

AFGE Wants You to Know Your Rights about Leave for Family Care Purposes

The American Federation of Government Employees (AFGE) is a labor organization affiliated with the AFL-CIO that represents approximately 600,000 employees of the United States federal government and the government of the District of Columbia.

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Form to Request for Leave and Form WH-380 Certification from FMLA

AFGE Wants You to Know Your Rights about Leave for Family Purposes

Is this mandated by law?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

The Office of Personnel Management (OPM) issued final rules regarding **expanded use of sick leave for family purposes** on June 13 and 21, 2000. These rules are currently in effect and modify the regulations regarding sick leave use found at 5 CFR 630. Federal employees were already entitled to use family friendly leave of up to 104 hours (13 days) of paid sick leave to care for a family member's general health or bereavement (hereinafter, general health). Federal employees are now entitled to use up to 480 hours (12 weeks) of paid sick leave to care for family members' serious medical condition. Although there are now two entitlements in the OPM regulations regarding sick leave for family purposes – one for general health and one for serious medical condition – the employee is only allowed to use up to 12 weeks total per leave year of paid sick leave for family purposes.

These revised regulations are a direct result of a May 24, 1999 executive order in which President Clinton directed OPM to establish an Interagency Family Friendly Workplace Working Group. The group's goal was to promote additional family friendly initiatives, such as permitting federal employees to use up to 12 weeks of accrued sick leave annually to care for a seriously ill family member.

FAMILY MEDICAL LEAVE ACT

FMLA stands for the Family and Medical Leave Act of 1993. FMLA leave entitles an employee to 12 weeks of unpaid leave under certain conditions.

WOMEN'S AND FAIR PRACTICES DEPARTMENTS

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Who is covered under this leave?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Federal employees with sick leave benefits.

FAMILY MEDICAL LEAVE ACT

Federal employees who have worked 12 months for the agency. The 12 months do not have to be consecutive or recent.

Are part-time employees or employees working two part-time Federal jobs eligible?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Yes. Part-time employees and employees with uncommon tours of duty are also entitled to pro-rated amounts of sick leave for family care based on the number of hours in their regularly scheduled work week.

FAMILY MEDICAL LEAVE ACT

Yes. Part-time employees are eligible in direct proportion to the number of hours in the employee's regularly scheduled administrative workweek. An employee working two part-time positions may use only the amount of FMLA leave earned in each part-time position for absences from that position.

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**For what reasons may an employee use this
leave?**

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

- The care for a family member who is incapacitated by a medical or mental condition (up to 13 days);
- To attend to a family member receiving medical, dental, or optical examination or treatment (up to 13 days); and
- The care for a family member with a serious health condition (up to 12 weeks).

FAMILY MEDICAL LEAVE ACT

- The birth of a son or daughter and care of the newborn;
- The placement of a son or daughter with an employee for adoption or foster care;
- The care of an employee's spouse, son, daughter, or parent with a serious health condition; and
- Employee's own serious health condition that makes the employee unable to perform the duties of his or her position.

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Does the Agency have to grant this leave?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Yes. If the employee complies with the Agency's notification and medical certification requirements, the agency must grant sick leave. See 65 Federal Register 37235 (June 13, 2000).

FAMILY MEDICAL LEAVE ACT

Yes.

WOMEN'S AND FAIR PRACTICES DEPARTMENTS

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**Who is considered family for the purposes of
this leave?**

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Spouses, and parents thereof; **children**, including adopted children, and spouses thereof; **parents**; **siblings** (brothers and sisters) and spouses thereof; and **kin**, i.e., any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. OPM has interpreted kin to include grandparents, grandchildren, and step-children. See 65 Federal Register 37235 (6/13/200).

FAMILY MEDICAL LEAVE ACT

Spouse: the definition of "spouse" has been revised to comply with the definition of "spouse" in the Defense of Marriage Act (Public Law 104-199, September 21, 1996). "Spouse" means an individual who is a husband or wife pursuant to a marriage that is a legal union between one man and one woman, including common law marriage between one man and one woman in States where it is recognized.

Son or Daughter: a biological child, adopted child, foster child, step child, legal ward, or child of a person standing as a parent who is (1) under 18 years of age, or (2) 18 years or older but incapable of self care due to mental or physical disability.

