

## DETERMINING FMLA COVERAGE

Is the employee eligible for FMLA leave? ( ) YES ( ) NO

1. The employee must have been employed by the state at least 12 months (not necessarily consecutive) **and**
2. The employee must have been employed for at least 1250 hours of service during the 12 month period immediately preceding the commencement of the leave. If maintained on the payroll for any part of a week, the week counts as a week of employment

Does the employee still have unused FMLA entitlement for the year? ( ) YES ( ) NO

1. An eligible employee may take the equivalent of up to 12 weeks of FMLA-covered leave in a 12 month period for a qualifying event(s). Leave may be taken on an intermittent basis when medically necessary for care of the employee, child, parent, or spouse who has a serious health condition.
2. Effective July 1, 1997, the employee's 12-month period during which leave is measured begins the first time the employee uses FMLA-covered leave, runs 12 months from that date, and then begins again the next time the employee uses FMLA-covered leave. For example, if the first time an employee uses FMLA-covered leave after July 1, 1997 is August 15, 1997, his/her FMLA year will be August 15, 1997 through August 14, 1998. If after August 14, 1998, the employee does not take FMLA-covered leave again until September 27, 1998, his/her next FMLA year will be September 27, 1998 through September 26, 1999. Contact the Ag Center HRM Office if you need assistance determining an employee's FMLA year.

Is the person who will be cared for during the leave listed below? ( ) YES ( ) NO

1. Child: Biological, adopted, or foster, stepchild, legal ward, or child of a person standing in loco parentis (see definition of *Parent*), who is either under age 18, or age 18 or older and incapable of self-care because of physical or mental disability.
2. Parent: Biological parent or individual who stands or stood in loco parentis to employee when employee was a child. Persons in loco parentis include those with day to day responsibilities to care for and financially support a child (or who had such responsibility when the employee was a child). A biological or legal relationship is not necessary. *To stand in loco parentis basically means to act as parent to the child (for example, a grandparent, aunt, sibling, etc., who "raised" the employee as a child)*. Note: the term "parent" does not include in-laws.
3. Spouse: Does not include common-law or "friend" arrangements.
4. The Employee, himself/herself.

Is the leave for one of the following four qualifying events? ( ) YES ( ) NO

1. Birth of a child and to care for the newborn child.
2. For placement with the employee of a child for adoption or foster care.
3. To care for a spouse, child, or parent with a serious health condition.
4. A serious health condition which prevents the employee from performing the functions of his/her job.

If leave is for Event 3 or 4, is the serious health condition an illness, injury, impairment or physical/mental condition involving:  
( ) YES ( ) NO

1. Inpatient (hospital) care, including any period of "incapacity" after inpatient care.
2. "Continuing treatment" by a health care provider that includes one or more of the following: (1) a period of incapacity of more than three consecutive calendar days, and any subsequent treatment or period of incapacity that involves actual treatment by a health-care provider of two or more visits, or one visit plus a regimen of continuing treatment; (b) any period of incapacity due to pregnancy or for prenatal care; (c) any period of incapacity or treatment or incapacity due to a chronic serious health condition that causes periodic visits for treatment, continues over an extended period of time, and may cause episodic rather than continuing incapacity; (d) a period of incapacity that is permanent or long term due to a condition for which treatment may not be effective, or (e) absences related to treatment for surgery, for an injury, or any other condition that would likely result in incapacity absent medical intervention.

**IF THE ANSWER TO ALL OF THE ABOVE QUESTIONS IS YES,  
THE LEAVE IS PROBABLY COVERED BY THE FMLA.**

*The above information consists primarily of excerpts from the federal Family and Medical Leave Act.*