

Leave, Family and Medical

Purpose

The purpose of this recommended practice is to describe payroll issues that may apply when an employee is on family or medical leave.

Family and medical leave is time off from work for an employee:

- To tend to his or her own serious health condition or the serious health condition of a family member
- For Parental leave
- For Sick Child leave to care for the employee's own child with a non-serious health condition requiring home care
- To care for the employee's child, parent, spouse or next-of-kin who is an injured or ill covered service member
- To attend to qualifying exigencies when a family military service member is called to active duty

The Federal Family and Medical Leave Act (FMLA) and the Oregon Family Leave Act (OFLA) set the parameters for family and medical leave. They define:

- When an employee is eligible
- The reasons an employee may take leave
- How much protected leave the employee may take
- When the employee has a right to his or her job upon return

All employees follow the provision of State HR Policy 60.000.15 Family and Medical Leave. Collective bargaining agreements (CBA) may further define leave for represented employees.

FMLA and OFLA are not optional. The law requires that the State of Oregon, as an employer, provide the entitlements described in the laws and implementing rules. Your agency's Family and Medical Leave Coordinator will determine if an employee qualifies for FMLA and/or OFLA leave. Because they are not optional, the agency can designate leave as FMLA or OFLA without the employee's consent or agreement.

The leave is unpaid protected time off. Under statewide policy and collective bargaining agreements (CBA), the employee must first use accrued leave, before going on leave without pay (LWOP). Under some circumstances an employee may reserve a leave balance, see Notes, Leave, and Resources.

Authority / References

OSPA Reference Manual

Recommended Practices

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Federal Family and Medical Leave Act, <http://www.dol.gov/esa/whd/fmla/>

Oregon Revised Statutes, <http://www.leg.state.or.us/ors/>

- Chapter 243 Public Employee Rights and Benefits
- 659A.150 to 659A.186 Oregon Family Medical Leave Act

Oregon Administrative Rules, <http://arcweb.sos.state.or.us/banners/rules.htm>

- Chapter 101, Public Employee Rights and Benefits
- 839, Division 009, Oregon Family Medical Leave Act

State HR Policy 60.000.15 Family and Medical Leave,
<http://www.oregon.gov/DAS/HR/docs/advice/P6000015.pdf>

Collective Bargaining Agreements (CBA), <http://oregon.gov/DAS/HR/CBAs.shtml>

Scope / Applicability

This practice applies to all agencies that use OSPA and have employees with FMLA and/or OFLA leave.

Responsibilities

Within your agency, several individuals play a role when an employee has family or medical leave. They include:

Entity	Responsibility
Employee	<ul style="list-style-type: none">• Follows the agency's notification procedure for taking family and medical leave• When requested, obtains appropriate certification and permission to return to work from his or her health care provider• When possible, completes and signs timesheets or enters time in On-line Daily Time (ODT)
Employee's Manager	<ul style="list-style-type: none">• Ensures employee's time and leave are entered with the correct designation (See Notes, Pay Types)• Approves time and leave reported

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Entity	Responsibility
Agency FMLA / OFLA Coordinator	<ul style="list-style-type: none"> • Determines employee's eligibility and notifies agency Human Resources and Payroll offices, including when employee: <ul style="list-style-type: none"> ▪ Is FMLA / OFLA eligible ▪ Has exhausted leave entitlement ▪ Is on LWOP status ▪ Returns to work ▪ Decides not to return to work
Agency Human Resources	<ul style="list-style-type: none"> • May enter LWOP status in the PPDB • Approves request for donated hardship leave and notifies agency staff
Agency HR or Payroll	<ul style="list-style-type: none"> • Maintains record of FMLA / OFLA hours taken • Monitors eligibility • Maintains record of donated leave and interagency approvals
Agency Payroll	<ul style="list-style-type: none"> • Ensures that an eligible employee receives benefits • Monitors for overpayments • Processes payments when employee self-pays PEBB benefits
OSPS	<ul style="list-style-type: none"> • Processes payments received from employees for self-payment of benefits and return of overpayments

SYSTEMS / APPLICATIONS

System / Application	Functionality
	<ul style="list-style-type: none"> •

Prerequisites

Your agency's FMLA / OFLA coordinator will review the employee's request and determine if the employee is eligible for FMLA and/or OFLA leave. The employee will also work with the coordinator when returning to work or making the decision not to return.

