



PAID MEDICAL LEAVE ACT POLICY (PMLA)

References:

Public Act 338 of 2018

City of Detroit Charter, §6-401 through §6-419

City of Detroit Civil Service Rules

Chapter 13, Article V of City of Detroit Municipal Code

Fair Labor Standards Act, 29 USC 213 (a)(1)

PREAMBLE

The Paid Medical Leave Act (PMLA) of 2018 was signed into law on December 14, 2018 and takes effect on March 29, 2019. The PMLA is regulated by the State of Michigan's Department of Licensing and Regulatory Affairs (LARA).

PURPOSE

The Paid Medical Leave Act (PMLA) provides paid sick leave benefits to eligible employees. The PMLA seeks to accomplish this in a manner that meets the needs of City of Detroit while granting the statutory right(s) for eligible employees to earn and use their designated time-off banks for qualifying events.

SCOPE

This policy applies to all eligible City of Detroit employees, as determined by the provisions of the PMLA and detailed in the policy below. This policy does not apply to Personal Services Contractors (PSC).

POLICY

SECTION 1 - ELIGIBLE EMPLOYEES

- A. The PMLA defines an eligible employee as an individual engaged in service to the City of Detroit and from whom the City of Detroit is required to withhold federal income tax by law. This excludes independent contractors or personal services contractors (PSC).

B. The following individuals are ineligible under the PMLA:

1. Employees who are considered exempt from overtime requirements as set forth in Section 13(a)(1) the Fair Labor Standards Act, 29 USC 213 (a)(1). These employees are general known within the City of Detroit as “Administrative Roster Personnel”.
2. An individual employed by the United States government, another state, or a political subdivision of another state.
3. Employees who are covered by a collective bargaining agreement that is in effect.
4. Employees whose primary work location is outside of Michigan.
5. An individual who minimum hourly wage rate is determined under section 4b of the Improved Workforce Opportunity Wage Act, 2018 PA 337, MCL 408.934b.
6. An individual described in section 29(1) of the Michigan Employment Security Act.
7. Employees who worked, on average, fewer than 25 hours per week during the immediately preceding calendar year.
8. Employees who are appointed or employed by the City for 25 weeks or fewer in a calendar year of for a job scheduled for 25 weeks or fewer.
9. Variable hour employees as defined in 26 CFR 54.4980H-1.

SECTION 2 – ACCRUAL OF PAID SICK LEAVE

In accordance with the PMLA all City of Detroit employees, with the exception of employees and persons expressly excluded by the Act, shall accrue a minimum of (1) hour of sick leave for every thirty-five (35) hours worked.

Pursuant to the City Code of Ordinances (City Code), Chapter 13 – Civil Service, Article V §§ 13-5-1 to 13-5-5, City employees who have completed three months of continuous service shall be granted one (1) day of sick leave for every service month that they are on the payroll for the entire month and that they have worked eighty (80) percent of their scheduled hours, not to exceed twelve (12) sick leave days in any one fiscal year. Sick leave shall accrue in full days only. Sick leave as provided for in the City Code shall accrue from the date of hire, but only after the employee shall become eligible for use of such leave.

SECTION 3 – PAID SICK LEAVE USAGE

Eligible employees are entitled to use their accrued paid sick leave beginning 90 days after the start of their employment or 90 days after March 29, 2019; whichever is later.

The City requires employees to use paid sick leave in increments of four (4) or eight (8) hours, consistent with the City's payroll system and practices.

SECTION 4 - CARRY OVER OF ACCRUED UNUSED SICK LEAVE

After appointment or hiring, an employee's sick leave shall accrue from the beginning of each fiscal year and shall be capped at three hundred (300) hours, provided, that additional accrual shall occur where the bank falls below three hundred (300) hours until the bank reaches the cap at three hundred (300) hours.

SECTION 5 - AUTHORIZED USES OF PAID SICK LEAVE

- A. Eligible employees may use their accrued, unused paid sick leave to care for themselves or a qualifying family member (definition below) for:
 - 1. Mental or physical illnesses, injuries, or health conditions;
 - 2. The need for medical diagnosis, care, or treatment of mental or physical illnesses, injuries, or health conditions; or
 - 3. The need for preventive medical care.

- B. Eligible employee may also use paid leave if the eligible employee or qualifying family member:
 - 1. Is a victim of domestic violence or sexual assault.
 - 2. Requires medical or psychological care or counseling or disability resulting from the domestic violence or sexual assault.
 - 3. Obtains services from a victim services organization.
 - 4. Relocates due to these circumstances.
 - 5. Obtains legal services, or participates in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault.

- C. Closure of the City of Detroit or the employee's child school or place of care when either has been closed by the order of a public official for any health-related reason.

