



Stanislaus County

Maternity Leave

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Maternity Leave

Stanislaus County is firmly committed to protecting the rights of expectant mothers and complying with Title VII of the 1964 Civil Rights Act as amended by the Pregnancy Discrimination Act of 1978. **Stanislaus County's** policy is to treat women affected by pregnancy, childbirth or related medical conditions in the same manner as other employees unable to work because of their physical condition in all employment aspects, including recruitment, hiring, training, promotion and benefits.

Further, **Stanislaus County** fully recognizes eligible employees' rights and responsibilities under the Family and Medical Leave Act, the California Family Rights Act, and the Americans with Disabilities Act.

Paid leave may be substituted for unpaid maternity leave in accordance with **Stanislaus County's personnel policies**.

Pregnant employees may continue to work until they are certified as unable to work by their physician. At that point, pregnant employees may be entitled to receive benefits through California's State Disability Insurance (SDI), Stanislaus County's Management Disability Leave, or other Short Term Disability policy the employee may have purchased.

When the employee returns to work, she is entitled to return to the same or equivalent job. Should the employee not return to work when released by her physician and or the end of an approved leave of absences with the County, she will be considered to have voluntarily terminated her employment with **Stanislaus County**.

Applicable leave laws:

Pregnancy Discrimination Act of 1978

Family and Medical Leave Act

California Family Rights Act

Payment Sources:

*State Disability Insurance (SDI)**

*Stanislaus County Sick Leave (SCK)**

*Stanislaus County Management Disability Leave (MDP)**

*Paid Family Leave (PFL)**

*Stanislaus County Vacation (VAC)**

Other Short Term Disability policies an employee may have

Purchased.

Payment sources dependent on eligibility. Refer to the EDD office for SDI and PFL eligibility. Refer to the County's Personnel Policies to determine eligibility for SCK, VAC and MDP

Under California law, pregnant women can take a pregnancy disability leave if needed during their pregnancy. Up to four months can be taken off due to pregnancy, childbirth, or related conditions. Reasons to take the leave include:

- Severe morning sickness
- Prenatal care
- Physician-ordered bed rest
- Childbirth
- Recovery from childbirth

To take this California maternity leave, a woman must be incapable of doing at least one essential job task without risk to herself, her unborn child, or others.

Workers who participate in the State Disability Insurance (SDI) Program are also entitled to a maximum of six weeks of partial pay each year under **Paid Family Leave** while taking time off from work to:

Bond with a newborn baby

Most workers will receive approximately 55% of their pre-taxed weekly wage, up to a maximum while on leave.

The Paid Family Leave Program is administered by the State of California Employment Development Department (EDD) a state agency, not the County.

Coordinating Leaves for Pregnancy Disability

There are several leaves that may apply for the birth of a baby or an adoption or foster care placement. This brochure will briefly explain each leave type, the associated benefits and how they may overlap.

Pregnancy Disability Leave or PDL allows a pregnant woman up to **four (4) months** of job protection should she be taken off of work due to a pregnancy related disability including postpartum recovery. The need to be off work due to disability must be certified by a licensed physician. This time may be taken in broken periods or in a block of time. This leave may be paid if the pregnant employee has accrued sick time available, if not this is an unpaid leave. If the employee only has accrued vacation available she may elect to use vacation used as sick, or she may elect to be placed on an unpaid leave.

Family & Medical Leave Act or FMLA - allows for up to **twelve (12) weeks** of job protection and the continuation of the County sponsored portion of the employee's health benefits due to a serious health condition (including pregnancy) or for the birth, adoption of a child or placement of a child with the employee for foster care. This leave may be paid if the employee has applicable leave accrued. The use of sick leave is addressed in the County Personnel policy under 3.40.010.

California Family Rights Act or CFRA mirrors FMLA with the exception of pregnancy. For the new mother CFRA does not apply to a pregnancy related disability. **Once the pregnancy disability ends**, CFRA begins and allows the new mother up to twelve (12) weeks of job protected leave of absence to bond with the newborn child. This leave may be paid if the employee has accrued vacation available or may be an unpaid leave of absence.

