

Acceptable Reasons for LWOP	Instructions
g. Military duty for scheduled drills or for periods of training.	An employee enlisted under the Reserve Forces Act of 1955 who has completed the initial period of active duty training of not less than 3 months or more than 6 months may be granted LWOP for scheduled drills or periods of training.
h. Military duty for any purpose, training or otherwise.	Eligible members of the National Guard or reserve components of the Armed Forces who are ordered to active duty for training or for any other purposes, for a specified period of time not to exceed 1 year, but in excess of the total time allowable under military leave and annual leave are granted LWOP.
i. Employee elected to devote full-time service as a national president to an organization of supervisory or other managerial personnel (see 416.3).	<ol style="list-style-type: none"> 1. LWOP normally does not exceed 2 consecutive years coinciding with the elected term of office. 2. The employee requests in writing, through the appropriate management structure, that the vice president of Labor Relations grant the employee LWOP during tenure of presidency for the purpose of serving as resident president of an employee organization in Washington, D.C., in a full-time capacity. 3. If LWOP is granted, the employee continues to be eligible for appropriate fringe benefits during that period. 4. The vice president of Labor Relations reserves the right to deny the request for LWOP if it is determined that the position must be filled on a permanent basis, unencumbered by an individual on prolonged leave.
j. Union business.	See applicable provisions of current collective bargaining agreement.
k. Postmaster elected as an organization officer, other than the president.	An employee holding a national office in one of the postmaster organizations must use annual leave or LWOP for absences to conduct business for the organization.
l. Absence on worked holiday.	If an employee shown to be eligible in 434.422 elects to receive annual leave credit in lieu of holiday leave pay (see 512.65), LWOP may be granted to supplement work hours, up to the limit of the employee's regular work schedule, on the holiday worked.

514.5 Forms Required

514.51 PS Form 3971

A request for LWOP is submitted by the employee on PS Form 3971. If the request for leave indicates that the LWOP will extend over 30 days, a written justification and statement of reason for the desired absence is required.

514.52 PS Form 50

PS Form 50, *Notification of Personnel Action*, is prepared when LWOP is in excess of 30 days (see Handbook EL-301, *Guidelines for Processing Personnel Actions*).

515 Absence for Family Care or Illness of Employee

515.1 Purpose

Section [515](#) provides policies to comply with the Family and Medical Leave Act of 1993 (FMLA), as amended. Nothing in this section is intended to limit employees' rights or benefits available under other current policies (see [511](#), [512](#), [513](#), [514](#)) or collective bargaining agreements. Likewise, nothing increases the amount of paid leave beyond what is provided for under current leave policies or in any collective bargaining agreement.

515.2 Definitions

The following definitions apply for the purposes of Absence for Family Care or Illness of Employee:

Subparts (a) through (c) apply to leave for one's own or a family member's serious health condition.

- a. *Son or daughter* — biological, adopted, or foster child, stepchild, legal ward, or child who stands in the position of a son or daughter to the employee, who is under 18 years of age or who is 18 or older and incapable of self-care because of mental or physical disability.
- b. *Parent* — biological, adoptive, step or foster parent or any other individual who stood in that position to the employee when the employee was a child.
- c. *Spouse* — husband or wife.

Subparts (d) through (h) apply to leave to care for a covered service member or for qualifying exigency leave related to a covered military member's call to duty.

- d. *Son or daughter of a covered service member* — the employee is the service member's biological, adopted, foster child, stepchild, legal ward or child for whom the service member stood in the position of a parent and who is of any age.
- e. *Parent of a covered service member* — the employee is the service member's biological, adoptive, step or foster parent or any other individual who stood in the position of a parent to the service member.
- f. *Covered service member* — a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. This definition also includes a veteran undergoing medical treatment, recuperation or therapy for a serious injury or illness who served in the Armed Forces and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the veteran.
- g. *Military member* — in the case of a member of the Regular Armed Forces, duty during the deployment of the member to a foreign country under a call or order to active duty. In the case of a member of the Reserve components of the Armed Forces (which includes the National Guard) duty during the deployment of the member to a foreign country under a Federal call or order to active duty in support of a contingency operation.
- h. *Next of kin of a covered service member (applies only to leave to care for a covered service member)* — the nearest blood relative other than the covered service member's spouse, parent, son or daughter in the following order of priority: blood relatives who have been granted legal custody of the covered service member; siblings; grandparents, aunts and uncles and first cousins, unless the covered service member has

specifically designated in writing another blood relative as his or her next of kin for purposes of FMLA military caregiver leave.

