



## FAMILY AND MEDICAL LEAVE ACT (FMLA) POLICY

### General Provisions

ADS, Inc. (ADS) complies with the Family Medical Leave Act (FMLA) of 1993, which is outlined in Appendix A. ADS reserves the right to designate FMLA leave as needed to any eligible employee and to require employees to use first all available paid time off as qualifying FMLA time. The FMLA entitles eligible employees to take unpaid, job-protected leave for certain specified reasons. The maximum amount of leave an employee may use is either 12 weeks (Basic FMLA) or 26 weeks (Military FMLA) within a 12-month period depending on the reason for the leave.

- *Note: ADS recognizes that various states and municipalities have their own family and medical leave provisions and ADS will comply as required by state and local law.*

### Eligibility

Employees are eligible for FMLA leave if both of the following below are true:

1. Have worked at least 12 months (52 weeks) for ADS as of the date the FMLA leave is to start. The 12 months (52 weeks) does not have to be consecutive. Separate periods of employment will be counted towards the 12 months, but generally, the break in service cannot exceed seven years. All periods of absence from work due to or necessitated by service in the uniformed services will be counted towards the 12 months in determining FMLA eligibility.
2. Have worked at least 1,250 hours for ADS in the 12 months immediately preceding the date the FMLA is to start. The FMLA uses the same method for determining compensable as the federal Fair Labor Standards Act (FLSA).

### Basic FMLA Leave Entitlement

Eligible employees may take up to 12 weeks of unpaid leave during any 12-month period for the following reasons:

1. The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care, and to bond with the newborn or newly-placed child within one year of birth or placement;
2. To care for a spouse, son, daughter or parent with a serious health condition, including incapacity due to pregnancy and for prenatal medical care; or
3. For a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position, including incapacity due to pregnancy and for prenatal medical care.

As used above, a **serious health condition** is an illness, injury, impairment, or physical or mental condition that involves:

- Any period of incapacity or treatment connected with inpatient care (e.g., an overnight stay) in a hospital, hospice, or residential medical care facility; or
- A period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
- Any period of incapacity due to pregnancy, or for prenatal care; or
- Any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or
- Any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than

three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

If both spouses are employed by ADS, FMLA leave is limited to a combined total of 12 weeks in a 12-month period when leave is taken for the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care, and to bond with the newborn or newly-placed child.
- To care for a parent with a serious health condition.
  - For example: if each spouse took six weeks of leave to care for a parent, each could use an additional six weeks due to his or her own serious health condition or to care for a child with a serious health condition.

### **Identifying the 12-Month Period**

A “rolling” 12-month period measured backward is identified as a 12-month period measured backward from the date an employee uses any FMLA leave. Under the “rolling” 12-month period, each time an employee takes FMLA leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been used during the immediately preceding 12 months.

### **Military FMLA Leave Entitlement**

Notwithstanding the basic FMLA leave entitlements discussed previously, the FMLA also provides for two special military family leave entitlements:

1. To permit an eligible employee who is the spouse, son, daughter, parent, or next of kin of a current servicemember with a serious injury or illness incurred in the line of duty on active duty to take up to 26 workweeks of FMLA leave during a single 12-month period to care for the servicemember (Military Caregiver Leave); and
2. To allow an eligible employee whose spouse, son, daughter, or parent is a member of the Armed Forces (including the National Guard and Reserves) to take up to 12 workweeks of leave for qualifying exigencies arising out of the military member’s active duty or call to active duty (Qualifying Exigency Leave).

A **covered service member** is:

- A current service member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness incurred in the line of duty for which the service member is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list; or
- A “covered veteran” who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

The FMLA definitions of **serious injury or illness** for current servicemembers and covered veterans are distinct from the FMLA definition of **serious health condition**.

- For current servicemembers, serious injury or illness means an injury or illness that was incurred by the servicemember in the line of duty while on active duty in the Armed Forces or that existed before the beginning of active duty and was aggravated by such service, that may render servicemembers medically unfit to perform the duties of their office, grade, rank or rating.
- For covered veterans, serious injury or illness means an injury or illness that was incurred in the line of duty while on active duty in the Armed Forces or that existed before the beginning of active duty and was aggravated by such service and manifested itself before or after the individual assumed veteran status, and is:
  - A continuation of a serious injury or illness that was incurred or aggravated when they were a member of the Armed Forces and rendered them unable to perform the duties of their office, grade, rank or rating;
  - A physical or mental condition for which the covered 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;
  - 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 be so absent treatment; or

- An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive

### **Identifying the 12-Month Period**

**When an employee is placed on an FMLA leave, the employee will be required to exhaust all accrued sick/vacation leave for which they are eligible. Accrued paid time off runs concurrently with FMLA leave.**

### **Intermittent Leave or Reduced Work Schedule**

**An employee does not need to use his or her leave entitlement in a continuous twelve-week period. When medically necessary, the leave may be taken intermittently (minimum of one hour) or on a reduced leave schedule (reducing the employee's usual weekly or daily schedule). Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the ADS operations.**

### **Employee Status and Benefits During Leave**

- Unless an employee chooses to not retain group health plan coverage during the leave, ADS Health & Welfare will continue during the leave. The employee's share of premiums will be deducted as a payroll deduction during any concurrently running accrued paid leave. For any period of unpaid leave, the employee will pay back the employee's share of the premiums once the employee returns to full-time work or if they do not return from leave, after the end of employment.
  - If an employee does not return from leave, ADS benefits will end and COBRA will be offered.
- Employees returning from FMLA within the 12-week period will be restored to their original job, or to an equivalent job with equivalent pay and benefits.
- Employees returning from a medical FMLA will be required to present medical certification of fitness for duty after 60 days of continuous leave along with a passing of a Drug/Alcohol Test.
  - Failure to provide a medical certificate of fitness for duty will result in a denial of job reinstatement until medical certificate release is provided.
- FMLA may be taken in increments with a minimum of one hour. For bonding following the birth, adoption or foster care of a son or daughter, ADS and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced-hour schedule.
- Employees will not continue to earn paid time off while out on FMLA.
- Accrued paid time off must be used concurrently with FMLA leave. After exhausting paid time off, the FMLA leave will continue unpaid until the end of the approved FMLA leave.
- If the FMLA job protected leave is not sufficient, the employee can apply for Medical Leave or Unpaid Company Discretionary Leave, which if approved, may begin after the FMLA job protected leave.

### **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. If unforeseeable and the 30 days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, incapacity due to pregnancy, or incapacity due to a chronic condition. Other permanent or long-term conditions or other conditions requiring multiple treatments may meet the definition of continuing treatment.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform ADS if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

**Enforcement**

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights. For more information on FMLA, you may contact ADS Benefits Department at [benefits@ads-pipe.com](mailto:benefits@ads-pipe.com) or visit: <https://www.dol.gov/whd/fmla/>