

CITY OF SPOKANE ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 0620-20-68 LGL 2020-0021
TITLE: WASHINGTON STATE PAID FAMILY AND MEDICAL LEAVE	
EFFECTIVE DATE: January 1, 2020	
REVISION EFFECTIVE DATE: (IF APPLICABLE)	

RECEIVED

AUG 14 2020

CITY CLERK'S OFFICE

1.0 GENERAL

1.1 The Washington State Paid Family and Medical Leave (PFML) law (Chapter 50A RCW) and supporting regulations establish a program administered by the Washington Employment Security Department (ESD) to provide paid leave benefits and job protection to eligible employees who need leave for certain family and medical reasons. PFML benefits became available on January 1, 2020. This policy provides a summary of the PFML program. Employees may obtain additional information at www.paidleave.wa.gov. To the extent an issue is not addressed in this policy, the City will administer this benefit program consistent with applicable statutes and regulations.

1.2 TABLE OF CONTENTS

- 1.0 GENERAL
- 2.0 DEPARTMENTS/DIVISIONS AFFECTED
- 3.0 REFERENCES
- 4.0 DEFINITIONS
- 5.0 POLICY
- 6.0 PROCEDURE
- 7.0 RESPONSIBILITIES

2.0 DEPARTMENTS/DIVISIONS AFFECTED

- 2.1 This policy shall apply to all City divisions and departments.
- 2.2 The provisions of this policy do not supersede the provisions of any collective bargaining agreement, and when in conflict, the specific terms and conditions of any collective bargaining agreement will prevail.

*Not all City employees will be eligible for this program in 2020. Employees covered by collective bargaining agreements that haven't been re-opened or renegotiated since October 19, 2017, may not be eligible until the agreement expires.

3.0 REFERENCES

Chapter 50A RCW

4.0 DEFINITIONS

- 4.1 "City" means City of Spokane, WA.
- 4.2 "Suspension from Employment" means an unpaid leave of absence from the City for voluntary, or involuntary reasons, including discipline.
- 4.3 "Covered Family Members" include the employee's child (biological, adopted, or foster child, a stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status), grandchild, parent (including in-laws), grandparent (including in-laws), sibling, spouse, certified domestic partner, or as defined by RCW 50A.05.010.
- 4.4 "FMLA" refers to the Federal Family and Medical Leave Act. FMLA is addressed in City policy HR-23 Family and Medical Leave Act.
- 4.5 "PFML" is Washington State Paid Family and Medical Leave.
- 4.6 "Safety Sensitive Position" refers to a job in which the employee is responsible for her or his own or other people's safety.

5.0 POLICY

- 5.1 The City will comply fully with the intent of the Washington State Paid Family Medical Leave law.

5.2 Payroll Deductions

The PFML program is funded through premiums collected by ESD via payroll deductions and employer contributions. The premium rate is established by law; employees are currently responsible for two-thirds of the total premium amount. Should the State in the future modify the PFML premium rate or the percentage of premiums subject to collection through payroll deduction, the City will modify payroll practices to reflect those statutory changes.

5.3 Eligibility

Under PFML, employees may be eligible for monetary benefits and job protection when taking leave for covered reasons. Eligibility requirements are as follows:

Monetary Benefits

In order to be eligible for monetary benefits from ESD, an employee must have worked 820 hours in Washington (for any employer or combination of employers) during the year preceding the claim.

Job Protection: In order to be eligible for job protection under PFML, an employee must have worked for the City for at least 12 months and have worked 1250 hours in the last year.

An employee is ineligible for PFML benefits during any period of suspension from employment or during which the employee works for remuneration or profit (e.g., outside employment or contracting).

5.4 Leave Entitlement

- 5.4.1 Eligible employees are entitled to take up to 12 weeks of medical or family leave, or a combined total of 16 weeks of family and medical leave per claim year; an additional two weeks of leave may be available in the event the employee's leave involves incapacity due to their own pregnancy. The claim year begins when the employee files a claim for PFML benefits or upon the birth/placement of the employee's child. PFML leave may be taken for the following reasons:

Medical Leave: Medical leave may be taken due to the employee's own serious health condition, which is an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider, as those terms are defined under the Federal Family Medical and Leave Act (FMLA) and RCW 50A.05.010. However, an employee is not eligible for PFML benefits if the employee is receiving time loss benefits under the workers compensation system.

Family Leave: Family leave may be taken to care for a covered family member with a serious health condition; for bonding during the first 12 months following the birth of the employee's child or placement of a child under age 18 with the employee (through adoption or foster care); or for qualifying military exigencies as defined under the FMLA. For purposes of family leave, covered family members include the employee's child, grandchild, parent (including in-laws), grandparent (including in-laws), sibling, or spouse.

- 5.4.2 PFML runs concurrently with FMLA where an absence is covered by both laws. PFML leave may be taken intermittently, provided that there is a minimum claim requirement of eight consecutive hours of leave in a week for which benefits are sought.

- 5.4.3 The leave provided by the PFML program may be used during a one year period after the leave starts (or, if the employee has a baby or new child, one year after they join the family). If the leave is not used within one year, it will not carry over into the next year.

6.0 PROCEDURE

6.1 PFML Application Process

An employee must submit an application to ESD in order to seek PFML benefits. For guidance on the application process, please refer to the ESD website (www.paidleave.wa.gov). Eligibility determinations will be made by ESD. If approved, the employee will need to file weekly benefit claims with ESD to continue receiving benefits.