- i. *Serious health condition* — illness, injury, impairment, or physical or mental condition that involves any of the following:
 - (1) *Hospital care* — inpatient care (i.e., an overnight stay) in a hospital or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or subsequent to such inpatient care.
 - (2) *Absence plus treatment* — a period of incapacity of more than 3 consecutive full calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves either one of the following:
 - (a) Treatment two or more times by a health care provider within 30 days of the first day of incapacity.
 - (b) Treatment by a health care provider on at least one occasion within 7 days of the first day of incapacity that results in a regimen of continuing treatment under the supervision of the health care provider.
 - (3) *Pregnancy* — any period of incapacity due to pregnancy or for prenatal care.
 - (4) *Chronic condition requiring treatments* — a chronic condition that meets all of the three following conditions:
 - (a) Requires periodic visits (i.e., at least twice a year) for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider.
 - (b) Continues over an extended period of time (including recurring episodes of a single underlying condition).
 - (c) May cause episodic, rather than a continuing period of, incapacity. Examples of such conditions include diabetes, asthma, and epilepsy.
 - (5) *Permanent or long-term condition requiring supervision* — a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples of such conditions include Alzheimer's, a severe stroke, and the terminal stages of a disease.
 - (6) *Condition requiring multiple treatments (nonchronic condition)* — any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than 3 consecutive full calendar days in the absence of medical intervention or treatment.

Examples of such conditions include cancer (which may require chemotherapy, radiation, etc.), severe arthritis (which may require physical therapy), and kidney disease (which may require dialysis).

Note: Cosmetic treatments (such as most treatments for orthodontia or acne) are not “serious health conditions” unless complications occur. Restorative dental surgery after an accident or removal of cancerous growths is a serious health condition provided all other conditions are met. Allergies, substance abuse, and mental illness may be protected if all conditions are met. Routine preventative physical examinations are excluded. Also excluded, as a regimen of continuing treatments, are treatments that involve only over-the-counter medicine or activities such as bed rest that can be initiated without a visit to a health care provider. For example, treatment for substance abuse may be protected if provided by a health care provider or by a provider of health care services on referral by a health care provider.

- j. *Serious injury or illness* — In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank or rating. In the case of a veteran (as defined in subpart f), an injury or illness incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty) and that manifested itself before or after the member became a veteran, and is (1) a continuation of serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grade, rank or rating; or (2) a physical or mental condition for which the veteran has received a VA Service Related Disability Rating (VASRD) of 50% or greater and such VASRD rating is based in whole or in part, on the condition precipitating the need for caregiver leave; or (3) a physical or mental condition that substantially impairs the veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; or (4) an injury, including a psychological injury, on the basis of which the veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
- k. *Health care provider* — A doctor of medicine or osteopathy; Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, MA; Physician’s Assistant or other attending practitioners as defined by Department of Labor FMLA regulations who are performing within the scope of their practice.

515.3 **Eligibility**

For an absence to be covered by the FMLA, the employee must have been employed by the Postal Service for an accumulated total of 12 months and must have worked a minimum of 1,250 hours during the 12-month period before the date leave begins.

