



Mashantucket Pequot  
Tribal Nation

## MASHANTUCKET EMPLOYMENT RIGHTS OFFICE

# Information About the Mashantucket Pequot Family and Medical Leave Law (MFML Law)

**Important: Individuals who wish to file a claim under the MFML Law must do so within 180 calendar days of the event believed to be a violation of the law.**

★ This document addresses MFML Law leave that is not military-related. For information about military-related leaves, please see MERO Form 51-6130 *Information about Military Leaves* on the MERO website (<https://MERO.mptn-nsn.gov>).

### 1. What is the Mashantucket Pequot Family and Medical Leave Law?

The MFML Law provides unpaid leave and workplace protections to eligible employees of the Mashantucket Pequot Tribe (Tribe) who require time away from work to attend to family or medical issues.

Depending on the reason for the qualifying leave, an eligible employee of the Tribe may receive 12, 14, or 26 workweeks of unpaid leave during a 12-month period, specifically:

- a. 12 workweeks of leave for one or more of the following reasons:
  - (1) the birth or placement (adoption or foster care) of a child and care for the child within the first year after birth or placement,
  - (2) the needed care of a family member with a qualifying serious health condition,
  - (3) the employee's own qualifying serious health condition that makes them unable to perform their job,
  - (4) human organ or bone marrow donation;
  - (5) a qualifying exigency related to a family member's military deployment; ★
- b. An additional 2 workweeks of continuous leave for the employee's own qualifying serious health condition; and
- c. 26 workweeks of leave for an eligible employee who is a family member or next of kin of a current or veteran covered servicemember with a serious injury or illness, to care for the covered servicemember. ★

The combined total leave under the MFML Law in a 12-month period may not exceed 26 weeks.

### 2. Who is eligible for family and medical leave under the MFML Law?

Most employees of the Tribe who work on the reservation are eligible for leave if, as of the requested leave start date, they meet the time in service and hours of service eligibility criteria associated with the reason for the leave:

- a. To be eligible for leave for the employee's own serious health condition or to provide an organ or bone marrow donation, the employee must have been employed by the Tribe for 6 consecutive months (26 weeks).
- b. To be eligible for all other leave, the employee must have been employed by the Tribe for at least 12 months within the prior 7 years and at least 1,250 hours of service during the 12-month period (52 weeks) immediately prior to the start of the leave. Generally, the 1,250 hours includes only hours worked.
- c. Spouses employed by the Tribe who are otherwise eligible for leave under the MFML Law each receive their full leave entitlement regardless of the qualifying reason for taking leave.

### 3. What is a serious health condition under the MFML Law?

A serious health condition is an illness, injury, impairment, or physical or mental condition which involves:

- a. **Inpatient care** (overnight stay in a hospital, hospice, nursing home or residential care facility) or subsequent treatment related to the inpatient care; or
- b. **Incapacitation** of more than 3 consecutive calendar days **plus**
  - (1) Two in person or telemedicine visits with a health care provider where the first visit is within 7 days of the first day of incapacity and the second visit is within 30 days of the first day of incapacity; or
  - (2) One in person or telemedicine visit with a health care provider within 7 days of the first day of incapacity and a regimen of treatment, such as prescription medication or physical therapy; or
- c. Any period of incapacity because of **pregnancy** or prenatal care (a doctor's visit each time is not required); or
- d. Any period of incapacity, or treatment for such incapacity, due to a **chronic serious health condition**, such as diabetes, asthma, migraine headaches or epilepsy. A chronic serious health condition requires at least 2 in person or telemedicine visits with a health care provider per year and continues or recurs over an extended period of time;

- e. A period of incapacity that is **permanent or long-term** due to a condition for which treatment may not be effective, but which requires the continuing supervision of a health care provider, such as Alzheimer's disease or the terminal stages of cancer;
- f. **Multiple treatments**, such as restorative surgery after an injury; or the likelihood of incapacity of more than 3 consecutive calendar days if the patient did not receive the medical intervention or treatment, such as cancer (chemotherapy, radiation), severe arthritis (physical therapy) or kidney disease (dialysis).