Parent: the biological parent or an individual who stands or stood as a parent to an employee when the employee was a child.

WOMEN'S AND FAIR PRACTICES DEPARTMENTS

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What does it mean to “provide care”?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

To provide care means to give physical assistance or psychological comfort. The regulations do not specify all examples of providing care and therefore, managers and supervisors must use their judgment in administering the use of sick leave for family care. Providing care may include, for example,

- staying with a family member who is hospitalized,
- providing assistance during examination and/or treatment,
- attending to a family member who is receiving medical, dental, or optical examination or treatment,
- providing transportation and/or accompanying a family member to a health care provider's office or to a hospital or other health care facility, or
- providing care and assistance during recovery.

FAMILY MEDICAL LEAVE ACT

The FMLA does not contain the specific language “provide care” although it does permit an employee leave for “the care of” specific family members. Under the FMLA, an employee has the right to unpaid leave to attend to specific family members who have a serious health condition.

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What is a "serious health condition"?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

A "serious health condition" for the purposes of sick leave is the same as the FMLA standards, see below. Remember, however, that up to 104 hours (13 days) of sick leave can be used to attend to family members for any medical condition for which the employee could have used sick leave for him or herself, not merely "a serious health condition." Thus, up to 13 days, sick leave can be used to attend to one's child who is ill with the common flu.

FAMILY MEDICAL LEAVE ACT

An illness, injury, impairment, or physical condition that involves (1) inpatient care in a hospital, hospice, or other residential medical care facility; (2) any period of incapacity requiring an absence of more than 3 calendar days and involving continuing treatment by a health care provider; or (3) any chronic or long-term health condition requiring continuing treatment or supervision by a health care provider.

"Incapacity" means the inability to work, attend school, or perform other regular daily activities. The definition of "health care provider" includes licensed doctors or medicine or osteopathy, providers who are recognized by the Federal Employees Health Benefits Program, providers certified under Federal or State law, recognized as a Native American "traditional healing practitioner," or who practice in a foreign country.

Examples of serious health condition include: appendicitis, asthma, diabetes, dialysis, emphysema, heart attacks, heart conditions involving operations, most cancers and chemotherapy, back conditions requiring extensive therapy or surgery, stroke, severe respiratory conditions, treatment for substance abuse, spinal injuries, severe allergies, pneumonia, severe arthritis, severe nervous disorders and mental illness such as schizophrenia and bi-polar disorder, injuries caused by serious accidents on or off the job, pregnancy including prenatal care, childbirth, complications or illness related to pregnancy such as severe morning sickness or miscarriage, and recovery from childbirth.

WOMEN'S AND FAIR PRACTICES DEPARTMENTS

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**Are there any special issues regarding childbirth
and adoption?**

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Childbirth: A new mother will continue to be entitled to use sick leave for the period of incapacitation following the birth as certified by a medical professional, generally for no more than 6 weeks unless there are complications. Her caregiver (for example husband or parent) would be entitled to use sick leave during her entire period of incapacitation, but only during the period of incapacitation.

FAMILY MEDICAL LEAVE ACT

Adoption: Sick leave may be taken for adoption-related purposes including but not limited to (1) appointments with adoption agencies, social workers and attorneys, court proceedings, required travel, and for any periods during which an adoptive parent is ordered or required by the adoption agency or by a court to be absent from work to care for the adopted child.

Bonding with the child: New mothers and fathers are not permitted to use sick leave following childbirth for bonding with the newborn child. Care for a family member with a "serious health condition" does not include care for a healthy newborn.

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How much leave may an eligible employee take?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Full-time employees may use 40 hours (5 days) of sick leave each year to care for a family member's general health or serious health condition without regard to their current sick leave balance. If the employee requires advanced sick leave, the agency may only advance these initial 40 hours of sick leave.

An additional 64 hours (8 days) may be used to care for a family member's general health if a balance of at least 80 hours of sick leave is maintained in the employee's sick leave account. Similarly, an additional 440 hours (11 weeks) may be used to care for a family member's serious health condition if a balance of at least 80 hours of sick leave is maintained in the employee's sick leave account.