6.2 Notification Requirements

6.2.1 An employee must provide written notice to the City of the intent to take PFML leave. If the need for leave is foreseeable, notice must be given at least 30 days in advance of the leave. For unforeseeable leave, notice must be given as soon as practicable. The employee's written notice must include the type of leave taken (family or medical), as well as the anticipated timing and duration of the leave. If the employee is unable to provide notice personally, another responsible party, such as the employee's spouse or designee (as defined by WAC 192-600-010), may give written notice. If an employee fails to provide this required notice to the City, ESD will temporarily deny PFML benefits. After receiving the employee's notice of the need for leave, the City will advise the employee whether the employee is eligible for job protection under PFML or FMLA or both.

6.2.2 If leave is being taken for the employee's or family member's planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt City operations.

6.2.3 If taking leave intermittently, an employee must notify the City each time PFML leave is taken so that the City may properly track leave use on the employee's timecard.

6.3 PFML Monetary Benefits

6.3.1 If ESD approves a claim for PFML benefits, partial wage replacement benefit payments will be made by ESD directly to the

employee. The amount of the benefit is based on a statutory formula, which generally results in a benefit in the range of 75-90 percent of an employee's average weekly wage, subject to a maximum of \$1,000 per week. ESD's website has a benefits calculator to assist employees in estimating their weekly benefit amount.

- 6.3.2 With the exception of leave taken in connection with the birth or placement of a child, monetary PFML benefits are subject to a seven-day (consecutive calendar days) waiting period. The waiting period begins on the Sunday of the week in which PFML leave is first taken. The waiting period is counted for purposes of the overall duration of PFML leave, but no monetary benefits will be paid by ESD for that week. Employees may use available accrued leave to cover absences during the waiting period.
- 6.3.3 Paid leave accruals (vacation, sick leave, floating holidays, compensatory time, or any other accrued leave) are not supplemental to PFML benefits. An employee may elect to use such accrued leave during a PFML-covered absence, although the receipt of accrued leave must be reported to ESD as part of the PFML claims process and will result in a pro-rated weekly PFML benefit.

The following examples illustrate the interplay between PFML benefits and accrued leave:

Assume Jamie earns \$1,500/week or \$300/day. Their maximum PFML weekly benefit is \$1,000. Jamie takes 5 weeks off due to a serious health condition.

- Week 1: Waiting period, so Jamie is not eligible to receive PFML benefits. They use 40 hours of accrued leave and receive their full pay of \$1,500/week.
- Week 2: Jamie uses no accrued leave. ESD pays them the full PFML benefit. Total compensation for the week is \$1,000.
- Week 3: Jamie uses 16 hours (2 days) of accrued leave, so their gross wages are \$600. Jamie must report the receipt of paid leave to ESD when they file their weekly benefit claim. ESD then reduces Jamie's weekly benefit by 40%, because they received wages for 40% of the week. Jamie's PFML benefit would therefore be \$600. Total compensation for the week would be \$1,200 (\$600 in accrued leave plus \$600 in PFML benefits).

- Week 4: Jamie uses 40 hours of accrued leave. Jamie must report that to ESD if they file a weekly benefit claim. ESD would pay Jamie \$0 in PFML benefits.
- Week 5: Jamie uses 4 days of accrued leave (equal to \$1,200), which they must report to ESD. ESD would reduce their weekly benefit by 80%, so the benefit would be \$200. Total compensation for the week would be \$1,400.

Important note: Failure to report the receipt of accrued leave may result in an overpayment by ESD, which ESD may recoup from the employee.

6.4 Coordination with Other Benefit Programs

6.4.1 When an employee is on leave and only receiving PFML benefits, the employee is deemed to be in unpaid status. Employees on PFML leave shall continue to receive health and welfare coverage during the duration of their leave when there is at least one day of concurrent use with leave taken under the federal FMLA or other legal requirements requiring continuation of coverage.

6.4.2 The City agrees not to condition any contractual benefit on the use of PFML as required by state law.

6.5 Job Restoration, Return to Work Recertification

6.5.1 An employee who is eligible for job-protected leave as outlined in Section 5.3 above will be restored to the same or equivalent position at the conclusion of PFML leave, unless the employee's position or shift was eliminated for reasons unrelated to leave.

6.5.2 The City may require a return-to-work certification from a health care provider before restoring the employee to work following PFML leave where the employee has taken leave for the employee's own serious health condition and the employee holds a safety sensitive position; or has been on leave for more than 120-days, but only if the employee is subject to City policy ADMIN 0620-13-20 Unpaid Leave of Absence. Uniformed employees are subject to their own department specific policies pertaining to return from leave.

6.5.3 An employer may deny restoration to the same or an equivalent position to any salaried employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed if: denial is necessary to prevent substantial and grievous economic injury to

the operations of the employer; the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that the injury would occur; and the leave has commenced and the employee elects not to return to employment after receiving the notice.

6.5.4 If an employee taking PFML leave chooses not to return to work for any reason, the employee should notify the City as soon as possible.

7.0 RESPONSIBILITIES

The Human Resources Department shall administer this policy and procedure.

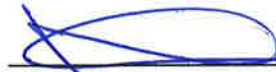
APPROVED BY:



Wes Crago, City Administrator

8.14.20

Date



Amber Richards, Human Resources Director

8/14/20

Date



Mike Piccolo, Assistant City Attorney

8/14/2020

Date