



Stanislaus County

Pregnancy Leave of Absence

CEO-Risk Management
Division

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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 accrued sick or vacation time available. The use of sick leave is addressed in the County Personnel policy under 3.40.010.

California Family Rights Act or CFRA basically 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 she is required to use any accrued sick leave. Once the disability ends she may elect to use accrued vacation or be placed on an unpaid leave of absence.

State Disability Insurance or SDI 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. Typically the County will supplement your SDI benefits with any accrued sick leave. You will need to submit copies of your SDI

checks or pay stubs to the Payroll Division of the Auditor's office, your department payroll clerk can assist you with this.

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 12 months starting on the 31st day of disability. MDL will run concurrent with FMLA (first 30 calendar days is FMLA then the remaining 54 calendar days would be MDL/FMLA). You must complete the Management Disability Application and provide medical certification.

Health Benefits - During the period of time the employee is on FMLA, their 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 required 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 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 under CFRA. The first 12 weeks of disability leave (if eligible) under PDL will run concurrent with FMLA. An employee could take four months PDL for her disability and be entitled to 12 weeks CFRA leave to bond with the baby, to bond with an adopted child, or care for a parent, spouse, or child with a serious health condition.

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 compel 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.

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

Yes. A woman may use vacation used as sick (VUS) if her sick bank is empty while she is disabled. Once disability ends the woman may elect to use vacation while continuing to remain off work to bond with the newborn child.

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.

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.

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 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 are being 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 A 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. Remember SDI has a 7 day waiting period - the first week would be PDL/FMLA/SCK then next 5 weeks would be PDL/FLMA/SCK/SDI.*

6 wks—PDL/FMLA/SCK/SDI *

6 wks—FMLA/CFRA/VAC

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. 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.

12 wks—PDL/FMLA/SCK/SDI *
4 wks—PDL/SDI *
12 wks—CFRA/VAC*

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

Example 3 New father request 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 the father is requesting, 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.

12 wks—FMLA/CFRA/VAC

May a father use sick leave during his FMLA due to the birth of a new baby? In some instances a limited amount of sick leave **may** be appropriate. Medical necessity must exist for the father to provide care to the mother or newborn baby.



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