Remember, the total combined entitlement to leave is 480 hours (12 weeks) per leave year. Therefore, if an employee uses 96 hours (12 days) to care for a family member's general health and then in the same leave year needs to take sick leave to care for a family member's serious health condition, the employee can take up to 384 hours of sick leave (i.e. 12 weeks minus 12 days).

FAMILY MEDICAL LEAVE ACT

Federal employees may take a total of 12 administrative workweeks of unpaid leave (leave without pay) during any 12-month period. The 12-month period begins on the first day that FMLA leave is taken.

In an April 11, 1997 memorandum for the heads of executive departments and agencies from President Clinton, the President asked supervisors to consider granting leave without pay in order to (1) participate in school activities directly related to the educational needs of the employee's child including but not limited to parent-teacher conferences, interviewing for a new school or child-care facility, or participating in volunteer activities within the school; (2) provide routine medical or dental care for the child; or (3) provide for the health or care needs for elderly relatives. While this Memorandum did not create any entitlement to this leave, it did ask that agency officials and supervisors be flexible and open to the family needs of their employees.

WOMEN'S AND FAIR PRACTICES DEPARTMENTS

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Do I have to use it all at once?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

No. There is no requirement that the leave be used consecutively.

FAMILY MEDICAL LEAVE ACT

No. An employee may request to use only part of FMLA leave. Under certain conditions, FMLA leave may be taken intermittently, or the employee may work under a work schedule that is reduced by the number of hours of leave taken as family and medical leave.

Is this paid leave?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Yes, it is paid sick leave.

FAMILY MEDICAL LEAVE ACT

No, it is unpaid leave.

WOMEN'S AND FAIR PRACTICES DEPARTMENTS

AFGE Wants You to Know Your Rights about Leave for Family Purposes

**What benefits does the employee keep while on
this leave?**

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Employees retain all of the benefits that they maintain while on sick leave, such as but not limited to health benefits.

FAMILY MEDICAL LEAVE ACT

Employees retain their health benefits coverage during the entire period they are on family and medical leave. The employee is responsible to pay the employee's share of the premiums. An employee may pay the employee share of the premiums on a current basis or pay upon return to work.

AFGE Wants You to Know Your Rights about Leave for Family Purposes

How does an employee request this leave?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

The employee must file a written application for sick leave and provide appropriate medical documentation if applicable within such time limits as the agency may require. **See Request for Leave or Approved Absence** form.

FAMILY MEDICAL LEAVE ACT

The employee must provide notice of his or her intent to take family and medical leave *not less than 30 days before* leave is to begin when foreseeable or *as soon as is practicable* when the need for leave is unforeseeable. Office of Personnel Management regulations issued on December 5, 1996 require an employee to invoke his or her entitlement to FMLA leave, subject to the **notification and medical certification** requirements. An employee may not invoke entitlement to FMLA leave retroactively for any previous absence from work. An agency may request medical certification for FMLA leave taken to care for an employee's spouse, son, daughter, or parent who has a serious health condition or for the serious health condition of the employee. **See Request for Leave or Approved Absence** form.

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**Does (disciplinary) leave restriction still apply
when this leave has been approved?**

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Leave restrictions still apply when an employee is taking sick leave. However, approved sick leave is not leave abuse and therefore not a basis for adverse action. See 65 Federal Register 37238 (6/13/00).

FAMILY MEDICAL LEAVE ACT

A supervisor or an agency's policies or procedures for notification of FMLA leave or medical certification may not be more stringent than required by OPM's regulations. If an employee who has been placed on leave restriction invokes his or her entitlement to FMLA leave, the agency must follow OPM's rules for notification and medical certification of FMLA leave. For example, an employee with approved (intermittent) FMLA leave cannot be required to provide medical documentation for each absence even though the employee was so required as part of a leave restriction before being granted FMLA.

AFGE Wants You to Know Your Rights about Leave for Family Purposes

What exactly is the medical certification requirement?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Medical certification is written documentation from a medical professional that proves that there is a medical condition for which leave is required. Each agency is permitted to determine what constitutes “administratively acceptable evidence” of need for sick leave and when/how often such documentation is required.