Recommended Practice

When an employee is on OFLA / FMLA leave, the agency's payroll office:

- Helps ensure that the employee's time is recorded correctly
- Helps monitor the employee's eligibility for protected leave

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- Ensures that an eligible employee receives benefits
- Monitors for overpayments

For a given employee, the agency payroll may do all or some of the following:

Action	More
<p>1. Ensure that the employee has time recorded in OSPA.</p> <p>Make sure that the pay types include the applicable special designator for the type of leave.</p>	<p>See Notes, Leave, and Pay Types</p>
<p>2. Make necessary entries for PEBB benefits. These may include:</p> <ul style="list-style-type: none"> ▪ If the employee is on FMLA leave and does not have enough paid regular hours for OSPA to pay PEBB premiums, force the premiums on the P070 Deductions and Deduction Adjustments. See Entry Guides, PEBB, Protected Leave, Full-time Employees, and Protected Leave, Part-time and Job Share. ▪ If the employee is on OFLA only leave and does not have enough paid regular hours for OSPA to pay the PEBB premiums, process a COBRA notice in PEBB.benefits (PDB). ▪ If the employee opts out of medical insurance, see Exceptions, PEBB, Opt Out. ▪ If the employee will self-pay optional insurances or normally has out-of-pocket costs and is on LWOP, prepare a Self-Pay Letter and process the resulting payments. See Notes, PEBB, Self-Pay. 	<p>See Notes, PEBB and Exceptions, PEBB</p>
<p>3. For each payroll run, review the employee's records for potential overpayments. See Notes, Net Pay Negative.</p>	
<p>4. Assist the agency's FMLA / OFLA coordinator in tracking leave hours.</p>	
<p>5. When the employee returns to work, ensure that the P070 has ongoing PEBB deductions. Delete any P070 entries used to force premiums. See OAR 101-030-0015 (FMLA) or OAR 101-030-0020 (OFLA)</p>	

Notes

Injured Worker – An employee who has an approved or deferred disabling compensable on-the-job injury is not eligible for the OFLA designation. If SAIF denies the employee's claim, the employee may then be eligible for OFLA.

An employee with a job-related injury may fall under the FMLA protections. If so, the entitlements for FMLA and CBIW (Continuation of Benefit for Injured Workers) run concurrently.

See Recommended Practice, Leave, Injured Worker.

Leave, Accrued -- Under State HR Policy 60.000.15 Family and Medical Leave and CBA's, the employee must first use accrued leave. These documents may dictate the order in which the employee uses the leave. Once an employee exhausts all leave, the employee may go on LWOP.

Per State HR Policy 60.000.15 Family and Medical Leave, a management service or unrepresented employee may reserve 40 hours of sick or vacation leave. A represented employee may reserve leave allowable by a CBA. The employee must notify the agency if he or she wishes to do so.

Employees choose whether they wish to reserve or use compensatory time while on FMLA or OFLA.

Employees choose whether they wish to use leave time while receiving payments from a disability provider. Note: the employee must comply with any leave-use requirements from the disability provider.

Leave will continue to accrue as long as the employee has enough paid regular hours to qualify for the accrual.

Leave, Bereavement – An employee must be in paid status on the date immediately before the effective date for requested bereavement leave. If the employee is on paid OFLA or FMLA leave and has a qualifying event, the employee may take bereavement leave. Code the FL pay type with the special OFLA or FMLA designator. See Pay Types below, applicable CBA, and State HR Policy 60.000.10 Special Leaves with Pay.

Leave, Compensatory -- The employee is not required to use accrued compensatory time. If the employee decides to use accrued comp or straight time, the hours are included in the hours counted towards FMLA or OFLA.

