

# Leaves of Absence – MAPFML, FMLA, Workers' Compensation & Reasonable Accommodations

Presented by:

**Campus Services HR Team**



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# Job Protection & Income Replacement Programs

***Massachusetts Paid Family Medical Leave (PFML):*** MA PFML is a state law that provides temporary income replacement and job protection to eligible employees who are welcoming a new child into their family, have a serious illness or injury, need to take care of an ill or ailing relative, and for certain military considerations.

***Family and Medical Leave Act: (FMLA):*** FMLA is a federal law that provides up to 12 weeks of unpaid job protection for eligible workers. This runs concurrently with the MA Paid Family Medical Leave (PFML).

***Short-term Disability (STD):*** A benefit that provides income replacement to eligible Harvard employees who have a serious illness or injury for up to 26 weeks in a 12 - month period.

***Workers' Compensation:*** A benefit that provides income replacement and payment for medical expenses due to a workplace injury or illness.

***Long-term Disability (LTD):*** A voluntary benefit that provides income replacement after the STD or MA PFML benefit is exhausted.



# What is the Massachusetts PFML?

- **What is MA Paid Family & Medical Leave (PFML)?**
  - This program provides temporary income replacement and job protection to eligible workers who are welcoming a new child into their family, have a serious illness or injury, need to take care of an ill or ailing relative, and for certain military considerations.
  - MA PFML can run concurrent with MA Parental Leave Act, FMLA (Family Medical & Leave Act) and/or any Harvard specific paid leave programs – specifically short-term disability and worker's compensation.
- Eligibility:
  - The population eligible for MA PFML extends beyond employees who are currently benefits eligible. Terminated employees are also eligible.
- Benefit Duration
  - **Family leave:** up to 12 weeks
  - **Medical leave:** up to 20 weeks
  - **Military Exigency leave:** 12 weeks
  - **Care of a Service member:** up to 26 weeks
  - **Combined MA PFML leave:** Up to 26 weeks
  - **Waiting Period:** 7 days
  - (Zero days for bonding if immediately transitions from medical leave for pregnancy or recovery from childbirth to bonding)

**\*Employees are eligible for MAPFML leave on Day 1 of employment.**

**\*Employees may be able to "top-off" or supplement their MAPFML with their accrued time (vacation, sick, etc.) as allowed by policy and relevant union contract.**



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# Short Term Disability (STD) Benefit

STD pays between 75% and 100% of your pay, depending on your job classification and, for union members, years of Harvard service. Generally, employees must satisfy the waiting period before STD benefits begin.

## **To be eligible for STD, employees must meet the following criteria:**

- Administrative and professional staff or overtime eligible, non-bargaining unit support staff – work at least 17.5 hours per week and have completed your orientation and review period.
- Employees covered by a collective bargaining agreement – must meet the eligibility criteria outlined in your collective-bargaining agreement.

## **Salary Replacement Benefit:**

- Administrative and professional staff, non-bargaining unit, over-time eligible support staff, and eligible postdoctoral fellows received 100% of base pay.
- Employees covered by a bargaining unit agreement receive 75% of base pay if their benefits-eligible service is less than seven years, and 100% if it is at least seven years.

# Leave Approval Process & Job Protection Calculations

- Lincoln Financial Group (LFG) is responsible for approving all medical related leaves. HR does not have any control over this process.
- Employees have up to **90** days to provide medical documentation to LFG support their leave of absence. This includes employees who are seeking approval for additional leave time.
- LFG determines how much job protection an employee has using FMLA and MA PFMLA entitlements.
- We also must consider Harvard's general policy of holding a job for up to 6 months.

