



# County of Fresno

DEPARTMENT OF HUMAN RESOURCES

## EMPLOYEE RESOURCE GUIDE - PROTECTED & UNPROTECTED LEAVES

### OVERVIEW OF PROTECTED LEAVES

**Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA)** – Employees may be eligible for up to **12 weeks** of protected leave under FMLA and/or CFRA, which includes health benefits protection (maintained on the same basis as coverage would have been provided if the employee was working) within a 12- month period of time. To be eligible for FMLA, the employee must have at least 12 months cumulative service with the County; CFRA requires 12 months plus 1 day. All prior County service counts towards this requirement time, and the employee must also have worked at least 1,250 hours within the 12 months immediately preceding the first day of leave. A service member's active duty time can be used towards the required service time. The reason for leave must also meet the definition of a serious health condition as defined by FMLA/CFRA. FMLA also provides protected leave for up to 12 weeks for a qualifying exigency for military family, and 26 weeks to care for a covered service member with a serious injury or illness.

The County utilizes the rolling 12-month period to determine FMLA/CFRA eligibility, meaning the County looks backwards 12 months from the first day of leave to determine how much, if any, FMLA/CFRA time had been used prior to the beginning of the leave request. FMLA runs concurrent (at the same time) with CFRA with the exception of when the employee is on Pregnancy Disability Leave (PDL). PDL runs concurrent with FMLA but not CFRA.

**Pregnancy Disability Leave (PDL)** – Under PDL, pregnant employees are eligible for up to 4 months of protected leave which includes protected health benefits (maintained on the same basis as coverage would have been provided if the employee was working). Employees are eligible for PDL upon date of hire providing they meet the disability requirements as defined by PDL (a disability due to pregnancy, childbirth, or related condition).

If an employee is not eligible for a protected leave, an unprotected leave request may be submitted consistent with Fresno County Personnel Rule 7 - Leaves.

### EMPLOYEE'S RESPONSIBILITIES - PROTECTED LEAVE / UNPROTECTED LEAVE

1. Meet with department human resources staff. Leave must be requested 30 days in advance if the leave is foreseeable. If the leave is not foreseeable, the leave needs to be requested within a reasonable time of learning of the necessity for a leave.
2. Complete the Employee Leave of Absence Request form.
3. Complete the Leave of Absence Acknowledgment form.
4. Submit the County's **Health Care Provider Medical Certification Form** or provide a medical note completed by the Health Care Provider. An incomplete or inconclusive medical note will cause a delay in the approval of a leave request and/or cause health benefits to be terminated.

#### **County's Health Care Provider Medical Certification Form must be completed as follows:**

- a. Employee Section (Page 1) – Employee will complete, date and sign;
- b. Health Care Provider section: (Must be completed in its entirety)

Page 1 – Mark the appropriate box(s); Page 2 – Print patient's name at the top of the page;

Answer all questions; Check the appropriate designation of leave and complete the information for the corresponding designation(s) (e.g. dates, descriptions, schedules, medical necessity, etc.); Include doctor's name, signature, address, specialty and phone number.

### **Medical Note – Required information:**

If employee provides a medical note in lieu of the County's Health Care Provider Medical Certification Form, the note must meet the following criteria:

- a. Submitted on official medical office letterhead;
- b. Dated;
- c. If leave is due to a disability that is protected under FMLA/CFRA and/or PDL, the note must certify that the patient is unable to perform the functions of his/her job because of a serious health condition (as defined by FMLA/CFRA/PDL). Refer to the County's Health Care Provider Medical Certification Form for definitions of serious health condition);
- d. Include duration (disability begin date and return date or anticipated return);
- e. Signed by the Physician including office stamp, or provide physician's name, specialty, address and phone number; and
- f. If submitting a request for a leave extension, the note must include that the disability is extended from the date in which the leave expired (no gaps in time), and must continue to include information listed above (a through e).

**Failure to provide sufficient information needed to determine eligibility for protected leave may delay and/or cause the request for protected leave to be denied, and cause health benefits to be terminated.**

5. If the leave of absence is related to the employee's military duty or in support of an employee's qualified relative who is a current service member or veteran, the appropriate certification must be completed. (Contact Employee Benefits for more information.)
6. If applicable and wishing to integrate with State Disability Insurance (SDI) benefits, complete and submit the SDI/PFL election to integrate form.
7. If employees wish to request Annual Leave donations, forms must be submitted timely. (Contact department human resources staff for more detailed information.)
8. Any change in disability status (e.g. extending the original period, return to work, etc.) must be submitted timely to the department human resources staff for approval and processing. Failure to provide required leave paperwork will result in status as absent without approved leave and subject to disciplinary action up to and including termination. (Ref. Personnel Rule 10)

It is the **employee's** responsibility to complete these forms timely and submit to their department. Departments will verify that the appropriate forms were provided and complete and forward to Human Resources – Employee Benefits for processing.

