



Boston University Medical Group Policy
Personnel Policies



BUMG PAID LEAVE BENEFITS

MASSACHUSETTS FAMILY AND MEDICAL LEAVE LAW (MA FML), M.G.L. C. 175M

As of January 1, 2021, the Massachusetts Family and Medical Leave Law, M.G.L. c. 175M (MA FML), provides eligible Massachusetts employees with up to twenty-six (26) weeks of paid, job-protected family and medical leave per benefit year. BUMG paid leave benefits in accordance with MA FML are set forth in the policy below. For terms and definitions related to MA FML, see the Definitions section of this policy.

- A. Applies to: All current (full-time and part-time) and former employees of the Corporation with concurrent (or former concurrent) employment by Boston University.
- B. Eligibility: The following are considered “covered individuals” under this policy:
- (1) All current employees (full-time and part-time) shall be eligible upon hire;
 - (2) Any former employee who has (a) met the financial eligibility test at the time of the former employee's separation from employment with the Corporation and (b) has been separated from employment from the Corporation for not more than 26 weeks at the start of the former employee's family or medical leave.
- C. Waiting Period: There will be no waiting period for BUMG paid leave benefits for current employees after the date on which the job-protected leave begins.
- D. Family Leave:

Reasons for use: Family leave shall be available to eligible employees for any of the following reasons:

- (1) to bond with the eligible employee's child(ren) during the first 12 months after the child(ren)'s birth or the first 12 months after adoption or other legal placement, such as surrogacy or foster care with the eligible employee of the child(ren) under eighteen years of age or under twenty-three years of age if the child is mentally or physically disabled;
- (2) to care for a family member with a serious illness;
- (3) because of any qualifying exigency arising out of the fact that a family member is on active duty or has been notified of an impending call or order to active duty in the Armed Forces; or
- (4) to care for a family member who is a covered service member.

Duration:

- (1) for reasons (1) - (3) above, up to 12 weeks of family leave may be taken in a benefit year; in the case of multiple births no more than 12 weeks of family leave will be available in a benefit year for reason (1); and
- (2) for reason (4) above, up to 26 weeks of family leave may be taken in a benefit year.

Pay: Current employees will receive paid leave benefits for approved family leaves as follows:

- (1) the first two (2) weeks of family leave will be paid at 100% of the employee's total compensation;
- (2) the remaining duration of the family leave will be paid at the state's maximum weekly benefit amount, which is subject to adjustment annually by the State pursuant to M.G.L. c. 175 M, § 3. The maximum weekly benefit amount at the time of the drafting of this policy is \$850.00.

- E. Medical Leave:

Reasons for use: Medical leave shall be available to any eligible employee who is certified by a physician to have a serious health condition (this includes routine child birth recovery) which makes the individual unable to perform the functions of the individual's position. The length of the medical leave will be determined by the physician certification.



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Duration:

- (1) up to 20 weeks of medical leave due to their own serious health condition in a benefit year and during any single period of disability¹.

Pay: Current employees will receive paid leave benefits for approved medical leaves as follows:

- (1) the first eight (8) weeks of medical leave will be paid at 100% of the employee's total compensation;
- (2) the remaining duration of medical leave will be paid at 67% of the employee's total compensation up to the annual IRS compensation limit used for figuring contributions and benefits. The 2020/2021 limit² is \$285,000 (see www.irs.gov/publications/p560/ar01.html). If 67% of the employee's total compensation up to the annual IRS compensation limit is less than the state's maximum weekly benefit amount, the employee will be paid at the state's maximum weekly benefit amount.

F. Former Employees

The reasons for use and duration of family and medical leave for former employees are the same as described in Sections D and E above. For purposes of medical leave, an eligible individual who is a former employee shall be considered unable to perform the functions of the individual's position, if the individual is unable to perform the functions of the individual's most recent position.