Leave, Donated Hardship – State HR Policy 60.025.01 Donated Leave and CBA's provide the parameters for agencies to administer a donated hardship leave program. Under a program, state employees can donate accrued leave hours to an

eligible state employee. The employee must first exhaust his/her own leave because of a serious, long-term health problem for the employee or an eligible family member.

See State HR Policy 60.025.01 Donated Leave and Recommended Practices, Leave, Donated Hardship.

Leave without Pay – If the FMLA / OFLA eligible employee is on LWOP, enter the employee's time with LO and the applicable third-digit designator. See Pay Types below.

Agency human resources may enter a LWOP code in the PPDB. It interfaces to OSPA and displays in the LOA BEG DT / CD field on the P030 Job Status Data. When the employee returns to work, HR outdates the LWOP code, which also displays on the P030 (LOA BEG DT / CD / END). As long as OSPA has a LWOP code on the P030 and no end date, you may only enter LWOP pay codes on the P003 or P004 Time Capture screens.

If a PERS Chapter 238 Program (Tier 1 and Tier 2) member has a "greater fraction of a month" on LWOP, the employee will not have PERS creditable service for that month. See State HR Policy 60.000.11 Leaves without Pay.

Net Pay Negative – When an employee has LWOP or reduced hours, you may see a negative NET PAY amount on the P370 Calculation of Current Payoff or a NET PAY NEGATIVE message on the E120-042A, E120-052A, E122-042A, E122-046A, or E122-056A Payroll Exception reports.

The following circumstances may create negatives:

- The employee is salaried. The employee reported the LWOP after final payroll run 1. The employee received an overpayment based upon the forecast.
- The employee has optional insurance and does not have enough pay to cover the premiums. See Entry Guides, PEBB, Protected Leave, Full-time Employees and Protected Leave, Part-time and Job Share.
- The employee may be part-time or job-share and normally have out-of-pocket costs for required PEBB insurances. See Entry Guides, PEBB, Part-time and Job Share Employees.
- The employee may have medical or dental insurance for a domestic partner and/or the partner's dependent children. The employee has not claimed them as tax dependents. The employee's wages do not cover the tax liability for the imputed value of these premiums. See Exceptions, PEBB, Domestic Partners.
- The employee may have a fixed ADDL amount for FEDERAL and/or STATE withholding on the P010 Withholding Data / Locator Data and the wages do not

cover the additional amount withheld. Request a new W-4 from the employee to give you permission to delete the ADDL amount. See Recommended Practices, Taxes, Withholding.

- The employee has some paid regular hours and the wages do not cover the employee's existing voluntary deductions. Obtain written permission from the employee to delete deductions from the P070. Especially look at the following:
 - Deferred compensation (OSGP)
 - Fixed amount direct deposits
 - Charitable contributions
 - Savings bonds
 - Flexible spending accounts

Pay Types -- Some OSPA pay and leave codes may accept an additional digit to indicate that the employee is on a special leave status. Pay codes that may have special designators have an asterisk (*) beside them in OSPA Reference Manual Appendix B. The indicators that apply to OFLA and FMLA include:

Code	Used for	E.g.
F	Hours taken under FMLA only	VAF, GLF
G	Hours recorded for an employee with a deferred or approved workers' compensation claim (CBIW) only	SLG, LG
1	Hours taken under OFLA only	LO1, VA1
2	Hours taken under both FMLA and OFLA, not CBIW	SL2, GL2
3	Hours taken under both FMLA and CBIW	SL3, VA3
6	Hours taken under FMLA Exigency Leave	VA6, CT6
7	Hours taken under FMLA Exigency Leave and OFLA Leave	PB7, ST7
8	Hours taken under FMLA Military Caregiver Leave	VA8, GL8
9	Hours taken under FMLA Military Caregiver Leave and OFLA	LO9, VA9

If the employee exhausts OFLA, FMLA, and/or CBIW and is still unable to return to work from a medical condition, use pay type LS (LWOP Sick).

