



NORFOLK SOUTHERN CORPORATION FAMILY AND MEDICAL LEAVE ACT FACT SHEET FOR AGREEMENT EMPLOYEES

The Family and Medical leave act of 1993 (FMLA) was enacted on February 5, 1993. For employees covered by a collective bargaining agreement (CBA), the Act becomes effective on February 5, 1994.

The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces FMLA for all private, state and local government employees, and some federal employees.

FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave each year for specified family and medical reasons. FMLA absences do not count against your absenteeism record. An eligible employee's right to FMLA leave begins on February 5, 1994; any leave taken before that date does not count as FMLA leave. Norfolk Southern Corporation uses a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

The law contains provisions on employer coverage, employee eligibility for the law's benefits; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need for FMLA leave; and, protections for employees who request or take FMLA leave. The law also requires employers to keep certain records.

EMPLOYER COVERAGE

FMLA applies to all:

- public agencies, including state, local and federal employers, local education agencies (schools); and
- private-sector employers who employed 50 or more employees in 20 or more work-weeks in the current or preceding calendar year and who are engaged in commerce or in any industry or activity affecting commerce - including joint employers and successors of covered employers.

EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits, you must:

1. work for Norfolk Southern Corporation or its subsidiary companies (NS);
2. have worked for NS for a total of at least 12 months;
3. have worked at least 1,250 hours over the previous 12 months; and
4. work at a location where at least 50 employees are employed by NS within 75 miles.

LEAVE ENTITLEMENT

NS must grant an eligible employee up to a total of 12 workweeks of unpaid, job-protected leave during any 12 month period for one or more of the following reasons:

- for the birth of a child, to care for your child after birth, or placement of a child for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- to take medical leave when you are unable to work because of a serious health condition.

Spouses who are both employed by NS are jointly entitled to a combined total of 12 workweeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent (but not a parent-in-law) who has a serious health condition.

Leave for birth or placement for adoption or foster care must conclude within 12 months of the birth or placement.

Under some circumstances, you may take FMLA leave intermittently – which means taking leave in blocks of time, or by reducing your normal weekly or daily work schedule:

- If FMLA leave is for birth or placement for adoption or foster care, use of intermittent leave is subject to NS' approval.
- FMLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member, or because you are seriously ill and unable to work.

Effective August 1, 2004:

- An employee granted FMLA leave on an intermittent basis for his or her own serious health condition will be required to use any available paid sick leave, personal leave or vacation.
- An employee granted FMLA leave, on either a block or intermittent basis as a result of the placement of a child for adoption or foster care, to bond with a newborn, or to care for a family member with a serious health condition, will be required to use any available paid personal leave or vacation.
- An employee granted FMLA leave on block basis as a result of his or her own serious health condition (including pregnancy) may elect whether or not to use available paid sick leave, personal leave or vacation but such use is not mandatory
- An employee who does not elect to designate the order in which he or she chooses to use paid leave by notifying the appropriate supervisor (or Crew Management in the case of train and engine service employees) will have leave paid in the following order; sick days, personal days, single days of vacation, days from scheduled weeks of vacation.
- An employee who is entitled to rest days in train and engine service must mark up on such days in order to avoid having such days treated as paid leave.

Questions concerning NS' policy regarding substitution of paid leave should be addressed to the NS FMLA Coordinator.

“Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility;
- any 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
- continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, and for prenatal care.

“Health care provider” means:

- doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices; or
- podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice, under state law; or,
- nurse practitioners and nurse-midwives authorized to practice, and performing within the scope of their practice, as defined under state law; or
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

If an employee requests, obtains, or remains on FMLA leave under false pretenses, disciplinary action appropriate under the circumstances and consistent with the collective bargaining agreement will be taken.

MAINTENANCE OF HEALTH BENEFITS

NS is required to maintain your group health insurance coverage while you are on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if you had continued to work. If applicable, arrangements will be made for employees to pay their share of health insurance premiums while on leave.

In some instances, NS may recover premiums it paid to maintain your health insurance premiums while on leave.

JOB RESTORATION

Upon return from FMLA leave, as governed by the provisions of the applicable collective bargaining agreement, you ordinarily will be restored to your original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

In addition, your use of FMLA leave cannot result in the loss of any employment benefit that you earned or were entitled to before using FMLA leave.