**COMPENSATION DURING LEAVE** (Protected leaves run concurrent with paid leave time.)

#### **SDI/PFL:**

The County and the State Employment Development Department have agreed to a method of "integrating" accrued sick leave (or its equivalent) and California State Disability Insurance/Paid Family Leave Insurance (SDI/PFL) benefits for those County employees covered by SDI. Employees who wish to integrate must request to do so at the beginning of their leave by completing the request to integrate form.

#### **Annual Leave Time/Sick Leave Time:**

Employees must utilize their sick leave/annual leave (or its equivalent) during all or a portion of their leave (exception allowed if employee is collecting disability benefits). For employees with paid leave, their health insurance premiums will be deducted from their bi-weekly check.

#### **HEALTH BENEFITS DURING LEAVE**

**Eligible for FMLA/CFRA and/or PDL:** Health Benefits are protected for the first 12 weeks of leave for FMLA/CFRA leave of absence and up to 4 months for PDL. Should employees not pay their portion of the health insurance premium while on protected leave, they will lose their eligibility through the end of their scheduled protected leave.

The County's third party administrator, Administrative Solutions, Inc. (ASI), will bill the employee for the appropriate health insurance premium and all payments must be made directly to ASI. If while on a paid leave

the employee's earnings are insufficient to deduct the entire health insurance premium, the employee will be billed for the premium. The employee has 30 days from the date of the initial notice to remit payment or their health insurance benefits will be terminated. **Note: If the employee fails to remit premium payment while on protected leave, the employee will not be eligible to continue coverage under COBRA until the protected leave period expires.**

**After Protected Leave is Exhausted:** If the employee continues on an unpaid leave of absence after the 12 weeks of FMLA/CFRA and/or 4 months of PDL have been exhausted, the employee may be eligible for Consolidated Omnibus Budget Reconciliation Act (COBRA) health insurance coverage (**The County no longer contributes towards health insurance premiums**, including County-paid life insurance benefits). If the employee elects to enroll in COBRA, the employee is responsible to pay the full cost of the health insurance premium (i.e. the employee's portion plus the County's contribution). Eligible employees will receive a COBRA Notice in the mail from ASI and have 60 days from the date of the Notice to elect COBRA coverage. If employees do not elect COBRA, they will not have health coverage for the remainder of the unpaid leave. The table below shows an example of leave time that includes protected leave (FMLA), and unpaid non-protected leave time.

<b>Example: 12 weeks FMLA Time with County Portion Paid Health Benefits, and 8 weeks Unpaid &amp; Non-Protected Leave - COBRA Health Benefits</b>																							
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
<b>12 Weeks FMLA - County Contribution Benefits (Employee pays their normal portion of premium)</b>																		<b>Return to Work</b>					
												<b>8 Weeks COBRA - Non-Protected Leave with No County Contribution (Employee pays full health insurance cost)</b>											

**Leave of Absence (Non-Protected):** While on paid leave, employees continue to have normal payroll deductions that maintain their health insurance coverage. If employees are on an unpaid leave of absence or other non-protected unpaid leave, they are responsible to pay the full premium cost for health insurance benefits if they choose to continue to have health insurance coverage. Eligible employees will receive a COBRA Notice in the mail from ASI and they have 60 days from the date of Notice to elect COBRA coverage. If the employee elects COBRA, they must pay the County's third-party administrator, ASI. If the employee does not elect COBRA, they will not have health coverage during the remainder of the unpaid leave.

This is a quick reference guide; for more detailed information on protected leaves, to find forms, certifications, etc., refer to the Employee Benefits website.

**Information and Verification of FMLA/CFRA/PDL Status:**

1. The employee's first point of contact is their department's human resources office. Each County department determines eligibility for protected leave and processes all paperwork required to request protected and unprotected leaves.
2. Human Resources - Employee Benefits (additional information)  
Plaza Building, 2220 Tulare Street, 14th Floor  
Fresno, CA 93721  
(559) 600-1810

**Health Insurance Billing (County's Third-Party Administrator):**  
**Administrative Solutions, Inc. (ASI)**  
P.O. BOX 5809  
Fresno, CA 93755-5809  
**(559) 256-1320**