

FAMILY MEDICAL LEAVE - Questions and Answers

1. Q: What is Family Medical leave?

A: Family Medical leave is unpaid, job-protected leave of up to eight (8) weeks in a 26-week period.

Although two or more employees from the same family may qualify for the leave, the eight (8) weeks of leave must be shared between the employees.

2. Q: Who can take Family Medical leave?

A: All crown employees, full-time, part-time, permanent and contract (ie. all OPS employees) who are covered by the [Employment Standards Act 2000](#) (ESA) are entitled to Family Medical leave.

There is no requirement that an employee be employed for a particular length of time.

3. Q: Are Employment Insurance (EI) benefits available to an employee who takes Family Medical leave?

A: Under the [Employment Insurance Act](#), 6 weeks of employment insurance benefits known as “**compassionate care benefits**” may be paid to EI eligible employees. There is a 2 week waiting period for EI benefits.

For more information regarding **EI compassionate care benefits**, please contact the nearest Human Resources Skills Development Canada (HRSDC) office or access their website at:
http://www.hrsdc.gc.ca/en/ei/types/compassionate_care.shtml

4. Q: What makes me eligible to take an unpaid Family Medical Leave?

A: An employee may take Family Medical Leave to provide care and support to a specified family member who has a serious medical condition with a significant risk of death occurring within a period of 26 weeks. This medical condition and risk of death must be confirmed in a certificate issued by a qualified health practitioner.

5. Q: Who are the specified family members for whom a Family Medical leave may be taken?

A: Family Medical Leave may be taken for these specified family members:

- the employee's spouse
- a parent, step-parent or foster parent of the employee

- a child, step-child or foster child of the employee or the employee's spouse

6. Q: How is Family Medical Leave different from Discretionary leave?

A: Family Medical Leave applies to both classified and unclassified employees. Within the OPS, a number of both paid and unpaid discretionary leave provisions are already available. Unclassified employees have limited access to discretionary leaves. Please contact your manager regarding your eligibility for a discretionary leave.

7. Q: Does Family Medical leave have to be taken all at one time?

A. The eight (8) weeks of a Family Medical leave does not have to be taken consecutively, however, the 8 weeks can only be divided into increments of 7 consecutive days at a time. For example: an employee can take 7 days leave then return to work for two weeks, then take another 7 days off up to a total of 8 weeks leave.

8. Q: My brother and I both work for the OPS, do we share the eight (8) weeks of leave to care for my gravely-ill Mother or do we both qualify for 8 weeks of leave?

A. The eight (8) weeks of Family Medical Leave is per family and can be shared by family members.

9. Q: Can an employee take more than one 8-week leave to provide care for the same family member?

A. If an employee has taken a leave to care for a family member and requires more than an 8 week leave, their health practitioner must issue a subsequent certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks. The employee would then be entitled to an additional eight (8)-week Family Medical leave. Please contact HRSDC for further details regarding EI benefits for the additional leave period.

10. Q: Does the employee need to have the medical certificate before he or she can take the leave?

A: No. An employee may commence the leave before obtaining the medical certificate but should obtain the medical certificate as soon as possible. However, the right to the leave is dependent upon the issuance of the medical certificate.

11. Q: Who is a qualified health practitioner?

A. A qualified health practitioner is a person who is qualified to practice medicine under the laws of the jurisdiction in which care or treatment of the family member is being provided. In Ontario, only medical doctors can issue the certificate.

12. Q: How do employees inform their Manager about their plans to take a Family Medical Leave?

A. An employee must inform their Manager in writing that he or she will be taking a Family Medical Leave?

13. Q: What happens to an employee's pay, seniority and benefits while on the 8-week leave?

A: An employee is considered to be on a leave without pay when he/she is on Family Medical leave.

Employees earn seniority and credit for length of service and length of employment while on Family Medical Leave just as if they were at work.

The employer will continue to pay its portion of the premiums to maintain insured benefit plans, if applicable, providing the employee pays his/her share of the premiums.

Employees have the option of contributing to the pension plan during the leave or they may have the option to “buy-back” the service upon their return to work.

14. Q: Where can I find out more information about Family Medical Leave?

A. Employees can access information that has been posted on the Ministry of Labour’s website at http://www.gov.on.ca/LAB/english/news/m_fml.html

Other useful information can be found on the Human Resources and Skills Development Canada (HRSDC) website at http://www/hrsdcc.gc.ca/en/ei/types/compassionate_care.shtml