Sick Leave - County personnel policy 3.40.010 notes that sick leave may be used for a "bona fide illness which shall include pregnancy when the pregnancy incapacitates the employee to the extent that she cannot fully perform the duties of her job." Refer to County personnel policy 3.40.010 for further clarification of the usage of sick leave. During the period of time a woman is actually disabled it is required that she use sick leave **unless** she is receiving disability benefits from any source then she may request to use any accrued sick leave to supplement disability benefits. Once the disability ends she is required to use accrued vacation or be placed on an unpaid leave of absence.

State Disability Insurance or SDI—Paid Disability Benefits through the State of California may be available to a full time benefited employee. If you are not sure if SDI is available to you, call the EDD office at (800) 480-3287. If you are eligible for SDI your doctor will need to assist you with medical certification of your claim. An employee may elect to supplement SDI benefits with sick or may request to use vacation used as sick. Employee's **must** submit a request to supplement disability benefits and must submit copies of SDI checks or pay stubs to the Payroll Division of the Auditor's office, contact the department payroll clerk for further information.

SDI has a 7 day waiting period (total, not work days) that is unpaid. Employees will use sick leave for the waiting period if they have leave accruals available. SDI will pay between 55% and 60% of the employee's wages. The first benefit check should be received within 1—2 weeks after the claim has been received and processed by SDI. The benefit amount is based on the highest quarterly average in over the last year. To find out more about SDI check out the State's website at http://www.edd.ca.gov/Disability/Disability_Insurance.htm

Paid Family Leave or PFL— Paid Bonding Benefits through the State of California may be available. Employees who receive SDI benefits are most likely also eligible for PFL benefits. To determine eligibility contact the EDD office at 1-877-238-4373.

Management Disability Leave or MDL. The county provides a limited income protection plan which provides that if the manager is temporarily unable to work due to illness or injury (not work-related) the County will continue paying 50% of the employee's monthly salary for up to 11 months starting on the 31st day of disability. MDL will run concurrent with FMLA. Employee's must complete the Management Disability Application and provide appropriate medical certification.

Health Benefits - During the period of time employees are on FMLA, County sponsored portion of Health Benefits will continue. If the employee is responsible for premium payments in excess of the County sponsored portion, the employee will continue to be responsible for that portion of the premium. For questions on premiums due please contact the CEO-RMD, Employee Benefits Unit at 525-5717.

Frequently Asked Questions

Must pregnant employees actually be disabled to qualify?

Yes. Pregnancy disability leave is allowed only when a woman is actually disabled. This includes time off needed for prenatal care, severe morning sickness; doctor ordered bed rest, childbirth and any pregnancy related medical condition including postpartum recovery.

Must a woman be completely incapacitated or confined to her bed to qualify as disabled by pregnancy?

No. As a general rule, a woman must be unable to perform one or more essential functions of her job without undue risk to herself, other persons or for a successful completion of her pregnancy. The medical opinion of the woman's physician or her health-care provider will determine whether the pregnancy or a related medical condition disables her.

Is the County required to reasonably accommodate employees for pregnancy?

Yes. If an employee requests reasonable accommodation upon the advice of her health-care provider, the County must provide reasonable accommodations for the employee for conditions related to pregnancy, childbirth or related medical conditions.

Is the County required to transfer employees to less hazardous or strenuous assignments?

Yes. If an employee's health-care provider certifies a transfer is medically advisable and the County can reasonably accommodate the request. The County is not, however, required to create a position or displace another employee.

Does the County have the option of transferring a pregnant employee to an alternative position if the employee's health-care provider indicates that intermittent leave or a reduced work schedule is medically advisable and foreseeable based on planned medical treatment?

