 - If your FMLA leave is based on your own health condition, or that of a covered family member, after thirty (30) consecutive days you may be required to:
 - Provide periodic medical re-certification;
 - Provide periodic updates of your intent to return to work;
 - You will be required to take a fitness-for-duty medical examination prior to your return to work if the leave is based on your own serious illness.
 - The terms of your leave may not be changed without prior approval except where the circumstances are beyond your control. If they change, you may be required to submit new medical certification.
 - If applicable, you must notify your supervisor, verbally or in writing, at least three (3) business days in advance if you are able to return to work earlier than the return date stated in your application for FMLA leave (unless your contract states otherwise).
 - You will be returned to the same or an equivalent position without loss of rights, seniority, or benefits that would be available if leave had not been taken. You retain this right so long as you can perform the essential functions of the position and you return from leave within 90 consecutive days from the start of FMLA leave.
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IMPORTANT REMINDERS ABOUT FMLA . . . (CONTINUED)

- If you do not return to work at the end of your leave period, you may:
 - Forfeit any right to reinstatement; and
 - Be required to reimburse Amtrak for benefit premium payments paid on your behalf during FMLA leave, unless the reason for your failure to return is (a) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (b) other circumstances beyond your control.
 - For a review of the full text of Policy and Procedures concerning FMLA leave, see "Pers. 47" in Amtrak's Policy and Procedures Manual.
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EMPLOYEE'S RESPONSIBILITIES

1. **Notifies supervisor** of the need to take FMLA leave at least thirty (30) days in advance when the need is foreseeable. When the need is not foreseeable, the employee must provide at least verbal notification to the supervisor as soon as practical. In most cases this should be within three (3) days of learning of the need for leave and written notice must be provided as soon as practical after giving verbal notice.
 2. **Obtains the FMLA Application Package** from Human Resources. This FMLA application package contains the following documents:
 - Application
 - "Certification of Physician or Practitioner" (Form WH-380)
 - FMLA Information Pamphlet and Q&A Handbook
 - Reference definitions for the "Certification of Physician or Practitioner" form
 - "Important Reminders About FMLA Leave"
 3. **Completes the FMLA Leave Application**
 - Submits copy to Human Resources Services (See FMLA Contact List, attached)
 - Supervisor retains a copy. (Optional)
 - Employee retains a copy.
 4. **For non-medical requests, forwards or delivers the FMLA Application and documentation** to the Human Resources representative. (See FMLA Contact List, attached).
 5. **If the leave request is based on an employee's own serious health condition, the employee must also:**
 - **Forward the application and the "Certification of Physician or Practitioner" (Form WH-380)** and a description of job duties to the health care provider.
 6. **Check accuracy and completeness** of the "Certification of Physician or Practitioner" (Form WH-380) prior to submission to Health Services.
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7. **Completes the bottom section** of the "Certification of Physician or Practitioner" (Form WH-380). The following Information must be included:

- The type leave requested. (See "Types of Leave".)
 - The estimated period of leave requested.
 - A leave schedule if requesting Intermittent or Reduced Leave.
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HUMAN RESOURCES SERVICES' RESPONSIBILITIES

1. Forwards copy of the request for leave to Health Services.
2. Receives and approves the requests for leave for non-medical documentation (e.g. care of newborn child or adoption).
3. Receives Medical Review form from Health Services.
4. Provides written notification to the employee, employee's supervisor, Health Services, and the HR manager of the approval or denial of leave.

HUMAN RESOURCES OPERATIONS' RESPONSIBILITIES

1. Distributes FMLA Application Package.
 2. Reviews the contents and instructions with the employee.
 3. Updates the employee's information in SAP.
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Amtrak's FMLA policy requires that you apply for FMLA leave at least 30 days prior to the anticipated start date when the need is foreseeable. In emergency situations, notice should be given as soon as possible. Eligible employees may take up to 12 weeks of FMLA leave in any twelve-month period. For agreement-covered employees, approved or designated FMLA leave will run concurrent, and not consecutively, with any paid sick leave or scheduled vacation. For management employees, approved or designated FMLA leave will run concurrent, and not consecutively, with sick leave and all vacation.