515.4 **Leave Requirements**

515.41 **Conditions**

Eligible employees must be allowed a total of up to 12 workweeks of leave within a Postal Service leave year for one or more of the following:

- a. For incapacity due to pregnancy, prenatal medical care or child birth.
- b. To care for the employee's child after birth, or placement for adoption or foster care.
- c. To care for the employee's spouse, son or daughter, or parent who has a serious health condition.
- d. For a serious health condition that makes the employee unable to perform the employee's job.
- e. Because of a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

Eligible employees who are the spouse, son, daughter, parent, or next of kin of a covered service member must be allowed up to 26 workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness (as defined in 515.2(j)). The single 12-month period begins the first day the employee takes FMLA leave for this purpose and ends 12 months after that date. During this single 12-month period, the employee's entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason.

515.42 **Leave Type**

Absences that qualify as FMLA leave may be charged as annual leave, sick leave, continuation of pay, or leave without pay, or a combination of these. Leave is charged consistent with current leave policies and applicable collective bargaining agreements.

515.43 **Authorized Hours**

Eligible employees, including eligible non-career employees, are entitled to 12 workweeks of FMLA-protected absences per leave year for conditions in [515.41\(a\)](#) through [515.41\(e\)](#). Eligible employees who take FMLA-protected leave to care for a covered service member who has incurred a serious injury or illness as defined in [515.2\(j\)](#) are entitled to a total of 26 workweeks during a single 12-month period.

This amount is 12 (or 26) times the hours normally, or regularly, scheduled in the employee's workweek. Thus:

- a. Regular full-time employees who normally work 40 hours per week are entitled to up to 480 hours of FMLA-covered absences within a leave year for all qualifying reasons except for covered service member care.

For such service member care, full-time employees who normally work 40 hours per week are entitled to up to 1046 hours in a single 12-month period that begins when the first leave is taken.

- b. Part-time and Non-Traditional Full-Time (NTFT) employees who have regular weekly schedules that may be greater or less than 40 hours per week are entitled to 12 (or 26) times the number of hours normally scheduled in their workweek. For example, an employee with a regular schedule of 30 hours a week is entitled to 360 hours (12 weeks times 30 hours), or 780 hours, for service member care (26 weeks times 30 hours). A NTFT employee with a regular schedule of 44 hours a week is entitled to 528 hours (12 weeks times 44 hours), or 1144 hours, for service member care (26 weeks times 44 hours). If an employee is reassigned to a position with more or less workhours, the entitlement may change, but will be calculated so that the employee receives, but does not exceed, 12 or 26 workweeks of FMLA protection.
- c. Employees who do not have normal weekly schedules are entitled to 12 (or 26) times the weekly average of the hours scheduled over the 12 months prior to the start of their leave. Employees who do not have normal weekly schedules are entitled to 12 (or 26) times the weekly average of the hours scheduled over the 12 months prior to the start of their leave. The scheduled workhours are determined by adding the workhours and the amount of leave taken.

Absences in addition to the 12 (or 26) workweeks of FMLA-protected leave may be granted in accordance with other leave policies or collective bargaining agreements (see [511](#), [512](#), [513](#), and [514](#)).

515.5 Notice and Documentation

515.51 Notice

An employee must provide a supervisor a PS Form 3971 at least 30 days before the absence if the need for the FMLA leave is foreseeable. If 30 days notice is not practicable, the employee must give notice as soon as practicable.

When the leave is for planned medical treatment, the employee should first consult with the supervisor about the timing of the leave and must make a reasonable effort to schedule the treatment so as not to unduly disrupt the employer's operations.

Where the need for leave is not foreseeable, notice should also be given as soon as practicable, i.e., the same day, at least, before the start of one's tour.

Where Integrated Voice Response System (IVR) is operational, employees are required to call in their unscheduled absences through that system and to use their FMLA case numbers. Where IVR is not operational, employees should report absences to their supervisor. If an employee fails to provide timely notice of the need for FMLA protected leave, and no unusual circumstances justify the delay, the FMLA protection may be delayed or denied.

During an absence, the employee must keep his or her supervisor informed of intentions to return to work and of status changes that could affect his or her ability to return to work.