Yes. The County may require the employee to temporarily transfer to an available alternative position, one which is more appropriately accommodating for the employee than their existing position during the recurring periods of leave. Although the alternative position need not have equivalent duties, it must have an equivalent rate of pay and benefits and the employee must be qualified for the position. Transfer to an alternative position may include modifying an existing position or reduced work schedule to accommodate the employee's need for intermittent leave.

May PDL be combined with other forms of leave?

Yes. Employees are entitled to take PDL in addition to any leave entitlement they might have. The first 12 weeks of disability leave (if eligible) under PDL will run concurrent with FMLA. An employee could be eligible for up to four months job protection under PDL for her pregnancy related disability and be entitled to an additional 12 weeks CFRA leave to bond with the baby.

I have the opportunity to do some work part time from home that will start in the last 4 weeks of my pregnancy disability, is this allowed?

No. You cannot be employed in any way while you are on maternity leave.

BENEFITS

Is the County required to pay for an employee's health insurance while she is on leave?

If an employee has health benefits through the County and is entitled to a disability leave under FMLA, the County will continue to pay the county sponsored portion health insurance premiums for up to 12 weeks of leave under FMLA.

Benefits may continue beyond the 12 weeks if the employee is on a paid leave of absence.

Can the County require a woman to use her sick leave during the four-month disability leave period?

Yes. The County may require an employee to use her accrued sick leave during the otherwise unpaid portion of her pregnancy disability leave. Unless the employee is on FMLA and receiving disability benefits from any source, then the employee may elect to supplement disability payments or not.

Can a woman elect to use her vacation leave during the disability period?

Yes. A woman may request vacation used as sick (VUS) if her sick bank is empty while she is disabled.

What about vacation leave when the disability period ends?

A woman will be required to use any accrued vacation once the disability ends, if her leave continues to qualify for FMLA * refer to the County Personnel Policy.

Is donated time allowable for a pregnancy related disability?

In most circumstances NO. Donated time is available to employees that suffer a catastrophic injury or illness. The catastrophic need is not based on financial need, but on medical incapacity by some type of life threatening condition.

Is a probationary employee entitled to pregnancy leave?

Yes, but the County may not be required to pay her benefits while she is on an unpaid leave of absence. To qualify for FMLA and the payment of benefits an employee must have worked 1250 hours within the previous twelve months.

Can a pregnant woman's employment be terminated because of performance problems?

Only in situations where employees would normally have their employment terminated.

May the County require an employee to obtain medical verification of her inability to work because of pregnancy?

Yes, but only from the pregnant employee's own doctor or health-care provider.

Can the County require medical verification that continuing work will not be hazardous to the pregnant woman?

Yes.

What notice to the County is required for going on or returning from leave?

If possible, an employee must provide the County at least 30 days advance notice before PDL or transfer begins, the date the leave will commence, and the estimated duration of the leave. If 30 days advance notice is not possible due to lack of knowledge of when leave or transfer will begin, a change in circumstances or a medical emergency, notice must be given as soon as practical.

Terms of leave may be modified as a woman's changing medical condition dictates. If a woman desires to return earlier than agreed and disability has ended, the County must reinstate her within two business days of her notice.

How do I apply for SDI?

Many doctors have SDI claim forms in their office and will fill out the form for you. Unfortunately many doctors now charge for paperwork and require a few days for processing, so allow adequate time. Discuss this with your doctor before your 35th week of pregnancy.

How do I apply for Paid Family Leave?

The good news is new mothers will not have a 2nd waiting period and SDI will typically send you a letter asking if you want to receive Paid Family Leave while bonding with your new baby. Just complete the form that comes with your final disability check telling them you want to continue to remain at home with your child for the full six weeks allowed and they will continue your benefit.

Fathers who want to apply for Paid Family Leave to bond with their new baby will need to complete the Paid Family Leave claim form and submit directly to the State of California Employment Development Department (EDD). There will be a 7 day waiting period during which time the Father may request vacation from his department.

New Adoptive families or foster care families may request Paid Family Leave to bond with their newly placed child. There is a 7 day waiting period during which time employees may request vacation from their department.