NOTICE AND CERTIFICATION

Employees seeking to use FMLA leave may be required to provide:

- 30-day advance notice of the need to take FMLA leave when the need is foreseeable;
- medical certifications supporting the need for leave due to a serious health condition affecting you or an immediate family member;
- second or third medical opinions and periodic recertification (at NS' expense); and
- periodic reports during FMLA leave regarding your status and intent to return to work.

When leave is needed to care for an immediate family member or your own illness, and is for planned medical treatment, you must try to schedule treatment so as not to unduly disrupt NS' operations.

NS has posted a notice approved by the Secretary of Labor explaining your rights and responsibilities under FMLA. An employer that willfully violates this posting requirement may be subjected to a fine of up to \$100 for each separate offense.

Also, NS must inform you of your rights and responsibilities under FMLA, including giving specific information if you give notice of FMLA leave on what is required of you and what might happen in certain circumstances, such as if you fail to return to work after FMLA leave.

UNLAWFUL ACTS

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

ENFORCEMENT

FMLA is enforced, including investigation of complaints, by the U.S. Labor Department's Employment Standards Administration, Wage and Hour Division. If violations cannot be satisfactorily resolved, the Department may bring action in court to compel compliance. An eligible employee may also bring a private civil action against an employer for violations.

OTHER PROVISIONS

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to "eligible" employees' use of leave required by FMLA.

The FMLA does not affect any other federal or state law which prohibits discrimination, nor supersede any state or local law which provides greater family or medical leave protection. Nor does it affect an employer's obligation to provide greater leave rights under a collective bargaining agreement or employment benefit plan.

FUTHER INFORMATION

For more information, please contact the nearest office of the Wage and Hour Division listed in most telephone directories under U.S. Government, Department of Labor, Employment Standards Administration.



NORFOLK SOUTHERN CORPORATION
CERTIFICATION OF PHYSICIAN OR PRACTITIONER
(Family and Medical Leave Act of 1993)

- 1. Employee's Name: _____
- 2. Patient's Name (if other than employee) _____
- 3. Specify Serious Health Condition as listed on attached sheet: _____

3a. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

4. Date condition commenced: _____

5. Probable duration of condition: _____

5a. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes in incapacity:

6. Regimen of continuous treatment to be prescribed (indicate number of visits, general nature and duration of treatment, including referral to other provider of health services. Include schedule of visits or treatment if it is medically necessary for the employee to be off work on an intermittent basis or work less than the employee's normal scheduled hours per day or days of week):

6a. By physician or Practitioner: _____

6b. By another provisory of health services, if referred by Physician or Practitioner. _____

IF THIS CERTIFICATION RELATES TO CARE FOR THE EMPLOYEE'S SERIOUSLY-ILL FAMILY MEMBER, PROCEED TO ITEMS 7 THRU 10. OTHERWISE, CONTINUE BELOW.

11. Signature of Physician or Practitioner: _____ Print Name: _____
12. Date: _____ Address: _____
13. Type of Practice (Field of Specialization, if any): _____ Phone: Area Code _____; No. _____

FOR CERTIFICATION RELATING TO CARE FOR THE EMPLOYEE'S SERIOUSLY-ILL FAMILY MEMBER, COMPLETE ITEMS 7 THRU 10 BELOW AS THEY APPLY TO THE FAMILY MEMBER AND PROCEED TO ITEM 11.

YES NO

7. Does (or will) the patient require assistance for basic medical, hygiene, nutritional needs, safety or transportation?:
8. After review of the employee's signed statement (See Item 10 below), is the employee's presence necessary or would it be beneficial for the care of the patient? (This may include psychological comfort.)
9. Estimate the period of time care is needed or the employee's presence would be beneficial: _____

10. When Family Care is needed to care for a seriously ill family member, the employee shall state the care he or she will provide and an estimate of the time period during which this care will be provided, including a schedule if leave is to be taken intermittently or on a reduced leave schedule:

Employee Signature: _____

Date: _____

Forward all requests to the Family Medical Leave Coordinator at the address below:

Family Medical Leave Coordinator
Three Commercial Place
Medical Department
Norfolk, Virginia 23510-9202
757/629-2444
Fax: 757/629-2479

ATTACHMENT TO FORM 11886 (Rev. 2/99)
INSTRUCTIONS

A "Serious Health Condition" means an illness, injury, impairment, or physical or medical condition that involves one of the following:

- 1. Hospital Care

Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity (n1) or subsequent treatment in connection with or consequent to such inpatient care.