#### 4. Who is considered a "family member" under the MFML Law?

A family member is defined as a spouse, child, grandchild, parent, grandparent or sibling, as follows:

- a. **Spouse** means a party to a marriage or a partner of a civil union where the marriage or civil union is legal in the jurisdiction in which it was performed.
- b. **Child (of any age)** means your biological, adopted, or foster child, stepchild, Tribal Member Dependent Child\*, legal ward, or in the alternative, a child to whom you stand *in loco parentis*\*\* currently or stood *in loco parentis*\*\* when the individual was under age 18.
- c. **Grandchild** means a grandchild related by blood, marriage, adoption by a child of the grandparent, foster care by a child of the grandparent, or as a Tribal Member Dependent Child\* of a child of the grandparent.
- d. **Parent** means your or your spouse's biological parent, adoptive parent, stepparent, foster parent, parent-in-law, or legal guardian, or an individual standing *in loco parentis*\*\* to you currently or when you were under age 18.
- e. **Grandparent** means a grandparent related to an individual by blood, marriage, adoption of a minor child by a child of the grandparent, foster care by a child of the grandparent, or as a Tribal Member Dependent Child\* of a child of the grandparent.
- f. **Sibling** means your or your spouse's biological sibling, half-sibling, step-sibling, adopted sibling, foster sibling, sibling-in-law, or Tribal Member Dependent Child\* sibling.

**\*Tribal Member Dependent Child** means a person who is not a member of the Mashantucket Pequot Tribal Nation (MPTN) who was in the custody and care of a member of MPTN and resided in the household of the Tribal Member as a member of their family for at least 7 years on or before reaching the age of 18 as provided in Title 46, M.P.T.L.

**\*\*In loco parentis** includes, but is not limited to, persons with day-to-day responsibilities to care for or financially support a child or, in the case of an eligible employee, who had such responsibility for the employee when the employee was under age 18. A biological or legal relationship is not necessary.

#### 5. May my employer ask that I demonstrate a "family member" relationship?

Yes, if you give notice of the need for qualifying leave to care for a family member, your employer may ask you to provide a simple statement signed by you that verifies your relationship to the individual for whom you seek leave, or you may use MERO Form 51-6350 *Verification of Relationship* available on the MERO website.

#### 6. When do I need to tell my employer if I need to take leave under the MFML Law?

- a. If your leave is **foreseeable**, meaning that you know ahead of time that you will need leave, such as for childbirth or a scheduled surgery, generally you must provide 30-days advance notice of the need to take leave.
- b. If your leave is **not foreseeable**, or your need for leave becomes known to you less than 30 days in advance, you must provide notice as soon as practical under the circumstances, which generally would be the same day you know you have a need for leave, or the following business day.

#### 7. How must my notice of the need for family or medical leave be provided to my employer?

Unless there are unusual circumstances, such as your incapacity, you must comply with your employer's usual and customary notice and procedural requirements for requesting leave.

#### 8. What do I need to tell my employer about my need for leave under the MFML Law?

You need to provide enough information so your employer can reasonably determine whether the MFML Law may apply to your leave request, such as that you are incapacitated due to pregnancy, were hospitalized overnight and are unable to perform the functions of your job, or that your family member is under a doctor's continuing care. Your employer may request additional information to make its determination.

**9. How long does my employer have to notify me whether the leave will be approved?**

Unless there are extenuating circumstances, within 5 business days of receiving sufficient information for a determination, your employer must notify you in writing whether leave will be designated as approved or unapproved leave under the MFML Law. If your leave is approved, the designation notice must also state whether paid leave will be substituted for unpaid leave, whether you will be required to provide a fitness-for-duty certification to return to work, and the number of hours, days or weeks that will be counted against your leave entitlement, if known. When leave under the MFML Law is not approved, the writing must include the reason for the denial.

**10. Under what circumstances would I need to provide a medical certification to my employer?**

A medical certification supporting a request for leave under the MFML Law may be required by your employer for:

- a. **A Serious Health Condition** - to support a request for leave based on your serious health condition or your family member's serious health condition.
- b. **Human Organ or Bone Marrow Donation** – to support a request for leave to serve as a donor.

**11. What information would I need to provide to my employer in a medical certification under the MFML Law?**

Generally, the certifications request the medical facts that substantiate the need for leave, as well as when the leave is anticipated to occur, the duration, and substantiation for any intermittent or reduced schedule requests. If the certification is for your serious health condition, and your employer provides a statement of essential functions of your position, the medical certification must specify the functions of the position you are unable to perform.

Although employers are not required to use the certification forms made available by the MERO, the MERO's certification forms available on the MERO website reflect only the information the employer is permitted to seek.

**12. If my employer requires a medical certification under the MFML Law, when would they ask me for it?**

Your employer should request the medical certification within 5 business days after you give notice of the need for medical leave. Or, if the leave is unforeseen, your employer should request the medical certification within 5 business days of the start of the leave. Under certain circumstances, your employer may request certification or recertification of a serious health condition at a later date.