Employee's Name:	Soc.Sec. No.:	Date:	
Home Street Address:			
City:		State	Zip
Home Telephone	Work Telephone:		
Job Title:	Work Schedule:		
Department:	Location:		

Reason for Leave: *Check one of the following*

- The birth of your child or the placement of a child with you for adoption or foster care.
- A serious health condition that makes you unable to perform the essential functions of your job.
- A serious health condition affecting your Spouse, Child or Parent for whom you are needed to provide care.

Leave Schedule:

- Continuous Leave** (Employee needs to be absent for a continuous period of time with an agreed upon start date and return date).
Requested Start Date: _____ Return Date: _____
- Reduced Schedule** (Employee needs to be absent during specific hours or on specific day(s)).
Proposed Schedule: _____
- Intermittent Schedule** (Employee needs to be absent at different times or days during the week). This schedule, while flexible, should be as specific as possible.
Estimated Schedule (describe possible schedule adjustments): _____

Employee's Signature: Ψ	Date:
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Deliver this completed, signed form and medical documentation that supports the reason for your request for FMLA to your local Human Resources Office. You and your supervisor will be notified, in writing, whether your application is approved, denied or if additional information is required. If approved, you must comply with all specified terms of the FMLA leave agreement.

To be completed by employee's supervisor:

To be eligible for FMLA leave, the employee must have worked 1,250 hours over the previous 12 months. Please indicate whether or not this employee meets this requirement. (Note 1,250 hours converts to 157 work days for management employees).

- Employee does meet requirement
- Employee does NOT meet requirement

Supervisor's Signature: Ψ	Date:
Supervisor's Printed Name	Telephone No.

Instructions: Complete form, secure your supervisor's signature and print one copy. Send one copy to the appropriate Human Resources Office (See attached Contact List) and retain one copy for your records.

Certification of Physician or Practitioner (Form WH-380)

(Family and Medical Leave Act of 1993)

Employee's Name: _____ SS# _____

Address _____ City _____ State/Zip _____

Patient's Name (if different from employee): _____ Relationship _____

For your perusal, a listing of "Reference Definitions" for terms used under the Family and Medical Leave Act is attached. Please submit appropriate reference(s) to support additional terms, if necessary.

1. Does the patient's condition¹ qualify under any of the categories described in the attachment? If so, please check the applicable category.

(1)____(2)____(3)____(4)____(5)____(6)____, or NONE of these categories _____
 2. Describe the **medical facts** which support your certification, including a brief statement as to how the medical facts meet the criteria of one of the categories listed above.
 3. State the approximate **date** the condition commenced, and the probable **duration** of the condition and incapacity², if applicable:
 4. Will it be necessary for the employee to work only **intermittently**, or to **work on a less than full schedule** as a result of the condition? If yes, please explain the **probable duration and schedule requirement(s)**?
 5. If the condition is **chronic** (See Certification of Physician or Practitioner's Reference Definitions, attached) or **pregnancy**, state whether the patient is presently incapacitated² and the likely duration and frequency of **episodes of incapacity**²:
 6. If additional treatments will be required for the condition, please provide an estimate of the probable number of such treatments.
 7. If the patient will be absent from work or other daily **activities** because of **treatment** on an **intermittent** or reduced work schedule, please provide (1) an estimate of the probable number and intervals between such treatments; (2) actual or estimated dates of treatment (if known); and (3) the estimated period of time required for recovery, if any.
 8. If any of these treatment(s) will be provided by **another health services** provider (e.g., Physical Therapist), please state the nature of such treatment(s).
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9. a) If a **regimen of continuing treatment** under your supervision is required, please provide a general description of such treatment (e.g., prescription drugs, physical therapy requiring special equipment):
- b) Is it necessary for the employee to be **absent from work for treatment**?
10. If FMLA leave is required for the **employee's own health condition** (including absences due to pregnancy or a chronic condition), is the employee **unable to perform work of any kind**? If yes, please describe the work restrictions?
11. If the employee is **able to perform some work**, is the employee **unable to perform any one or more of the essential functions of the employee's job**? (The employee will supply you with information about the essential job functions.) **If yes, please describe those job functions.**
12. Is it necessary for the employee to be **absent from work for treatment**? ? If yes, please list the essential functions the **employee is unable to perform**:
13. If leave is required to **care for a covered family member** of the employee with a serious health condition, **does the patient require assistance** for basic medical or personal needs, safety, or transportation?
14. If no to number 13 above, would the employee's presence to provide **psychological comfort** be beneficial to the patient or assist in the patient's recovery? Please describe.
15. If the employee's covered family member will need care only **intermittently** or on a part-time basis, please indicate the probable duration for this care:

Signature of Health Care Provide	Type of Practice	Today's Date
Address		Telephone Number

IMPORTANT - EMPLOYEE MUST COMPLETE THE FOLLOWING SECTION:

TO EMPLOYEE: You must complete this section if your request for FMLA is to provide care for a covered family member. Describe the care you will provide, along with an estimated duration of the period for which you will be required to provide care. Include a leave schedule if your request is based on an Intermittent or Reduced Work Schedule.

Employee's Signature

Today's Date

Certification of Physician or Practitioner Reference Definitions

Here and elsewhere on the "Certification of Physician or Practitioner" form, the information sought relates only to the employee's or a covered family member's medical condition for which the employee is taking leave.

1. **Serious Health Condition** means an illness, injury, impairment, or physical or medical condition that involves one of the following:
 - A. **Hospital Care:** Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity² or subsequent treatment in connection with or consequent to such inpatient care.
 - B. **Absence Plus Treatment:** A period of incapacity² of more than three consecutive calendar days (including any subsequent treatment or period of incapacity² relating to the same condition), that also involves:
 - **Chronic Conditions requiring Treatment** means a chronic condition that requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - **Continuation over an extended period of time** (including recurring episodes of a single underlying condition); and may cause an episodic, rather than a continuing, period of incapacity (e.g., asthma, diabetes, epilepsy, etc.)
 2. **Treatment:** means medical care by a licensed health care provider two or more times; or by a nurse or physician's assistant under the direct supervision of a licensed health care provider; or other provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; **OR**

Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider, including examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.
 3. **Regimen of Continuing Treatment:** means a regimen of continuing treatment such as a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.
 4. **A permanent or Long-term Condition Requiring Supervision:** A period of incapacity² that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision or, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
 5. **Incapacity:** For purpose of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from.
 6. **Pregnancy:** means any period of incapacity due to pregnancy, or for prenatal care.
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FMLA Contact List

Corporate/NEC:

Barbara Hancock
Director, Human Resources
60 Massachusetts Avenue, N.E.
Washington, D.C. 20002
202/906-3827 - ATS 777-3827 (office)
202/906-2010 - ATS 777-2010 (fax)

Medical Team:

Dr. Timothy Pinsky
Regional Medical Director

Tim McLaughlin, RN
Health Services Manager

Marilyn McCouch, Admn Assistant
30th Street Station, 2nd Floor South
Philadelphia, PA 19104
215/349-2583 - ATS 728-2583 (office)
215/349-4401 - ATS 728-4401 (fax)

Amtrak West/ Intercity:

Robin Brown
Human Resources Manager
810 N. Alameda Street
Los Angeles, CA 90012
213/683-6894 - ATS 761-6894 (office)
213/891-3409 - ATS 761-3409 (fax)

Medical Team: Amtrak West

Dr. Peter Greaney
Regional Medical Director

Margie Robinson, HR Specialist
2472 E. 8th Street
Los Angeles, CA 90021
213/683-6760 - ATS 761-6760 (office)
213/683-6999 - ATS 761-6999 (fax)

Medical Team Intercity

Dr. Jeffrey Coe, MD
Regional Medical Director

Sylvia Courtney, R.N.
Health Services Manager

Barbara Freeman, Assistant
525 West Van Buren Street, 3rd Floor
Chicago, Illinois 60607
312/880-5278 (office)
312/880-5421 (fax)
