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Clackamas County Policy

Name of Policy	Paid Family and Medical Leave	Policy #	EPP 76
Policy Owner Name	Evelyn Minor-Lawrence	Effective Date	9/1/23
Policy Owner Position	Human Resources Director	Approved Date	8/24/23
Approved By	Gary Schmidt, County Administrator	Next Review Date	9/1/26

I. PURPOSE AND SCOPE

This policy describes the benefits and processes for taking leave under Oregon Paid Family and Medical Leave (PFML). This policy applies to all qualified employees.

II. AUTHORITY

This policy is established by the County Administrator’s administrative rule-making authority pursuant to County Code 2.09.060.E.

III. GENERAL POLICY

PFML is a mandatory, statewide insurance program that provides eligible employees up to 12 weeks of paid leave (up to 14 for pregnancy-related reasons) for medical, family and safety reasons.

IV. DEFINITIONS

See Appendix A.

V. POLICY GUIDELINES

What PFML provides

- A qualified employee is entitled to up to 12 weeks of paid leave per benefit year in any combination of family, medical and safe leave. A qualified employee is also entitled to an additional two weeks of paid leave for limitations related to pregnancy.
- Leave may be taken in increments equal to one workday or one workweek.

Eligibility for PFML

All employees can apply for these benefits from the first day of employment with the County, including full-time, part-time, and temporary workers. Elected officials are not eligible for PFML.

To qualify for PFML you must:

- Be an employee of Clackamas County performing work in Oregon;
- Take leave for a qualifying reason;
- Apply for benefits;
- Not exceed your maximum paid leave and benefit amounts under the law in the active benefit year; and
- Not receive workers’ compensation or unemployment benefits during the same period for which you are seeking PFML benefits.

Qualifying Reasons For PFML benefits

An eligible employee can take PFML benefits for any of the following reasons:

- **Family Leave:** Leave to care for and bond with a child during the first 12 months after birth, adoption, or foster placement. You can take an additional leave (limited to two weeks) related to pregnancy issues for a birth parent in addition to the 12 weeks provided for family, medical, and safe leave.
- **Family Leave:** Leave to care for a family member experiencing a serious health condition. Family members include spouses and domestic partners, children, parents, siblings or stepsiblings, grandparents, grandchildren, and any individual related by blood or affinity whose relationship is equivalent to family.
- **Medical Leave:** Leave for your own serious health condition.
- **Safe Leave:** Leave to seek medical, legal or law enforcement assistance for survivors of sexual assault, domestic violence, harassment, or stalking, or to obtain counseling or support services, relocate or take other steps to secure the health and safety of yourself or your dependent child(ren).

Leave Periods and Increments

You can request family, medical or safe leave in either consecutive or intermittent periods of leave.

You can take leave and claim benefits in increments of one work day or one work week. When claiming an increment of less than a full work week, the number of work days that can be reported during a week is determined by the average number of days you typically work per week.

If you take leave in a workday increment the benefit amount is prorated based on the number of work days of leave taken in the work week.

Benefit Amounts

The state annually sets the average weekly wage and the minimum and maximum weekly benefit amount.

- If the employee's average weekly wage is equal to or less than 65 percent of the state average weekly wage, the employee's weekly benefit amount is 100 percent of the employee's average weekly wage.
- If the employee's average weekly wage is greater than 65 percent of the average weekly wage, the employee's weekly benefit amount is the sum of:
 - 65 percent of the average weekly wage, and
 - 50 percent of the employee's average weekly wage that is greater than 65 percent of the average weekly wages.

If you take leave in workday increments you will receive a prorated benefit amount based on the number of workdays of leave taken in your average workweek.

Simultaneous Coverage

You have simultaneous coverage if you are covered by more than one employer's equivalent plan at the same time or are covered by the County's plan and the state plan at the same time. If you have simultaneous coverage you must apply separately for benefits under all the plans following the

respective application guidelines for each plan. Your benefits are prorated by the average number of work days you typically work per week for each respective plan rounded to the nearest whole cent.

Contributions

To pay for the program the State of Oregon set contribution rates. The contribution rate and maximum wage amount is set annually by the state. Employees contribute 60% of the total contribution rate, subject to a cap of maximum wages set by the state. The County pays 40% of the total contribution rate. If the employee works for multiple employers each employer collects the contributions from the employee's wages from that employer.

VI. PROCESS AND PROCEDURES

Notice

If your need for leave is foreseeable you must provide Leave Administration with written notice at least thirty (30) days before your leave begins, which must include whether the leave is to be consecutive or is to be taken intermittently.

If the need for leave is not foreseeable you or your emergency contact or designee must give your supervisor oral notice within twenty-four (24) hours of the start of your leave and provide Leave Administration with written notice within three days after the commencement of leave.

