Time Off from Work: Family in the Military

Can I take time off work if I have a family member in the military?

You may be able to take unpaid leave (time off) from work to deal with issues around a family member in the military. You have to be eligible for the **Family and Medical Leave Act (FMLA).** If you are eligible, you have the right to take leave related to family in the military.

Leave is unpaid, but under certain conditions, employees and employers may decide to "substitute" sick or vacation leave to cover some of the time off. During the leave, your employer has to continue the same health care coverage that you had while you were at work. But you have to keep paying your part of the premium.

- **Military Caregiver Leave (MCL):** If you have a spouse, child, parent, or next-of-kin in the military that got sick or was hurt in the military, you can take up to 26 weeks of leave once in a 12-month period to care for them. This includes members of the regular armed forces, National Guard or Reserves, and veterans who were discharged in the past 5 years.

- **Qualifying Exigency Leave (QEL):** If you have a spouse, child, or parent who is called to covered active duty, you may be entitled to time off to deal with the situation. Covered active duty means:
  - For members of the Regular Armed Forces- duty during deployment of the member with the Armed Forces to a foreign country or
  - For members of the Reserve components of the Armed Forces (like the National Guard and reserves) – duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation

QEL can be used for various things related to your family member's military duty. Things like:

- Short-notice deployment issues (less than a week)
- Military events/ceremonies
- Non-routine childcare
- Care of military member's parent, who can't take care of themselves
- Making legal/financial arrangements
- Counseling sessions
- Up to 15 calendar days to spend with the family member during the family member's rest and recuperation leave

- Post-deployment activities, like an arrival ceremony
- Issues that come up from the death of a military member

For more information go to the U.S. Department of Labor website at: www.dol.gov/agencies/whd/fmla.

First of all, can I get FMLA?

In order to be eligible to take leave under the FMLA, you must

1) work for a covered employer,
2) work 1,250 hours during the 12 months prior to the start of leave,
3) work at a location where 50 or more employees work or where 50 or more employees work within 75 miles of it, and
4) have worked for the employer for 12 months.

Note: This information can be confusing. For more information, fact sheets and the forms talked about in this fact sheet go to: www.dol.gov/agencies/whd/fmla. Or call the U.S. Department of Labor at 1-(866) 4-US-WAGE or 1-(866) 487-9243.

What do I need to do to get the leave?

You should give your employer as much notice as you can. After you have given notice, they have 5 business days to give you a form called "Notice of Eligibility and Rights and Responsibilities" (form WH-381). The employer must also send you a "Designation Notice" (WH-382). This notice lets you know if the leave is approved or not.

→ If you are asking for MCL leave:

You need to give 30 days' notice if you need to take leave for planned medical treatment for a serious injury or illness of a covered service member. If you know you need to take leave but can't give 30 days' notice, you have to give notice as soon as possible.

Your employer may say you have to get a medical certification. The form you need is called "Certification for Serious Injury or Illness of Covered Service Member - for Military Family Leave (Family and Medical Leave Act)" (Form WH-385). The form has to be filled out by an authorized health care provider of the covered service member. Your employer has to give you the form if they say you have to complete it.

Do I have to take the leave all at once?

No. You can take the leave in parts if it is medically necessary to care for your family member with a serious injury or illness. If you need to take some leave for planned medical treatment, let your employer know as soon as possible and **try** to schedule it to not disrupt work.

→ If you are asking for QEL leave:

When you find out that you will need the leave, try to let your employer know immediately.

If you are asking for QEL, your employer may say you have to fill out a form called, "Certification of Qualifying Exigency for Military Family Leave" (Form WH-384). Your employer has to give you the form if they say you have to complete it.

You may have to give your employer a copy of the covered military service member's active duty orders the first time you ask for QEL. Your employer lets you know if they want it or not. You only have to give this information once for each call to active duty. Your employer may ask for more information.

Do I have to take the leave all at once?

No. QEL may be taken in pieces depending on your needs.

What if my employer won't give me time off?

File a claim with the U.S. Department of Labor. Call them at 1-(866) 4-US-WAGE or 1-(866) 487-9243. Or go to their website: www.dol.gov/agencies/whd/.

You can also get a lawyer and file a lawsuit.

Minnesota Paid Leave

Paid Leave is a Minnesota law. If you are eligible (see next section), you have the right to take up to 12 weeks of paid medical leave and up to 12 weeks of family leave in a year. But if you take both kinds of leave, you can only take up to 20 weeks of paid leave total in a year.

Paid Leave is a job-protected leave. This means your employer must give you back your same job or a job like your old job at the end of your Paid Leave time. During your leave, you get to keep the same health insurance coverage and other benefits like retirement or disability benefits that you had while you were at work. You have to keep paying your part of the premiums.

Am I eligible for Minnesota Paid Leave?

To be eligible to take Paid Leave, you must:

1) work at least half of the time in Minnesota,
2) have been employed at that place for at least 90 days,
3) have earned at least $3,700 in the last year (this can come from more than one job), and
4) need to take time off for a medical or family reason (see the next section) that lasts at least 7 days

When can I use Minnesota Paid Leave?

Your reason has to be a Paid Leave qualifying reason. This includes any of these reasons:

Medical Leave Reasons:

- you have a serious health condition,

Family Leave Reasons:

- you need to care for your family member's serious health condition,
- you need to care for and bond with your new biological child, adopted child, or foster child,
- you need to support a family member who is called to active military duty,
- you need to take care of a safety issue like domestic violence, assault, or stalking

A "serious health condition" means a "physical or mental illness, injury, impairment, condition, or substance use disorder." It includes childbirth, conditions related to pregnancy, or surgery.

For more information and to apply go to: https://paidleave.mn.gov/

How much money do I get?

You get paid some of your regular wages while you are on Paid Leave. Most people are paid between 55% and 90% of their normal wages. How much you get paid depends on how much you normally earn.

If you normally earn:

- up to $686 a week, you get 90% of your normal wages.
- between $686 and $1,372 a week, you get 66% of your normal wages.
- more than $1,372 a week, you get 55% of your normal wages.

If you have sick or vacation time at your job, you can use this time during your Paid Leave time. Your employer may say you have to use it. Your sick or vacation time can be used to pay you the difference between your Paid Leave amount and your normal wages.

If I welcomed a child in 2025, can I take Paid Leave in 2026?

Yes. If your child arrives in 2025, you can still take Bonding Leave starting January 1, 2026, up until:

- The day before your child turns 1
- The day before the 1-year anniversary of adoption or foster placement

If your child was im the hospital longer than the birthing parent, Bonding Leave must be taken before the 1-year anniversary of the day the child came home from the hospital.

What if my employer violates my Paid Leave rights?

Contact the Minnesota Department of Labor and Industry, Labor Standards Division.
dli.laborstandards@state.mn.us.
651-284-5075

Questions?

Contact the Paid Leave Contact Center.
651-556-7777 or 844-556-0444

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.
Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

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