2. Absence Plus Treatment

(a) A period of incapacity (n1) or more than three consecutive calendar days (including any subsequent treatment or period of incapacity (n1) relating to the same condition), that also involves:

(1) Treatment (n2) two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment (n3) under the supervision of the health care provider.

3. Pregnancy

Any period of incapacity due to pregnancy, or for prenatal care.

4. A chronic condition which:

(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider

(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(3) May cause episodic rather than a continuing period of incapacity (n1) (e.g., asthma, diabetes, epilepsy, etc.)

5. Permanent/Long-term Conditions Requiring Supervision

A period of incapacity (n1) which 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. Example include Alzheimers, a severe stroke, or the terminal stages of a disease

6. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or 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 three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

⁽ⁿ¹⁾ "Incapacity", for purpose of FMLA is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

⁽ⁿ²⁾ Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

⁽ⁿ³⁾ A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a healthcare provider.



Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-9202

Paul J. Strickland
Specialist Medical Services
(757) 629-2441

Your current situation has been identified as possibly qualifying for leave under the provisions of the Family and Medical Leave Act of 1993 (FMLA). If the Company determines that your leave is covered under the FMLA, it will be counted against your FMLA entitlement, which is a maximum of twelve weeks leave in a twelve-month period. The following information is not intended to alarm you or overburden you with details but is provided to assist you and the Company with meeting statutory obligations under the Act.

FMLA Entitlement:

- You are tentatively approved for FMLA leave effective _____ If your leave needs change, please advise your immediate supervisor as soon as possible.
- The requested leave is counted against your twelve-month FMLA entitlement. Norfolk Southern Corporation uses a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.
- You may elect, but are not required to use available paid sick leave, personal leave or vacation when absent on FMLA leave.

Required Certification:

- Although you have been tentatively approved for FMLA leave, medical certification is required to establish your eligibility if leave is for your own or a covered family member's serious health condition. Therefore, if your supervisor has not provided you with a medical certification form and fact sheet, please contact your supervisor or the Specialist Medical Services at (757) 629-2441 or 1-800-552-2306, ext. 2441 to obtain a form and fact sheet. **It is important that you return the Medical Certification form to the Specialist Medical Services before your leave begins or, if this is not possible, within 15 days of the date received by you. Failure to return the Medical Certification form by this deadline will result in a delay of your FMLA leave, and, unless the deadline is extended by the Specialist Medical Services because of extenuating circumstances, your leave will be ultimately denied if the form is not returned.**
- If the Company questions the adequacy or validity of the medical certification, it may require, at its expense, a second opinion from another health care provider.

- In the instance of foster care or adoption, documentation is also required. Please contact the Specialist Medical Services for more information.
- The Company may also request evidence of the family relationship if the FMLA leave request is for a spouse's, parent's, or child's serious health condition.
- Also, the Medical Department may require recertification of your medical condition every 30 days, or less where cause exists, in order to continue your FMLA leave. And you will be required to meet Norfolk Southern's standard medical requirements when you return to work.

Continuation of Benefits:

- While on FMLA leave, health benefits and other benefits will continue, consistent with the terms of your collective bargaining agreement.

Leave Conditions:

- While you are on FMLA leave, your supervisor may inquire once every 30 days whether you intend to return to work at the conclusion of your FMLA leave. If you do not intend to return to work, your leave will end and you will be deemed to have voluntarily terminated your employment. If you elect not to return to work at the conclusion of your FMLA leave, the Company may, under certain circumstances, recover its cost of providing health care coverage during your FMLA leave.
- After completion of your FMLA leave, you will be required to exercise your seniority rights, consistent with the terms of your collective bargaining agreement.
- If the circumstances of your leave change and you are able to return to work earlier than the date indicated above, please notify us at least two days prior to the date you intend to report to work.

While I understand that this summary of your rights and obligations is lengthy, I hope that you find it helpful. After you have submitted the required Certification forms referenced on page 1, the Specialist Medical Services will notify you of final approval of leave under the FMLA. If you have any questions regarding your rights under the FMLA, required Certification, or the corporate procedures implementing FMLA leave, please contact your immediate supervisor or contact the Specialist Medical Services at (757) 629-2441 or 1-800-552-2306, ext. 2441.

Sincerely,