515.52 **Documentation**

In all cases, it is the employee's responsibility to provide complete and sufficient medical certification to establish a serious health condition as defined under the FMLA. For their own serious health conditions, employees may submit Department of Labor Form WH-380-E, *FMLA Certification of Health Care Provider for Employee's Serious Health Condition*, which is provided in the FMLA packet mailed to employees' homes. These forms are provided for the employee's convenience, as they solicit all required information; however, employees may use another format as long as it provides complete and sufficient information as required by the FMLA. The information provided should relate only to the specific reason associated with the request for leave protection.

Employees must provide documentation directly to the FMLA Office at the Human Resources Shared Services Center (HRSSC) within 15 days of receipt of the request. Additional documentation may be requested of the employee if the information received is incomplete or insufficient for an FMLA determination, and this must be provided within 7 days unless it is not practicable under the particular facts and circumstances despite the employee's diligent good-faith efforts. When the need for leave is due to a serious health condition that lasts beyond a single leave year, the employee may be required to provide a new medical certification in each subsequent leave year.

Failure to provide complete and sufficient documentation may result in the denial of FMLA protection.

515.53 **Particular Circumstances**

515.531 **New Son or Daughter**

An employee requesting FMLA-covered time off because of the birth of the employee's son or daughter and to care for the son or daughter, or because of the placement of a son or daughter with the employee for adoption or foster care, may be required to substantiate the relationship and provide the birth or placement date.

515.532 **Care of Others for Medical Reasons**

An employee requesting FMLA-covered time off because the employee is needed to care for a spouse, parent, son, or daughter with a serious health condition or a covered service member with a serious injury or illness may be required to:

- a. Substantiate the relationship.
- b. Describe the care to be provided and an estimate of the leave needed.
- c. Provide information regarding the military status of the covered service member (for military caregiver leave).
- d. Provide documentation of a serious health condition or serious injury or illness from an appropriate health care provider. Employees may use WH-380-F, *FMLA Certification of Health Care Provider for Family Member's Serious Health Condition*; WH-385, *FMLA Certification for Serious Injury or Illness of a Current Servicemember – for Military Family Leave*; or WH-385-V, *Certification for Serious Injury or Illness of*

a *Veteran for Military Caregiver Leave*, to support such requests for leave.

These forms are provided for the employee's convenience, as they solicit all required information; however, employees may use another format as long as it provides complete and sufficient information as required by the FMLA. The information provided should relate to only the specific reason associated with the request for leave protection.

Note: The medical certification provision that an employee is "needed to care for" a family member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport him- or herself to the doctor. The term also includes providing psychological comfort and reassurance that would be beneficial to a child, spouse, or parent with a serious health condition who is receiving inpatient or home care.

515.533 **Employee Incapacitation**

An employee requesting FMLA-covered time off because of his or her own incapacitation must satisfy the documentation requirements for sick leave in [513.31](#) through [513.38](#) in order to receive paid leave during the absence. If medical opinions are required in addition to initial documentation, they are administered as described in [515.54](#).

515.534 **Return to Work After Employee Incapacitation**

To return to work from an FMLA-covered absence because of his or her own incapacitation, an employee must provide certification from his or her health care provider that the employee is able to perform the essential functions of his or her positions with or without limitations. Limitations described are accommodated when practical. In addition, a bargaining unit employee must comply with collective bargaining agreements, which include Postal Service policies in [513.37](#) and [865](#) and in other handbooks and manuals.

515.535 **Qualifying Exigency**

An employee requesting FMLA-covered time off because of a qualifying exigency arising out of a covered family member's call to covered active duty in the Armed Forces (see [515.2\(g\)](#)) must provide complete and sufficient certification. The employee may use WH-384, *FMLA Certification for Qualifying Exigency for Military Family Leave*, to support such request for leave. This form will be provided for the employee's convenience, as it solicits all required information; however, employees may use another format as long as it provides complete and sufficient information as required by the FMLA.

515.54 **Additional Medical Opinions**

A second medical opinion by a health care provider who is designated and paid for by the Postal Service may be required. A health care provider selected for the second opinion may not be employed by the Postal Service on a regular basis. In case of a difference between the original and second opinion, a third opinion by a health care provider is required. The third health care provider is jointly designated or approved by management and the

employee, and the third opinion is final. The Postal Service pays the health care provider for the third opinion.