Unforeseeable leave events can include:

- An unexpected serious health condition for you or your family member;
- A premature birth, unexpected adoption, or unexpected foster placement; or
- Safe leave.

The notice you must provide shall include:

- Your first and last name;
- The type of qualifying leave;
- An explanation of your need for leave;
- The anticipated time and duration of your leave.

Written notice can include handwritten or typed notices, text messages and email.

The employee must advise Leave Administration as soon as possible if the dates of scheduled leave change, are extended or were initially unknown.

If you take safe leave you must provide the County with reasonable advance notice of your intent to take safe leave, unless giving advance notice is not feasible.

Under Oregon law failure to provide the required notice may result in a benefit reduction pursuant to the administrative rules.

Filing a claim

- To file a claim for PFML benefits through Clackamas County

You must provide:

- Your information, including first and last name, date of birth, social security number and contact information, including mailing address and telephone number;

- Your department and position;
 - Anticipated leave dates;
 - Whether the leave is to be taken in consecutive or intermittent periods;
 - The type of leave taken, which must be one of the following;
 - (1) Family leave;
 - (2) Medical Leave; or
 - (3) Safe leave.
 - Verification of the reason for the leave, including:
 - (1) For family leave to care for or bond with a child, verification consistent with OAR 471-070-1110;
 - (2) For family leave to care for a family member with a serious health condition, verification consistent with OAR 471-070-1120 and an attestation that the claimant has a relationship equal to “family member” under ORS 657B.010 and is caring for a family member with a serious health condition;
 - (3) For medical leave, verification consistent with OAR 471-070-1120; or
 - (4) For safe leave, verification consistent with OAR 471-070-1130.

See the following section on verification for more information.
 - If the claimant is requesting up to two additional weeks of leave for limitations related to pregnancy, childbirth or a related medical condition, the claimant must provide documentation that the claimant is currently pregnant or was pregnant within the year prior to the start of the additional two weeks of leave;
 - Information about your eligibility to receive Workers’ Compensation under ORS chapter 656 or Unemployment Insurance benefits under ORS chapter 657;
 - Any current breaks from work or anticipated future breaks from work that are unrelated to PFML leave; and
 - A written or electronically signed statement declaring under oath that the information provided in support of the application for PFMLI benefits is true and correct to the best of the individual’s knowledge.
- You can elect to receive notice electronically by contacting Leave Administration.
 - A decision on your benefit claim will be issued in writing and will include the amount of leave approved and the weekly benefit amount, if approved, or the reason(s) for denial of benefits and how you may appeal the denial. The notice will also explain how you may contact the Oregon Employment Department to request your average weekly wage amount if you believe the benefit amount may be incorrect.
 - If you are simultaneously covered by more than one employer’s plan or an employer plan and the state plan you must apply separately under all plans and from which you are taking leave by following the application guidelines for the respective plans.

Verification of Qualifying Purpose to Leave Administration

For **Family Leave** you are required to provide documents to show:

- The birth, adoption, or placement of a child;
- That a family member is experiencing a serious health condition;
- A description of the family relationship.

Birth, adoption, or placement of a child

For family leave to care for and bond with a child you must provide verification to Leave Administration reflecting your name as the parent or guardian of the child after birth or placement of the child through foster care or adoption, the child's name, and the date of the child's birth or placement. Such verification may include a birth certificate, document issued by a health care provider, copy of a court order, or document from the foster care, adoption agency, or social worker involved in the placement.

If you apply for benefits to care for and bond with a child during the first year after the placement of the child through foster care or adoption you must provide one of the following forms of verification:

- A copy of a court order verifying placement;
- A letter signed by the attorney representing the prospective foster or adoptive parent that confirms the placement;
- A document from the foster care, adoption agency or social worker involved in the placement that confirms the placement;
- A document for the child issued by the United States Citizenship and Immigration Services; or
- Another document approved by the State for this purpose.

Your verification must show your first and last name as parent or guardian of the child after birth or placement of the child through foster care or adoption; the child's first and last name; and the date of the child's birth or placement.

Family Medical leave

If you seek medical or family leave for your own or a family members serious health condition you must provide documents from a healthcare provider that includes:

- Verification of the relevant health care provider to show a serious health condition, including a diagnosis;
- The patient's first and last name, and the claimant's first and last name when different from the patient;
- The health care provider's first and last name, type of medical practice or specialization, and their contact information including mailing address and telephone number;
- The approximate date the serious health condition began;
- A reasonable estimate of the duration of the condition or recovery period, or a reasonable estimate of the frequency and duration of intermittent leave and estimated treatment schedule

Safe Leave

For safety leave you may be required to provide documents to show the need for safe leave, unless you demonstrate good cause for being unable to do so. Good cause may include difficulty obtaining verification due to a lack of access to services, or concerns for your safety or the safety of your child.