Pay: Eligible former employees will receive paid leave benefits for approved family and medical leaves as follows:

- (1) The first 7 calendar days of leave will be unpaid (i.e. the "waiting period");
- (2) The remaining duration of leave will be paid pursuant to the state's weekly benefit amount.

G. Intermittent or Reduced Leave Schedules: With advance planning, family and medical leave may be taken on an intermittent basis or reduced leave schedule pursuant to this policy (and as described in the MA Family and Medical Leave regulations at 458 CMR 2.13) when coordinated with the employee's Department.

Intermittent or reduced schedule family leave may be coordinated: (1) for up to 12 months from the birth, adoption, or foster care placement of a child; (2) to care for a family member with a serious illness, if the health care provider determines it is medically necessary; (3) due to a qualifying exigency arising out of the fact that a family member is on active duty or has been notified of an impending call to active duty in the Armed Forces; and (4) to care for a family member who is a covered service member. Intermittent or reduced schedule medical leave may be coordinated for an eligible employee's own serious health conditions, if medically necessary.

Intermittent paid leave may be used in half-day increments. The employee and the department chairman shall attempt to work out a schedule for leave that meets the individual's needs without unduly disrupting the Department's operations.

For an eligible employee who takes leave on an intermittent or reduced leave schedule, the weekly benefit amount, shall be reduced in direct proportion to the intermittent or reduced leave schedule.

H. Notice of Leave: An employee must notify the department chairman and the Human Resources Department at the Boston University Medical Campus ("BU HR") at least thirty (30) days before commencing leave. A form for requesting leave is available from BU HR. The department chairman and/or BU HR may waive this notice requirement if they determine that an employee did not give notice because of emergency or other unforeseeable circumstances. When the need for leave is not foreseeable thirty (30) days in advance, an employee must give notice to the department chairman and BU HR within two (2) working days after learning of the need for leave, absent extraordinary circumstances.

¹ A single period of disability includes two or more periods of disability resulting from the same causes if separated by less than three consecutive months of active service on the basis of the employee's regular work schedule.

² Annual IRS compensation limits effective January 1st will be applied in the subsequent BUMG fiscal year beginning July 1st.



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- I. **Certification:** All applications for family and medical leave benefits shall be supported by a certification evidencing that the leave is for a qualifying reason pursuant to Massachusetts Family and Medical Leave Act.

Where it is determined that a certification lacks required information, or is not accurate or authentic, or is otherwise insufficient, BU HR or its' leave administrator may contact the health care provider and require that they verify, supplement, or otherwise amend the information in the certification. At any time, the Corporation has the right to require an employee to submit objective medical evidence that either establishes illness or establishes its' expected duration and/or require a medical examination by a physician chosen by the Corporation.

- J. **Conditions on the Use of Leave:**

- (1) A maximum of twenty-six (26) weeks of family and medical leave may be taken per benefit year by an eligible employee.
- (2) Leave allotments are based on the number of hours or days an eligible employee works. When an eligible employee works a part-time schedule or variable hours, the amount of leave an eligible employee may use is determined on a *pro rata* or proportional basis.
- (3) For any portion of a leave period that is paid at less than 100% of an employee's total compensation, an employee may elect to use any accrued vacation or sick leave for wage replacement, when available. Sick time may be used for family and medical leaves that meet the conditions of Sick Leave policy (see p. 9-10). The department will not require the employee to use accrued vacation or sick time.
- (4) Tiered pay rates apply per qualifying event, not per benefit year. For instance, if an employee takes approved medical leave twice during a benefit year, up to the first 8 weeks of the first and the second leaves will be paid at 100% of the employee's total compensation, provided the combined duration of the two medical leaves does not exceed 20 weeks, which is the limit per benefit year for medical leaves pursuant to M.G.L. C. 175M.
- (5) No paid leave benefits will be available to eligible employees from the State-sponsored benefit plan administered by the MA Department of Family and Medicine Leave while this policy remains in effect.
- (6) No leave benefits will be paid after an employee has retired.