# Your Responsibility as a Manager or Supervisor

- Contact your HR Consultant and CS Leaves Specialist if an employee has been absent (out sick or other related unplanned absence) or you know they will be out sick for more than 3 consecutive work days;
- Contact your manager if an employee is experiencing attendance issues. Also, you or the employee can contact your HR Consultant and CS Leaves Specialist to explore if an absence could be protected under MA PFML/FMLA.
- If an employee requests a leave of absence for their own medical issue or those of their child, parent, spouse/partner, or eligible family member, direct them to your CS Leaves Specialist.
- If an employee provides you with any type of medical documentation, send it to your HR Consultant or CS Leaves Specialist immediately. Do not maintain any employee medical information in your department;
- In coordination with HR and Payroll, ensure employee is paid correctly for time out on leave. Your CS Leaves Specialist will instruct you how to enter time for your employee who is out on a leave.



# Return to Work

If an employee is out on an approved medical leave for themselves, they are required to provide the CS Leaves team with a return to work note from their treating clinician **prior to returning**. HR/Leaves will confirm that the employee is able to return to work. **An employee cannot return to work unless HR/Leaves approves the note!**

MA PFML and FMLA requires the employer to reinstate the employee to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on return from their protected leave.



# Requests for Reasonable Accommodations

Under the Americans with Disabilities Act (ADA), employers are required to provide, as an accommodation, extended job protection. This means, an employee may be approved to be out longer than what they are eligible for under the MAPFML.

Factors to consider:

- When is the next follow up appointment?
- What is the employee's prognosis?
- Do they have a definitive return to work date?

## **Other types of Reasonable Accommodations:**

Examples of other types of Reasonable Accommodation requests include: restrictions on lifting, standing, bending. Sometimes, employees may need more frequent break times or have other needs that will facilitate their return to work. Each request will be explored with the department and employee prior to approving an accommodation. *Temporary restrictions with a finite time frame may be approved as a "Business Courtesy" rather than a formal Reasonable Accommodation.*

Additionally, employees can ask for a Reasonable Accommodation at any time. This includes, but is not limited to: equipment to assist them in performing the essential functions of their job, i.e.: orthopedic footwear, nitrile-free gloves, etc. If an employee makes a request for a Reasonable Accommodation, please direct them to your HR Consultant or CS Leaves Specialist.





# Intermittent Leaves

- Employees can be approved for PFML/FMLA intermittent leave for their own illness or to care for a family member.
- Lincoln Financial Group approves all intermittent leaves and provides HR and the employee what they are approved for. (*Example: 2 episodes per month, not to exceed 1 day per episode*)
- Employees do not need to provide a doctor's note when returning from intermittent leave day(s).
- Employees must follow call out procedures regarding notifying their supervisor of their absence, prior to the start of their shift.
- If an employee has scheduled doctor's appointments that are approved for intermittent leave (*Example: radiation treatment*) We can request that they schedule those days ahead of time.
- If an employee is using more intermittent time than what they are approved for, please notify your HR Consultant and CS Leaves Specialist.
- **The manager & employee must discuss how the employee would like to be paid for the intermittent leave day (MA PFML or accrued time).**

# Workers' Compensation

Massachusetts requires all employers with more than 1 employee to have workers' compensation insurance.

If an employee experiences a qualified workplace illness or injury, their wages and medical treatment may be covered by the University's workers' compensation program. This program is managed through our third-party administrator, PMA.

Lost time due to a work-related accident is job protected under MA PFMLA and FMLA.



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# Workers' Compensation

- When an employee informs you that an injury/ illness took place at work.
  - The **Manager or Supervisor** completes the injury/illness report, **not the employee**.
  - Review the injury with the employee and complete the form, filling in as much as you can.
- Once the injury worksheet is completed, send it to the [campus\\_services\\_accident\\_reporting@harvard.edu](mailto:campus_services_accident_reporting@harvard.edu).
- An injury worksheet needs to be sent over immediately if the employee was sent in by ambulance or within 24 hour of an injury.
- If there is an injury over the weekend you can still send the injury worksheet to [campus\\_services\\_accident\\_reporting@harvard.edu](mailto:campus_services_accident_reporting@harvard.edu).
- Until the claim is approved, the employee will be paid sick time.
- Harvard will pay the employee for the 1<sup>st</sup> 21 days if the claim is approved. Harvard's Workers' Compensation administration company, **PMA** pays the employee directly on the 22<sup>nd</sup> day if the claim is approved and until the employee returns to work.
- The employee communicates with PMA and HR and will provide updated medical information. HR will then communicate with the manager or supervisor with the update.
- When an employee is returning to work, a return to work note needs to be sent to HR prior to the return date and then the manager or supervisor will be notified by HR. **Employees cannot return to work unless they are cleared by HR/Leaves.**
- Notes with restrictions/accommodation requests will require HR, the employee and the manager to engage in the interactive process to assess whether the employee can return to work safely.