An employee seeking safe leave connected to domestic violence, harassment, sexual assault or stalking must provide verification, such as:

- A police report or a formal complaint indicating that the employee or their child was a victim of domestic violence, harassment, sexual assault, or stalking;
- A protective order or other evidence from a court that the claimant appeared in a related proceeding; or
- Documentation from an attorney, law enforcement officer, health care provider, mental health professional, clergy, or victim services provider that the claimant is undergoing related treatment or counseling.

For **Limitations related to pregnancy** you are required to show that you birthed a child.

Requests for Additional Information

If the County requests additional information necessary to establish facts relating to your eligibility or qualification for benefits you must respond to all requests for information within the following timeframes:

(1) 14 calendar days from the date of the request for information, if the request was sent by mail to your last known address as shown in our records.

(2) 10 calendar days from the date of the request for information, if the request was sent by telephone message, fax, email, or other electronic means.

(3) When the response to the request for information is sent to the County by mail, the date of the response shall be the date of the postmark affixed by the United States Postal Service. In the absence of a postmarked date, the date of the response shall be the most probable date of mailing as determined by the County.

(4) The time frames specified in sections (1) and (2) of this rule may be extended at the County's discretion when a claimant can demonstrate they failed to provide a timely response for good cause. Good cause exists when the claimant responds to the County as soon as practicable and establishes by satisfactory evidence that circumstances beyond the claimant's control prevented the claimant from providing a timely response, including, but not limited to, an incapacitating serious health condition or a situation related to safe leave.

Updates

After submitting an application for benefits a claimant must notify the County within 10 calendar days of any changes to the information provided on their application and provide additional information, if applicable, including, but not limited to, changes to the claimant's:

- (a) First and last name;
- (b) Mailing address;
- (c) Telephone number;
- (d) Current employment;
- (e) Average number of workdays worked per work week;

(f) Leave schedule;

(g) Type of leave taken; or (h) Eligibility to receive Workers' Compensation under ORS chapter 656 or Unemployment Insurance benefits under ORS chapter 657.

Failure to notify the County of any changes to the information provided on an application for benefits set out in section (1) may result in a delay, denial, overpayment or disqualification of weekly benefits.

During an open claim, the claimant's average number of work days worked per work week will stay throughout the entire claim, unless the claimant has a current employment change or adds a new type of leave taken. Any such change shall affect only those benefits payable for dates after the date on which the County receives notice of such change as described in OAR 471-070-1210, or the effective date of the leave if later, if the change is approved.

Failure to provide verification

Failure to provide the required verification will result in a denial of the requested leave.

Leave runs concurrently

If the reason for your leave qualifies for unpaid leave under the Oregon Family Leave Act (OFLA) or the federal Family Medical Leave Act (FMLA) you must notify Leave Administration and you must take your PFML leave concurrently, up to 16 weeks of combined paid and unpaid leave in one benefit year (or 18 weeks if you take leave for pregnancy, childbirth, or related conditions.)

You cannot take more than sixteen weeks of combined paid and unpaid leave each benefit year (and an additional two weeks, up to eighteen weeks, for pregnancy-related conditions.)

Notice of Intent not to return to work

If you provide the County with notice of your intent to not return to work from PFML leave, except as otherwise required by law, the County's obligations to restore you to your position and to maintain any health care benefits cease as of the date that you provide notice to the County.

Cancellation of a Claim

You can cancel your claim at any time provided:

- (1) A request to cancel has been submitted online or in another method approved by the County;
- (2) No leave was taken under the claim;
- (3) Benefits have not been paid for the claim. Benefits are considered paid if a payment has been mailed or electronically sent to your bank or other financial institution, or the payment was distributed but intercepted; and
- (4) No disqualification has been issued by the County and no appeal of a disqualification or denial has been requested.

Job Protection

If you have been employed at least 90 days with Clackamas County your job is protected when you return from leave, and you are entitled to return to the position you held before the start of your leave, unless that position no longer exists. If the position no longer exists you are entitled to be restored to any available equivalent position with equivalent employment benefits, pay and other terms and conditions of employment for which you are qualified. You are not entitled to return to your former

position if you would have been terminated or reassigned from the current position to another position if PFML leave had not been taken.

You are not entitled to any right, benefit or position of employment other than a right, benefit or position to which you would have been entitled to had you not taken PFML leave. You are subject to layoff on the same terms or under the same conditions as similarly situated employees who have not taken PFML leave.

Health Benefits

Your health benefits continue while you receive PFML benefits until your leave ends or you return to work. You will continue to contribute to your share of health benefits while on leave.

Workers' Compensation or Unemployment

Under state law PFML is not available to you for the weeks you receive workers' compensation or unemployment benefits.