- K. **Benefits during Leave:** An employee on a family and medical leave may remain a participant in the department's insurance benefit plans throughout the duration of the leave³. During the leave, the department will continue to pay its share, if any, of the premiums. An employee using paid leave will have the employee portion of medical and dental premiums deducted from their salary in the regular course. If the employee does not return to work after his/her leave, the department may require the employee to reimburse the department for the full cost of health insurance premiums it paid while the employee was on leave. The department will also continue to make pension contributions (subject to all eligibility requirements) during any period of paid leave under this policy.

- L. **Return to Work:** An employee who has taken family or medical leave shall be restored to the employee's previous position or to an equivalent position, with the same status, pay, employment benefits, length-of-service credit and seniority as of the date of leave. An employer shall not be required to restore an employee who has taken family or medical leave to the previous or to an equivalent position if other employees of equal length of service credit and status in the same or equivalent positions have been laid off due to economic conditions or other changes in operating conditions affecting employment during the period of leave; provided, however, that the employee who has taken leave shall retain any preferential consideration for another position to which the employee was entitled as of the date of leave.

Limited Return to Work: There may be instances when a provider can return to work from medical leave in a limited capacity. This is handled on a case by case basis. The provider may be eligible for a medical leave benefit payment as outlined above, for the aspects of her/his responsibilities that cannot be completed and full compensation for the aspects of her/his responsibilities that can be completed. This is only allowed with departmental faculty practice plan and BUMG approval. Also see section on Intermittent and Reduced Leave Schedules.

³ Vacation leave accrues during periods of paid leave. Vacation time will not accrue during periods of unpaid leave.



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- M. Effect of Leave on Periodic Duties: Annual administrative, clinical/on-call, teaching and academic duties may be reduced by the department in proportion to the number of weeks that an employee is on leave under this policy. Whenever possible, duties, such as on-call, should be traded with another provider who is working her/his annual allocation of duties during the year. Specific implementation of this provision shall be determined by individual department policies. The work RVU target will be reduced in proportion to the approved leave. The Administrative Director of the department is responsible for making the adjustment using the cFTE maintenance tool or other designated tool or system as provided by BUMG.
- N. Relationship to Other Types of Leave: Family and medical leave taken under the Massachusetts Family and Medical Leave Act (M.G.L. c. 175M) shall run concurrently with leave taken under other applicable state and federal leave laws, including the Massachusetts Parental Leave Act (M.G.L. c. 149, § 105D) and the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601), when the leave is for a qualified reason under those acts. Unpaid leaves for pregnancy and childbirth available through the FMLA or MPLA will be deemed to run concurrently with paid leave granted for these purposes.
- O. Appeals: All presumptions will be made in favor of the availability of leave and the payment of leave benefits for eligible employees. If family and/or medical leave benefits are denied, eligible employees may exercise their right of appeal pursuant to 458 CMR 2.07(6)(a) and 458 CMR 2.14. Appeals may be submitted in writing to the leave administrator.



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DEFINITIONS

For convenience, certain definitions that are relevant to the FMLA and MA FML sections of this policy are found below.

A. FMLA Definitions: All the definitions related to FMLA may be found at 29 C.F.R. § 825.102.

(1) General:

- a. Serious Health Condition: an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. The “continuing treatment” test for a serious health condition under the regulations may be met through (1) a period of incapacity of more than three consecutive, full calendar days plus treatment by a health care provider twice, or once with a continuing regimen of treatment; (2) any period of incapacity related to pregnancy or for prenatal care; (3) any period of incapacity or treatment for a chronic serious health condition; (4) a period of incapacity for permanent or long-term conditions for which treatment may not be effective, or; (5) any period of incapacity to receive multiple treatments (including recovery from those treatments) for restorative surgery, or for a condition which would likely result in an incapacity of more than three consecutive, full calendar days absent medical treatment.
- b. Qualifying Exigencies: include, but are not limited to, preparing for a short notice deployment, attending military events, arranging for alternative childcare, addressing financial and legal arrangements, attending counseling, and attending post-deployment activities.