- D. If it has been determined by a health provider or health authority that the eligible employee's or their qualifying family member's presence in the community would jeopardize the health of others because of their exposure to a communicable disease, whether or not they actually contracted the communicable disease.

SECTION 6 – QUALIFYING FAMILY MEMBERS

For the use of paid sick leave for an employee’s family member, family member is defined as biological, adopted, step, foster children, legal ward(s), or children where the eligible employee stands in place of the parent; biological, foster, step-parents, adoptive parents, or legal guardians of eligible employees or their spouses; spouses; an individual legally married to the eligible employee under the laws of any state; grandparents; grandchildren; or biological, foster, or adopted siblings.

SECTION 7 – REASONABLE NOTICE OF PAID SICK LEAVE

A. Employees must provide reasonable notice of an absence from work for the use of paid sick leave to care for themselves or a qualifying family member, or because the employee’s child’s school or place of care is closed by order of a public official for any health-related reason.

Note: Normal call-in procedures remain in effect. Written documentation is required if employee uses paid sick leave for more than three (3) consecutive days for which the employee was scheduled to work.

1. If an employee’s absence is **foreseeable**, the employee must provide notice at least five (5) work days in advance, or as early as practicable, before the first day paid sick leave is used.
 - Where possible, notification should include the expected duration of the absence.
2. If an employee’s absence is **unforeseeable**, the employee must follow normal call-in procedures and contact their supervisor within two (2) hours prior to the start of their shift.
 - Where possible, notification should include the expected duration of the absence.

SECTION 8 – REASONABLE NOTICE OF PAID SICK LEAVE FOR DOMESTIC VIOLENCE LEAVE

A. An employee must give advance oral or written notice to their supervisor or Human Resources as soon as possible for the foreseeable use of paid sick leave to address issues related to the eligible employee or their qualifying family member being a victim of domestic violence, sexual assault, or stalking.

B. If an employee is unable to give advance notice because of an emergent or unforeseen circumstance related to the eligible employee or their qualifying family member being a victim of domestic violence, sexual assault, or stalking, the employee or their designee must give oral or written notice to Human Resources no later than the end of the first day that the employee takes such leave.

Note: Written documentation is required if employee uses paid sick leave for more than three (3) consecutive days for which the employee was scheduled to work.

SECTION 9 - MEDICAL CERTIFICATION

It is the eligible employee's responsibility to provide a timely, complete and sufficient medical certification. Eligible employees must provide the medical certification within three (3) calendar days after it has been requested. Failure to comply with the providing the medical certification may result in the loss of eligibility under this policy

SECTION 10 - DOMESTIC VIOLENCE VERIFICATION

A. It is the eligible employee's responsibility to provide a timely, complete and sufficient documentation within three (3) calendar days after it has been requested. Failure to comply with the providing the required may result in the loss of eligibility under this policy.

The following types of documentation are satisfactory for the purposes of the PMLA:

1. A police report indicating the the eligible employee or their qualifying family member was a victim of domestic violence or sexual assault.
2. A signed statement from a victim and witness advocate affirming that the eligible employee or their qualifying family member is receiving services from a victim services organization.
3. A court document indicating that the eligible employee or their qualifying family member is involved in legal action related to domestic violence or sexual assault.

B. The City of Detroit is prohibited from requiring documentation submitted pursuant to this subsection explain the details of the violence.

C. If the City of Detroit possesses health information or information pertaining to domestic violence or sexual assault about an eligible employee or their qualifying family member, the City shall treat the information as confidential and shall not disclose the information except to the affected employee or with permission from the affected eligible employee.

SECTION 11 - COMPLAINTS

A. All eligible employees who feel that their rights, pursuant to this law, have been or are about to be violated should speak to the Human Resources Department - Employee Services Division.

B. Complaints regarding alleged violations of the PMLA can be filed with the State of Michigan – Licensing and Regulatory Affairs (LARA)

SECTION 12 – RETALIATION PROHIBITED

The City of Detroit will not deny any eligible employee any right guaranteed under the PMLA or this Policy; threaten, discharge, suspend, demote, reduce hours, or take any other adverse action against any eligible employee or former employee solely for exercise of their rights under the PMLA or this Policy; sanction any eligible employee who receives public benefits for exercise of a right guaranteed under this act; or interfere with, punish for participation in any manner any eligible employee in an investigation, proceeding, or hearing under the PMLA or this Policy.

SECTION 13 – CONCLUSION

The City of Detroit is committed to complying with all state requirements pertaining to the Paid Medical Leave Act (PMLA). For information relative to leaves that may arise, eligible employees can contact their immediate supervisor or the Human Resources Department.

Attachment A – State of Michigan Paid Medical Leave Act Notice

Attachment B – State of Michigan Bureau of Employment Relations – FAQ's