PEBB, Medical, Dental, Vision, Basic Life – If an employee is on FMLA, the employee is eligible for the required or core PEBB benefits, even if the employee is on LWOP. The agency continues to pay for the employee's medical, dental, vision, and agency paid basic life (\$5,000) insurance. PEBB continues to pay for the PEBB paid basic life insurance (\$20,000).

If an employee is on OFLA only leave, the state will continue to pay the employee's premiums for PEBB required insurances if the employee has enough paid regular hours to meet PEBB eligibility requirements. If the employee's regular paid hours fall below the normal PEBB requirements, the employee is no longer eligible for PEBB benefits. This becomes a COBRA event for medical, dental, and vision coverage.

For employees who are on OFLA only and receive donated hardship leave, the applicable statewide policy or CBA may require that the agency first use the donated hours for required PEBB insurances, excluding the PEBB paid basic life insurance. See Recommended Practices, Leave, Donated Hardship; State HR Policy 60.025.01 Donated Leave; and any applicable CBA.

PEBB, Optional Benefits – For both FMLA and OFLA the employee may continue optional insurances, as long as the employee continues to pay the premiums. If the employee uses accrued leave, the paid regular hours may cover the optional insurances. If the employee exhausts accrued leave or the wages do not cover the premiums, the employee may self-pay, see below.

If the employee is receiving short or long-term disability benefits from Standard Insurance, the employee does not continue to pay premiums for disability insurance.

PEBB, Self-Pay – An employee may self-pay PEBB benefits when the employee is eligible for the benefits and does not have enough wages to cover the costs. The employee makes a payment to the agency. The agency's payroll office makes any necessary entries in OSPA and forwards the payment to OSPS.

Circumstances under which an employee may self-pay include:

- Part-time and job share employees may routinely have out-of-pocket costs for required PEBB (medical, dental, and vision) insurances. If, for a given month, their pay does not cover the out-of-pocket costs, they may self-pay their portion of the premiums. See Entry Guides, PEBB, Part-time and Job Share Employees.
- Employees who are on LWOP or reduced hours and eligible for PEBB benefits may have the opportunity to continue their optional PEBB benefits by self-paying the premiums.

See Entry Guides, PEBB, Protected Leave, Full-time Employees and Protected, Leave, Part-time and Job Share, for OSPA entries and the OSPS process.

For a sample Self-Pay Letter, see State HR Policy 60.000.15 Family and Medical Leave Toolkit, <http://www.oregon.gov/DAS/HR/fmla.shtml#Toolkit>

If the employee does not make the payment for medical or dental insurance, delete the P070 entries and process a COBRA notice.

Exceptions

PEBB, Domestic Partner Insurance -- Under federal and state tax law, health insurance benefits provided by an employer to an employee and the employee's spouse or eligible dependents are not taxable to the employee. The employee may submit a PEBB Domestic Partner Certification for Dependent Tax Status to claim the employee's domestic partner and/or the partner's children as a tax dependent. If the employee does not, the market or imputed value of the benefit for the domestic partner and/or the DP's eligible children is taxable income to the employee.

Agency payroll makes a DPT (Domestic Partner Taxable) entry on the P050 Gross Pay Adjustments on File when an employee has medical and/or dental insurance coverage for a domestic partner and/or the DP's children who are not tax dependents. This makes the imputed value of the premium taxable income and increases the employee's federal and state income, social security and Medicare taxes.

As long as the state is paying premiums for health and dental insurance and the DP and/or children are not tax dependents, the employee is financially responsible for the taxes on the imputed value for domestic partner coverage. If the employee does not have enough wages to cover the taxes, you will see a negative NET PAY on the P370. The employee must make a payment to cover the federal and state income taxes and the employee's share of social security and Medicare taxes from the DPT entry.

See Entry Guides, PEBB, Domestic Partner Insurance, and PEBB, Protected Leave, Full-time Employees, and Protected Leave, Part-time and Job Share.