In general, medical certification should certify that (1) the family member requires psychological comfort and/or physical care, (2) the family member would benefit from the employee’s attendance, (3) the employee is needed to care for the family member for a specified period of time, and (4) if appropriate, that the family member has a serious health condition. The agency is required to keep all medical certification in confidence.

FAMILY MEDICAL LEAVE ACT

Medical certification is written documentation from a medical professional that proves that there is a medical condition for which leave is required. Medical certification regarding a serious health condition should include (1) the date the

serious health problem began; (2) the probable duration, or when the condition is chronic and continuing in nature the probable duration of the current episode; and (3) appropriate medical facts regarding incapacitation and treatment. The agency is required to keep all medical certification in confidence.

The Department of Labor has made a model certification for the health care provider to fill out for the use of medical certification for FMLA administration.

While this form is intended for use in the private sector, the questions reflect the needs and limits of medical certification for the federal sector as well. See **DOL Form WH-380**.

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**Can the agency ask for further documentation
regarding health?**

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Each agency may make its own policy on documentation. Then, pursuant to the agency's policy, the agency may ask for credible evidence to support the sick leave request that may include, but is not required to include, medical certification and rectification.

FAMILY MEDICAL LEAVE ACT

OPM regulations allow an agency to require "recertification" of a serious health condition every 30 calendar days at its own expense. In other words, if an agency has already approved FMLA leave based on the medical documentation provided, it can ask for follow up medical documentation to make sure that the medical problem still requires leave. This is particularly true when intermittent medical leave is taken.

However, if the health care provider has specified on the initial medical certification a minimum duration of the period of incapacity, the agency may not request recertification until that period has passed unless other conditions arise that permit the agency to require recertification more frequently. (See 5 CFR 630.1207(j)).

If the agency receives information that casts doubt upon the continuing validity of the original medical certification, including the need for care, it may require recertification more frequently than every 30 calendar days. In addition, the agency may also require an employee to state on the medical recertification the care he or she will provide and an estimate of the amount of time needed to provide such care. To assist agencies and employees, OPM's regulations also allow a health care provider representing the agency to contact the health care provider of the employee, with the employee's permission, to clarify medical information pertaining to the serious health condition.

OPM regulations permit an agency to establish a policy that requires an employee to submit administratively acceptable evidence that would support the claim that the employee needed to take FMLA leave to care for his or her child. For example, an agency may request that an employee obtain his or her child's school attendance records coinciding with the period of FMLA leave and submit such evidence to the agency. Such a policy must be non-discriminatory and made known to all employees before FMLA leave commences.

WOMEN'S AND FAIR PRACTICES DEPARTMENTS

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**Can an employee substitute compensatory or
credit time for the leave?**

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Yes, if the employee is eligible for compensatory or credit time.

FAMILY MEDICAL LEAVE ACT

OPM's regulations no longer permit compensatory time off and credit hours earned under a flexible work schedule to be substituted for leave without pay under the Family and Medical Leave Act (FMLA). An employee may use earned compensatory time off and credit hours in addition to the period of FMLA leave.

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May I or do I have to use annual leave first?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

You may choose to use annual leave instead of sick leave but you are not required to do so.

FAMILY MEDICAL LEAVE ACT

You may choose to substitute paid annual leave for unpaid leave under the FMLA. **Annual leave** may be used for vacations or for any other purpose. Federal employees earn 13, 20, or 26 days of annual leave each leave year, depending on their years of service. Most Federal employees may carry over up to 30 days of annual leave from one leave year to the next.

AFGE Wants You to Know Your Rights about Leave for Family Purposes

May I or do I have to use sick leave first?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

This is a request to use sick leave.

FAMILY MEDICAL LEAVE ACT

You may choose to substitute paid sick leave for unpaid leave under the FMLA leave in those situations in which the use of sick leave is permitted. There is no requirement that an employee maintain 80 hours of sick leave in his or her account in order to use unpaid leave under the FMLA. **Sick leave** may be used (1) to receive medical, dental, or optical examination or treatment, (2) when the employee is incapacitated by physical or mental illness, injury, pregnancy or childbirth, and (3) when presence at work would jeopardize the health of others due to exposure of a communicable disease. Sick leave may also be used when an employee must be absent for purposes relating to the adoption of a child. In addition, employees may use up to 13 days of sick leave each year to care for a family member or to arrange for or attend the funeral of a family member. Federal employees earn 13 days of sick leave each leave year, and there is no limit on the amount of sick leave they can accumulate throughout their Federal career.

