



**STATE OF WEST VIRGINIA
FEDERAL FAMILY and MEDICAL LEAVE ACT (FMLA)
and/or STATE PARENTAL LEAVE ACT (PLA)**

Notice of Eligibility and Rights and Responsibilities

In general, to be eligible for federal Family and Medical Leave Act (FMLA) leave, an employee must have worked for an employer for at least 12 months, have worked at least 1,250 hours in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. **The employer must provide the employee with this information within five (5) business days of the employee notifying the employer of the need for FMLA leave.**

In general, to be eligible for State Parental Leave Act (PLA) leave, an employee must have been hired for permanent employment and worked for at least 12 consecutive weeks performing paid services within West Virginia for any department, division, board, bureau, agency, commission, or other unit of State government, or any county board of education in the State.

Part B provides employees with information regarding their rights and responsibilities for taking FMLA and/or PLA leave.

Part A: NOTICE OF ELIGIBILITY

TO: _____
(employee name)

FROM: _____
(employer representative)

DATE: _____

On _____, you informed us that you needed leave beginning
(date)

on _____ for the following reason:
(date)

- The birth of a child, or placement of a child with you for adoption or foster care;
- Your own serious health condition;
- Because you are needed to care for your spouse child parent dependent [PLA] due to his or her serious health condition.
- Because of a qualifying exigency arising out of the fact that your spouse child parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.
- Because you are the spouse child parent next of kin of a covered service member with a serious injury or illness.

This Notice is to inform you that you:

- Are eligible for FMLA leave (See Part B below for Rights and Responsibilities)
- Are not eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):
 - You have not met the FMLA’s 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately ___ months towards this requirement.
 - You have not met the FMLA’s 1,250-hours-worked requirement.
 - Other (Explain): _____

AND

- Are eligible for PLA leave (See Part B below for Rights and Responsibilities)
- Are not eligible for PLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):
 - You have not met the 12-week length of service requirement. As of the first date of requested leave, you will have worked approximately ___ months towards this requirement.
 - Other (Explain): _____

If you have any questions, contact _____ or view the FMLA poster located in _____.

PART B: RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA LEAVE

As explained in Part A, you meet the eligibility requirements for taking PLA and/or FMLA leave and still have PLA and/or FMLA leave available in the applicable 12-month period. However, in order for us to determine whether your absence qualifies as PLA and/or FMLA leave, you must return the following information to us by (date) _____.

- Sufficient certification to support your request for PLA and/or FMLA leave. A certification form that sets forth the information necessary to support your request is is not enclosed.
- Sufficient documentation to establish the required relationship between you and your family member.
- Other information needed:
 - _____
 - _____
 - _____
 - _____
- No additional information requested

If a certification is requested, employers must allow at least 15 calendar days from receipt of this notice; additional time may be required in some circumstances. If sufficient information is not provided in a timely manner, your leave may be denied.

If your leave does qualify as PLA and/or FMLA leave you will have the following responsibilities while on PLA and/or FMLA leave (only checked blanks apply):

- x Contact _____ at _____ to make arrangements to continue to make premium payments on your health insurance to maintain health benefits while you are on leave. You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.
- x You will be required to use your available paid sick, annual, and compensatory time during your PLA and/or FMLA absence. This means that you will receive your paid leave and the leave will also be considered protected PLA and/or FMLA leave and counted against your leave entitlement. [NOTE: The employee is required to exhaust all annual leave if he or she only qualifies for leave under PLA.]
- x Due to your status within the company, you are considered a “key employee” as defined in the FMLA. As a “key employee,” restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.

We have have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us.
- x While on leave you will be required to furnish us with periodic reports of your status and intent to return to work every (Indicate interval of periodic reports, as appropriate for the particular leave situation):
 - week
 - two weeks
 - month
 - other (specify) _____

If the circumstances of your leave change, and you are able to return to work earlier than the date indicated on your request for leave, you will be required to notify us at least two workdays prior to the date you intend to report for work.

If your leave does qualify as PLA and/or FMLA leave you will have the following rights while on FMLA leave:

- You have a right for up to 12 weeks of unpaid leave in a 12-month period calculated as a “rolling” 12-month period measured backward from the date of any leave usage.
- You have a right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered service member with a serious injury or illness. This single 12-month period commenced on (date) _____.
- Your health benefits under the FMLA must be maintained during any period of unpaid leave under the same conditions as if you continued to work. If requesting leave under PLA, you will be required to pay the entire premium to maintain health benefit coverage.
- You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. You must be reinstated to the same position under PLA-protected leave. (If your leave extends beyond the end of your PLA and/or FMLA entitlement, you do not have return rights.)

- If you do not return to work following FMLA leave for a reason other than:
 - 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave;
 - 2) the continuation, recurrence, or onset of a covered service member's serious injury or illness which would entitle you to FMLA leave; or
 - 3) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

- If we have not informed you above that you must use accrued paid leave while taking your FMLA leave entitlement, you have the right to have sick, vacation, and/or other leave run concurrently with your unpaid leave entitlement, provided you meet any applicable requirements of the leave policy.

Applicable conditions related to the substitution of paid leave are referenced or set forth below. If you do not meet the requirements for taking paid leave, you remain entitled to take unpaid FMLA leave.

x For a copy of conditions applicable to sick/vacation/other leave usage please refer to _____ available at: _____.

x Applicable conditions for use of paid leave:

Once we obtain the information from you as specified above, we will inform you, within five (5) business days, whether your leave will be designated as PLA and/or FMLA leave and count towards your PLA and/or FMLA leave entitlement. In addition to the leave available under FMLA and PLA, the Division of Personnel's *Administrative Rule*, W. VA. CODE R. §143-1-1 *et seq.*, also provides for leave, both paid and unpaid, if an employee meets eligibility requirements and requests the leave for a qualifying event. If the leave qualifies under both the federal and State law, and/or the *Administrative Rule*, the leave entitlement under each will exhaust concurrently. If you have any questions, please do not hesitate to contact:

Name: _____

Phone: _____ Email: _____

AGENCY-AUTHORIZED
SIGNATURE: _____ DATE: _____