B. MA FML Definitions: All the definitions related to the MA FML may be found at 458 CMR 2.02.

(1) Family Leave:

- a. Family Leave: To care for a family member with a serious health condition; for a parent to bond with the parent's child during the first 12 months after the child's birth, adoption, or foster care placement; to care for a family member who is a covered service member, or because of a qualifying exigency arising out of the fact that a family member is on active duty or has been notified of an impending call or order to active duty in the Armed Forces.
- b. Family Member: The spouse, domestic partner, child, parent or parent of a spouse or domestic partner of the eligible employee; a person who stood in *loco parentis* to the eligible employee when the eligible employee was a minor child; or a grandchild, grandparent or sibling of the eligible employee.
- c. Covered Service Member, either:
 - (a) a member of the Armed Forces, as defined in M.G.L. c. 4, § 7, including a member of the National Guard or Reserves, who is:
 - 1. undergoing medical treatment, recuperation or therapy;
 - 2. otherwise in outpatient status; or
 - 3. is otherwise on the temporary disability retired list for a serious injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces, or a serious injury or illness that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces; or
 - (b) a former member of the Armed Forces, including a former member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces, or a serious injury or illness that existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces and manifested before or after the member was discharged or released from service.

(2) Medical Leave:

- a. Medical Leave: Leave taken by an eligible employee due to a serious health condition, including recovery from routine childbirth that is certified as a serious health condition.
- b. Serious Health Condition: an illness, injury, impairment or physical or mental condition that involves: (a) inpatient care in a hospital, hospice or residential medical facility; or (b) continuing treatment by a health care provider.

(3) General:

- a. Total Compensation: The employee's total compensation for purposes of calculating paid leave benefits under this policy is equal to her/his average monthly total compensation, which is made up of the salary, incentive and bonus amounts paid to the employee over the 12 month period preceding the month in which the leave commences. If the employee has been employed for less than a 12 month period the total compensation will be annualized to determine the average.
- b. Weekly Benefit Amount: the amount of wage replacement paid to a eligible employee on a weekly basis while the eligible employee is on family or medical leave, as provided in M.G.L. c. 175M, § 3.
 - i. The state's weekly benefit amount for a eligible employee on family or medical leave shall be determined as follows: (i) the portion of the eligible employee's average weekly wage that is equal to or less than 50 per cent of the state average weekly wage shall be replaced at a rate of 80 per cent; and (ii) the portion of the eligible employee's average weekly wage that is more than 50 per cent of the state average weekly wage shall be replaced at a rate of 50 per cent.
 - ii. The state's maximum weekly benefit amount (calculated pursuant to paragraph (1) of M.G.L. c. 175 M, § 3) shall be not more than \$850 per week; provided, however, that annually, not later than October 1 of each year thereafter, the State (Department of Family and Medical Leave) shall adjust the maximum weekly benefit amount to be 64 per cent of the state average weekly wage and the adjusted maximum weekly benefit amount shall take effect on January 1 of the year following such adjustment.
- c. Benefit Year: The period of 52 consecutive weeks beginning on the Sunday immediately preceding the first day that job-protected leave under M.G.L. c. 175M commences for the eligible employee.
- d. Financial Eligibility Test: a demonstration that, over the 12 months preceding an individual's application for benefits with BUMG, the individual has received total wages as an employee from BUMG that in the aggregate equal or exceed 30 times the individual's weekly benefit amount as determined under 458 CMR 2.12, and that in the aggregate are not less than the dollar amount calculated annually by the Department of Unemployment Assistance pursuant to M.G.L. c. 151A, § 24(a).
- e. Former Employee: An individual who was employed by a departmental faculty practice plan corporation with concurrent employment by Boston University, who met the financial eligibility test at the time of the former employee's separation from employment and has been separated from employment for not more than 26 weeks at the start of the former employee's family or medical leave.