AFGE Wants You to Know Your Rights about Leave for Family Purposes

**Am I guaranteed my job back after taking
leave?**

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Yes, an employee must be returned to the same position.

FAMILY MEDICAL LEAVE ACT

Yes, an employee must be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

AFGE Wants You to Know Your Rights about Leave for Family Purposes

**Do I have to supply any information before I
return to work?**

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

Unlikely.

FAMILY MEDICAL LEAVE ACT

Quite possibly. Agencies are permitted to establish a uniformly applied practice or policy that requires all similarly-situated employees (i.e., same occupation, same serious health condition) who take Family and Medical Leave Act (FMLA) leave for a serious health condition to provide medical certification to return to work. The information on the medical certification to return to work must relate only to the serious health condition for which FMLA leave was taken.

AFGE Wants You to Know Your Rights about Leave for Family Purposes

What are employees' appeal rights if leave is denied?

OPM REGULATIONS: SICK LEAVE FOR FAMILY PURPOSES

If an employee believes that the agency unjustly denied the use of sick leave for family care purposes, the employee may file a grievance under the collective bargaining agreement or under the agency's administrative procedures. OPM also has the right to settle claims involving leave if the matter is not subject to the negotiated grievance procedure under the collective bargaining.

FAMILY MEDICAL LEAVE ACT

If an employee believes an agency has not fully complied with the rights and requirements provided by Title II of the Family and Medical Leave Act and the Office of Personnel Management's implementing regulations at 5 CFR 630.1201 through 630.1211, the employee may file a grievance under applicable agency administrative procedures or negotiated grievance procedures. If your local collective bargaining agreement does not address FMLA leave, an employee may file a claim with OPM's Office of General Counsel. For more information about initiating a grievance in your agency, contact your union representative.

WOMEN'S AND FAIR PRACTICES DEPARTMENTS

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How do leave laws overlap with other laws, if at all?

As long as the employee satisfies the requirements of each law and/or regulation, one can assert one's rights under leave regulations and laws consecutively or concurrently, subject to proper notice and designation by the agency. Therefore:

- ✓ Employees who apply and are granted 12 weeks of paid sick leave under the new **OPM regulations** are still entitled to apply and then (after the paid leave) use 12 weeks of unpaid leave under the **FMLA**. See 65 Federal Register 37234 (6/13/00).
- ✓ Employees may be on a **workers' compensation** absence due to an on-the-job injury or illness which also qualifies as a serious health condition under the **FMLA**. The workers' compensation absence and FMLA leave may run consecutively. It may also run concurrently only if the employer properly notifies the employee and designates the leave as such. See 29 CFR 825.
- ✓ It is a reasonable accommodation under the **Rehabilitation Act** for the agency to grant a disabled employee **sick leave**, leave under **FMLA**, **LWOP** or **administrative leave**.
- ✓ An employee may receive **donated annual leave** if he or she is affected by family medical emergency and has exhausted his or her available **sick leave for family care purposes**, even if he or she still has additional sick leave accrued.

AFGE Wants You to Know Your Rights about Leave for Family Purposes

Resources, Rules and Regulations

For the Federal Register on line, go to: www.access.gpo.gov/su_docs/aces/aces140.html

- ✓ 65 Federal Register 37233 (June 13, 2000)
- ✓ 65 Federal Register 38409 (June 21, 2000)

For the Code of Federal Regulations on line, go to: www.access.gpo.gov/nara/cfr/cfr-table-search.html

- ✓ 5 CFR 630

For more information regarding sick leave, annual leave, and other forms of leave, such as but not limited to the federal leave sharing program, excused absences, and leave for bone-marrow or organ donation, go to: www.opm.gov

EXAMPLES FROM OPM

(some have been altered to reflect the new expanded sick leave regulations)