# Completing the the Injury/Illness Accident Worksheet



## INJURY/ILLNESS ACCIDENT WORKSHEET

Immediately upon notice of a workplace injury or illness, the manager must complete this form and send to campus\_services\_accident\_reporting@harvard.edu. Please send all copies of medical notes to Human Resources, Attn: Worker's Compensation 65 Winthrop St, Cambridge.

CALL EH&S at (617) 495-5560 immediately if a work-related fatality, inpatient hospitalizations, amputation or losses of an eye.

### CLAIMANT INFORMATION

Name:  HUID:

### INCIDENT INFORMATION

Accident Occurred on Harvard Premises:  Date Incident Reported:   
 Date of Incident:  Time of Incident:

Specific Location [Building/Room/Area] Where Injury/Illness Occurred:

Accident/Injury/Illness Description: Tell Us How the Injury/Illness Occurred. Examples "When ladder slipped on wet floor, worker fell 20 feet," Worker developed soreness in wrist over time."

What was the Employee Doing Immediately Prior to the Injury/Illness? Describe the activity as well as the tools, equipment or materials the employee was using. Be Specific.

What Object or Substance or Motion Directly Injured the Employee or Caused the Illness? Examples "Concrete floor", "Chlorine"

Did the Accident/Injury/Illness Involve a Needle or Device (e.g.: scalpel, broken glass, dental wire, etc.) That Was Potentially Contaminated With Blood or Other Potentially Infectious Material?

Type of Injury/Illness:  Body Part:

Initial Medical Treatment:

If Treatment Was Given Away From the Worksite, Where Was it Given?: Facility, Street, City, State, Zip

Could This Injury/Illness Result in HIV Infection?  YES  NO   
 if Yes, seek confidential HIV blood testing at UHS or an approved laboratory within 5 calendar days of the incident. See Harvard's Work-Related HIV Benefit Plan.

### WITNESSES

Name:  Title:   
 Email:   
 Phone:  Alternate Phone:

Name:  Title:   
 Email:   
 Phone:  Alternate Phone:

### CLIENT SPECIFIC FIELDS FOR WC

Time Shift Started:  Time Shift Ended:   
 EE Lost More Than 4 Hours of Work:  How Many Hours Lost:

Supervisor Name:  Supervisor Phone:   
 Title:  Date:

### Campus Services Leaves Specialist

Cathy Haney  
 65 Winthrop Street  
 Cambridge, MA 02138  
 Email: catherine\_haney@harvard.edu  
 Tel: 617-998-0761  
 Fax: 617-496-8187

Complete with as much information about the injury and how it occurred. Send promptly to the Accident Reporting email.



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# Massachusetts Earned Sick Time Law

## Massachusetts Earned Sick Time Law

- All employees, regardless of authorized hours, are eligible for “earned sick time” (EST).
- An employee generally cannot be penalized for using this time, unless there is a pattern of abuse.
- The regulations consider EST as the first 40 hours of sick time earned and used in a benefit year. The benefit years is different for each employee classification. For example:
  - Local 26 – July 1st-June 30th
  - SEIU 32BJ – November 16th- November 15th
  - ATC – December 8th-December 7th
  - Admin/Professional & HUCTW July 1st-June 30th



# Questions?

Please reach out to your local HR Consultant or CS Leaves Specialist. Our contact information can be found at: <https://intranet.campuservices.harvard.edu/human-resources/>



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