**13. If my employer requires a certification under the MFML Law, how long do I have to return the paperwork?**

Your employer must allow you at least 15 calendar days from the date you receive the certification form to return the completed form to your employer. If 15 days is not practical despite your diligent, good faith efforts, and you have notified your employer that you will need more time, your employer must grant an extension.

**14. May I take leave intermittently (separate blocks of time) or by reducing my work schedule?**

You may take leave intermittently or by reducing your work schedule: 1) to care for a family member with a qualifying serious health condition; 2) for up to 12 weeks for your qualifying serious health condition; 3) to donate a human organ or bone marrow; and 4) if your employer agrees, to care for your newborn or newly placed child.

**15. May my employer change my job if I take leave on an intermittent or reduced work schedule basis?**

Under the MFML Law, when leave is foreseeable based on planned medical treatment, including recovery therefrom, your employer may transfer you temporarily to an alternative or part-time job with equivalent pay and benefits that better accommodates the recurring periods of leave. The job does not have to have equivalent duties. You may not be required to take more leave than is medically necessary.

**16. Am I required to be paid when I take leave under the MFML Law?**

Generally, the leave under the MFML Law is unpaid. However, your employer may require, or you may request, that your accrued, paid leave time be applied. If paid leave is applied, the paid leave would cover the same dates as the leave under the MFML Law. Use of paid leave does not extend the unpaid leave period under the MFML Law.

You may not be required to use all your accrued leave; you may choose to keep up to two (2) weeks of your accrued, paid leave time, if available.

**17. Is my employer required to continue group health insurance benefits while I am on leave?**

Yes, if you are enrolled in your employer's group health insurance plan, coverage must be maintained during your leave under the MFML Law as if you were not on leave. You are responsible for continuing to pay your share of group health plan premiums during your leave.

**18. Is my employer required to continue benefits other than group health insurance during my leave?**

Generally, no, but if your employer extends any benefits to employees on other types of leaves, those benefits are required to be offered to employees on leave under the MFML Law on the same terms.

**19. What are my reinstatement rights when I return from leave under the MFML Law?**

In most cases, your employer must return you to the same job you had when leave began, even if you have been replaced or your position has been restructured to accommodate your absence. If the original position is not available, your employer must restore you to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment, if such position is available.

In certain circumstances, your employer is not required to reinstate you at the end of your leave, such as if your entire department was eliminated during the time you were out on leave, or if upon the expiration of your leave for your own serious health condition, you were not able to perform the essential functions of your position.

**20. May my employer require me to submit a fitness-for-duty certification before returning to work after being absent due to my own serious health condition?**

Yes, you may be required to submit a certification from your health care provider that you are able to return to work, but only if your employer notified you of the requirement in the initial designation notice. (See Question 9 above)

**21. What benefits do I receive when I return to work from a leave under the MFML Law?**

Upon your return to work, benefits must be restored on the same terms and at the same levels as when you began your leave under the MFML Law, subject to any changes that occurred during your leave that affected the entire work unit. Your employer must observe any employment benefit program, plan or collective bargaining agreement that provides greater family or medical leave rights to employees than the rights established by the MFML Law.

**22. How do the MFML Law requirements interact with other employer policies or programs?**

The employer may not provide fewer rights, benefits or protections than provided in the MFML Law and must provide any greater rights afforded by any employment benefit program, plan or collective bargaining agreement.

**23. Does the MFML Law include any protections if my employer does not follow the Law?**

Yes, your employer is prohibited from interfering with or denying your rights under the Mashantucket Pequot Family and Medical Leave Law, or retaliating against you for exercising your rights or opposing an unlawful practice. For more information regarding claims under the MFML Law, refer to MERO Form 51-7100, *Information for Claimants*.

**24. What if I believe my employer violated the MFML Law?**

If you believe your rights under the MFML Law have been violated, you may file a claim with the MERO within 180 calendar days of the event believed to be a violation of the MFML Law. If you are not certain if you have the basis for a claim, the MERO can assist you in determining if you have a claim under the MFML Law. MERO Form 51-7200, *Claim of Family or Medical Leave Violation*, is available on the MERO website, or by contacting the MERO.

**Need more information?** A comprehensive *Frequently Asked Questions About the Mashantucket Pequot Family and Medical Leave Law*, including information about military-related leaves, as well as the law, regulations and forms, may be found on the MERO website, <https://MERO.mptn-nsn.gov>, or by contacting the MERO.

**To be timely, a claim must be filed with the MERO within 180 calendar days of the alleged violation of the Law.**

The information provided is intended to be accurate but general information. For additional information, please refer to the applicable laws, and any guidance issued by the MERO, available on the MERO website or by contacting the MERO. Nothing herein constitutes legal advice.