FMLA/CFRA FOR FATHERS

Fathers are eligible to take up to 12 weeks off under FMLA /CFRA to bond with the newborn or to provide medical care to the new mother and/or baby. Typically the new father would use Vacation for this period of time unless there is medical certification stating that the new father is needed to provide medical care to the new mother and/or baby. Unpaid leave status will be granted only if the new father does not have accrued vacation available.

FMLA/CFRA FOR ADOPTION OR FOSTER CARE PLACEMENT

Adoptive parents or Foster Care parents are eligible to take up to 12 weeks off under FMLA /CFRA to bond with the newly adopted child (at time of placement) and/or newly placed foster child. Typically the time off would be Vacation time, unless there is medical certification stating medical care is needed for the newly placed child. Unpaid leave status will be granted only if the employee does not have accrued vacation available.

List of payroll codes you may need for your time card

- FLP = FMLA that is also paid (you are using sick or vacation benefits)
 - FLU = FMLA that is unpaid (you do not have any accrued sick or vacation benefits available)
 - CFR = CFRA
 - PDL = Pregnancy Disability Leave
 - SDI = SDI benefits paid by EDD
 - SDF = Paid Family leave benefits paid by EDD
 - SCK = sick leave
 - VUS = Vacation used as sick
 - VAC = Vacation
- See your payroll clerk for a more detailed list.

Illustration of leave coordination

Example 1 Female employee has a normal pregnancy—no complications. Standard 6 weeks disability and elects to remain off work to bond with the newborn baby for an additional 12 weeks. Total time off work is 18 weeks. *If the employee is eligible for SDI and/or the employee has accrued sick leave the first 6 weeks should also be coded to SDI and/or SCK. SDI has a 7 day waiting period - the first week would be PDL/FLP/SCK then next 5 weeks would be PDL/FLP/SCK/SDI.*

- 1 wk—SCK/FLP/PDL*
- 5 wks—PDL/FLP/SCK/SDI *
- 6 wks—FLP/CFR/VAC/SDF*
- 6 wks—CFRA/VAC

***** *If employee is eligible for SDI—there is a 7 day waiting period and the benefit amount is determined by the State—the Auditor’s Office can give you a estimate of the benefit or you may call the EDD office and have a representative assist you with this. When SDI applies, the County will supplement this benefit using a portion of your sick leave if you request to supplement. An example of this may be that 3 hrs of sick leave are used each day rather than a full 8. To determine the number of sick hours that will be used, contact your payroll clerk for assistance.*

Example 2 Female employee has a difficult pregnancy requiring 4 months of disability and elects to remain off work to bond with the newborn baby for an additional 12 weeks. Total time off work is 7 months. Employee requests to supplement SDI benefits

1 wk—PDL/FLP/SCK (one week waiting period for SDI)

11 wks—PDL/FLP/SCK/SDI

4 wks—PDL/SDI/SCK

6 wks—CFRA/VAC/SDF

6 wks—CFRA/VAC

***** *A PAF must be completed anytime an employee begins and/or returns from an approved unpaid leave of absence. The use of sick or vacation applies if the employee has the accrued time available.*

Example 3 New father requests time off to bond with new baby. If the new father requests a period of time off for vacation that is acceptable to the department the Father does not have to request the leave as FMLA/CFRA he can simply use vacation. If the department would not normally grant the amount of vacation requested, the father can request the leave under FMLA/CFRA and would then be granted up to 12 weeks off to bond with the new baby. *The father may be eligible for Paid Family Leave.*

6 wks—FLP/CFR/VAC/SDF

6 wks—FLP/CFR/VAC

May a father use sick leave during his FMLA due to the birth of a new baby?

Only if there is a bona fide illness that the father is needed to provide care for the new mother or the baby. Medical certification may be required.

Health Benefits

Contact the Employee Benefits Unit at (209) 525-5717 to add coverage for your new baby. You must add your new baby within 30 days from the date of birth, if this is not done timely you will need to wait for the next open enrollment to add coverage for your new baby.



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