The recertification of a medical condition, for which the employee bears the cost, may be required during a leave year pursuant to the terms of the FMLA. A new certification of the employee's serious health condition may be requested for that condition in each subsequent leave year. Such medical opinions are obtained off the clock.

515.6 **Intermittent Leave or Reduced Schedule**

515.61 **New Son or Daughter**

Absences requested because of the birth and subsequent care of the employee's newborn son or daughter or because of the placement of a son or daughter with the employee for adoption or foster care may be taken on an intermittent basis or reduced work schedule only if the request for such intermittent leave or schedule modification is approved by the supervisor. Eligibility for this leave expires 1 year after the birth or placement. Approval is based on employee need, Postal Service need, and costs to the Postal Service.

515.62 **Care of Others for Medical Reasons or Employee Incapacitation**

Absences due to an employee's own serious health condition, absences to care for a covered family member with a serious health condition or absences to care for a covered service member with a serious injury or illness may be taken on an intermittent basis or by establishing a reduced work schedule when medically necessary.

515.63 **Exigency Leave**

Absences requested due to a qualifying exigency arising out of a covered family member's federal call to covered active duty in the Armed Forces (see 515.2(g)) may be taken intermittently or on a reduced leave schedule.

515.64 **Temporary Change in Duty Assignment**

If an employee requests intermittent leave or a reduced work schedule that is foreseeable based on planned medical treatment, the Postal Service may assign the employee, with equivalent pay and benefits, temporarily to the duties of another position consistent with applicable collective bargaining agreements and regulations if such an assignment better accommodates the recurring periods of absence.

515.65 **Fair Labor Standards Act Status**

An employee exempt from the Fair Labor Standards Act (FLSA) normally may not take leave in less than 1-day increments. However, leave taken for an FMLA-covered reason on an intermittent basis or by temporarily establishing a reduced work schedule can be taken in less than 1-day increments without affecting the employee's FLSA-exempt status.

515.7 **Return to Position**

Employees whose absence is covered by the FMLA are normally entitled to return to the positions they held when the absence began, or to equivalent positions with equivalent pay, benefits, working conditions, and other terms

of employment if they are able to perform the essential functions of the positions. Returning employees are not entitled to any right, benefit, or position to which they would not have been entitled had they not been absent, or to intangible, unmeasurable aspects of the job such as the perceived loss of potential for future promotional opportunities. If an employee was hired for a specific term or only to perform work on a discrete project, then there is no further reinstatement obligation under this section if the employment term or project is over and the employment would not have otherwise continued.

515.8 **Benefits**

All benefits accrue to employees during an FMLA absence pursuant to the applicable provision of the ELM.

515.9 **Family Leave Poster**

All postal facilities, including stations and branches, are required to conspicuously display WHD Publication 1420, *Employee Rights and Responsibilities Under the Family and Medical Leave Act*. It must be posted, and remain posted, on bulletin boards where it can be seen readily by employees and applicants for employment.

516 **Absences for Court-Related Service**

516.1 **General**

516.11 **Determining Nature of Court-Related Service**

Installation heads ascertain the exact nature of court service and determine if the employee (a) is entitled to paid court leave, (b) must take annual leave or LWOP, or (c) is to serve in an official duty status. If a summons to witness service is not specific or clear, the installation head contacts appropriate authorities to determine the party on whose behalf the witness service is to be rendered. When the exact nature of court service is determined, records are annotated accordingly. (See [Exhibit 516.11](#) for a summary of leave to be taken according to nature of service.)

Exhibit 516.11

Absences for Court-Related Service

Nature of Service	Court Leave	Annual Leave or LWOP	Official Duty
1. Jury Service:			
a. U.S. or D.C. court.	X	–	–
b. State or local court.	X	–	–
2. Witness Service:			
a. On behalf of U.S. or D.C. government.	–	–	X
b. On behalf of state or local government:			
(1) In official capacity.	–	–	X
(2) Not in official capacity.	X	–	–