PEBB, Opt Out – If the employee ordinarily opts out of medical coverage (deduction code OONN and plan code 001 or 002), the employee is still eligible for employer paid dental insurance while on protected leave. Do not force the OONN deduction on the P070. The employee is not eligible for the insurance return dollars when you force premiums.

See Entry Guides, PEBB, Opt Out and PEBB, Protected Leave, Full-time Employees and Protected Leave, Part-time and Job Share.

Troubleshooting

Supporting Documentation / Forms

For a sample Self-Pay Letter, see State HR Policy 60.000.15 Family and Medical Leave Toolkit, <http://www.oregon.gov/DAS/HR/fmla.shtml#Toolkit>

Resources

Bureau of Labor and Industries (BOLI), Civil Rights Division web site, <http://www.oregon.gov/BOLI/CRD/index.shtml>

State HR Policies, <http://oregon.gov/DAS/HR/rules.shtml>

- 60.000.10 Special Leaves with Pay
- 60.000.11 Leaves without Pay
- 60.000.15 Family and Medical Leave, including Toolkit
- 60.025.01 Donated Leave

IRS Publication 15-A Employer's Supplemental Tax Guide, <http://www.irs.gov/pub/irs-pdf/p15a.pdf>

Oregon Accounting Manual, http://oregon.gov/DAS/SCD/SARS/oam_toc.shtml

- 45.20.00.PO Cash Insurance Payments
- 45.50.00.PO and 45.50.00.PR Collection of Overpayment

OSPA Reference Manual, <http://oregon.gov/DAS/SCD/OSPS/referencemanual.shtml>

- Entry Guides
 - PEBB, Domestic Partners
 - PEBB, Opt Out
 - PEBB, Part-time and Job Share Employees
 - PEBB, Protected Leave, Full-time Employees
 - PEBB, Protected Leave, Part-time and Job Share
- Recommended Practices
 - Leave, Donated Hardship
 - Leave, Injured Worker
 - Taxes, Withholding
- Screen Descriptions
- Report Descriptions
- Appendix B, Pay and Leave Codes

PEBB Resources:

- PEBB Administrative Manual
- PEBB Benefits, <http://oregon.gov/DAS/PEBB/index.shtml>
- Public Employees' Benefit Board FMLA-OFLA Benefit Matrix, http://oregon.gov/DAS/HR/docs/advice/fmla/FMLA_OFLA_BenefitMatrix.pdf

PERS, Employer Manual,

http://www.oregon.gov/PERS/EMP/docs/er_general_information/employer_manual.pdf

Reports

E315-009A Employees Unqualified for State Pay Benefits – Distributed after each final payroll run, this report lists employees who have not met the criteria to qualify for PEBB mandatory benefits and have deductions on the P070 Deductions and Deduction Adjustments.

E512A, E512C FMLA/OFLA Leave Hours – This report, distributed after each final payroll run 2, summarizes the hours reported as FMLA or OFLA by employee and pay type for the pay period.

E315-009C Payroll Deduction Adjustment (F) – The report, distributed after every final payroll run, lists employees who have entries on the P070 with ADJ = F (FMLA, and OFLA if donated hardship leave pays for the premiums). See Entry Guides, PEBB, Protected Leave, Full-time Employees and Protected Leave, Part-time and Job Share.

E120-042A, E120-052A, E122-042A, E122-046A, E122-056A Payroll Exception – Each of these reports, distributed after each preliminary and final payroll run, lists employees with payroll exceptions for current and corrective pay periods.

B065A, B065C Timesheet Audit and Control Report – Distributed after every final payroll run, this report displays the employee's time from the P003 or P004 Time Capture.

Attachments

Revision History

Date	Rev. No.	Modification
05/14/08	1.0	Original
01/26/09	1.1	PEBB 2009 Plan Year changes; WR#3461, FY 2008 National Defense Authorization changes to FMLA
02/27/09	1.2	Clarify F ADJ code from P070