- ✓ Laura is a single mother with two children who has worked for the Government for 2 1/2 years. Laura has 201 hours of sick leave and 80 hours of annual leave. Laura's children have problems with recurring ear infections and strep throat and must occasionally be kept home from school and afternoon day care. Laura may use up to 13 days of sick leave a year to care for her children when they are ill (as long as her sick leave balance does not drop below 80 hours). By doing so, Laura may be able to conserve her annual leave for a possible family vacation or to care for her children when her child care provider is unavailable.
- ✓ Michael has worked for the Federal Government for only 5 months. Therefore, he is not eligible for leave under the FMLA. He had 40 hours of sick leave and 36 hours of annual leave before he underwent an emergency appendectomy last week. He has been absent for 5 days, and his doctor wants him to use at least 6 weeks to recuperate. Fortunately, Michael is a member of his agency's leave bank program. He may apply to the bank for donated leave to help support him until he can return to work. Other employees may also wish to donate leave to Michael through the leave transfer program. He may also request advanced sick and/or annual leave if the donated leave is not sufficient.

WOMEN'S AND FAIR PRACTICES DEPARTMENTS

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- ✓ Carol is expecting a baby in 4 months. Carol has 260 hours of sick leave and 200 hours of annual leave. She wants to spend as much time as possible with her new baby. Carol's doctor anticipates that she will need 6 weeks to recuperate after the baby's birth. Carol has requested 240 hours (6 weeks) of sick leave. She has also requested 4 weeks of annual leave and 3 months of leave without pay (LWOP). Her supervisor approves the sick and annual leave and informs her of her entitlement to unpaid leave under the FMLA. Carol decides to invoke her FMLA entitlement and use 4 weeks of leave without pay under the FMLA following her approved annual leave. In addition, she and her supervisor work out a leave schedule that permits Carol to use FMLA leave without pay on an intermittent basis 2 days a week for 3 months following her return to work.

- ✓ Jeff and his wife plan to travel abroad soon to adopt a child. He has a sick leave balance of 280 hours and an annual leave balance of 160 hours. Jeff may use 200 hours of sick leave for absences related to the adoption, including travel time (as long as his sick leave balance does not drop below 80 hours). His agency may advance him up to 30 days of sick leave if requested. Jeff may also request annual leave to spend time with his new son or daughter after the adoption. In addition, he may invoke his entitlement to leave without pay under the FMLA.

- ✓ Tom fell off his roof while cleaning the gutters and broke his hip. The doctor says Tom will need to be absent from work for at least 16 weeks. Tom has 240 hours of sick leave and 137 hours of annual leave. His installation is understaffed, and Tom is worried that when his sick leave is gone, his supervisor will refuse to grant him annual leave. He is most concerned about the possibility of losing his job and with it his medical benefits. Tom may use his sick leave and then invoke his entitlement to unpaid leave under the FMLA. He may then substitute his annual leave for part of the FMLA leave without pay. While he is on FMLA leave, his reemployment rights and medical benefits are protected. In addition, Tom may apply for and use donated leave from his agency's leave transfer program.

- ✓ Ruth and her husband have both worked for the Government for 10 years. Their daughter was recently diagnosed with a terminal illness. Ruth and her husband want to care for their daughter at home for as long as possible. They have sufficient sick leave in their accounts for each to use 12 weeks to care for their daughter. Ruth has also requested 160 hours of annual leave. Ruth's supervisor was sympathetic, but based on work-related needs, he felt he could approve only the sick leave and 80 hours of annual leave. Ruth notified her supervisor of her intent to invoke her entitlement to leave without pay under the FMLA. Ruth used her 12 weeks of sick leave, used her 80 hours of approved annual leave, and then substituted her remaining annual leave for FMLA leave without pay. Her husband may also invoke his entitlement to leave under the FMLA. When their annual leave is exhausted, Ruth and her husband may each apply for and receive donated leave from their agencies' leave transfer programs. In this way, they will be able to care for their daughter at home until hospitalization is necessary.

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- ✓ Emilio's sister needs a kidney transplant, and Emilio has decided to donate his kidney to her. Emilio may use 7 days of paid leave to be a bone marrow or organ donor. This includes the time required for testing to see if he is a compatible donor, plus the time required to undergo the transplant procedure and recuperate. Emilio may get additional time off from work by requesting annual and/or sick leave, advanced leave, and donated leave through his agency's leave transfer program (if he exhausts his own available paid leave).