Misrepresentation

It is unlawful to willfully make a false statement or willfully fail to report a material fact to obtain PFML benefits. You may be disqualified from claiming benefits, assessed for benefits received and liable for a penalty if it is determined that you willfully made a false statement or willfully failed to report a material fact in order to obtain benefits.

Appeals and disputes.

You have **sixty (60)** calendar days from the date of the written denial of your request for PFML benefits to request an appeal, unless you show good cause for a delay beyond 60 calendar days.

To appeal you must file with Leave Administration.

A written decision explaining the appeal decision will be provided.

If we are unable to resolve an appeal through this process you can request dispute resolution assistance from the Oregon Employment Department (OED), which will review the dispute and provide an advisory decision. The OED must receive your dispute resolution request within 60 calendar days of the issuance of the appeal decision, unless you show good cause for the delay.

You must provide the OED with a copy of the appealable decision and any documents related to the dispute, including documents supporting or referencing the County's decision.

Good cause for late appeal or dispute resolution requests includes:

- Difficulty obtaining verification.
- Factors or circumstances beyond the employee's, employer's, administrator's, or department's reasonable control that prevented them from providing information.
- A serious health condition that results in an unanticipated and prolonged period of incapacity and that prevents the employee or employer from timely providing information;
- A situation related to safe leave for which the employee provided notice to the County as soon as was practicable; or
- A demonstrable inability to reasonably access a means to respond in a timely manner, such as an inability to file a leave report due to a natural disaster or significant and prolonged outage.

Records

The County is required by the State to keep your application and decisions regarding your leave and benefits paid for six years. The County keeps your personal health information confidential and will not disclose it without your permission unless otherwise required or permitted by law or in response to a court order.

VII. ACCESS TO POLICY

Access to this administrative policy shall be as follows:

- Filed in PowerDMS.
- Posted to the County's internet.

VIII. ADDENDA

PFML: https://www.oregonlegislature.gov/bills_laws/ors/ors657B.html

Leave Administration: <https://www.clackamas.us/des/leave-administration>

APPENDIX A

“Administrative costs” means the costs incurred by the County directly related to administering an equivalent plan, which include but are not limited to, cost for accounting, recordkeeping, insurance policy premiums, legal expenses, and labor for human resources’ employee interactions related to an equivalent plan. Administrative costs do not include rent, utilities, office supplies or equipment, executive wages, cost of benefits, or other costs not immediately related to the administration of the equivalent plan.

“Administrator” means either an insurance carrier/company, third-party administrator, or payroll company acting on behalf of the County to provide administration and oversight of an approved equivalent plan.

“Application” means the process in which an individual submits the required information and documentation described in OAR 471-070-1100 to request benefits for a period of leave. Approval of an application establishes a claim.

“Average weekly wage” means the amount calculated by the State of Oregon as the state average weekly covered wage under ORS 657.150 (4)(e) as determined not more than once per year. The average weekly wage is:

- (a) Set for each fiscal year beginning July 1 and ending June 30 of the following year;
- (b) Applied for the calculation of weekly benefit amounts starting the first full week following July 1;
- (c) Applied for the entire benefit year after a new benefit year is established, even if the average weekly wage amount changes when the new fiscal year begins.

“Benefit year” means a period of 52 consecutive weeks beginning on the Sunday immediately preceding the day that family, medical, or safe leave commences for the claimant, except that the benefit year shall be 53 weeks if a 52-week benefit year would result in an overlap of any quarter of the base year of a previously filed valid claim. A claimant may only have one valid benefit year at a time.

“Care,” as the term is used in ORS 657B.010(17)(a)(B), means physical or psychological assistance as used for leave taken to care for a family member with a serious health condition.

- (a) “Physical assistance” means assistance attending to a family member’s basic medical, activities of daily living, safety, or nutritional needs when that family member is unable to attend to those needs themselves or transporting the family member to a health care provider when the family member is unable to transport themselves.
- (b) “Psychological assistance” means providing comfort, reassurance, companionship to a family member, or completing administrative tasks for the family member, or arranging for changes in the family member’s care, such as, but not limited to, transfer to a nursing home.

“Child” as the term is used for family leave to care for and bond with a child during the first year after the child’s birth, foster placement, or adoption, and as the term is used for a safe leave purpose described in ORS 659A.272, means an individual described in ORS 657B.010(6) and that is:

- (a) Under the age of 18; or
- (b) Age 18 or older as an adult dependent substantially limited by a physical or mental impairment as defined by ORS 659A.104.

“Claim” means a period of PFML benefits that starts with an approved application for benefits and continues through the duration of the approved leave until the approved leave or benefit amount has been exhausted or the approved timeframe for the leave has been reached. A claimant may have multiple claims in a benefit year but may not be approved for more than the allowable benefit or leave amount as described in OAR 471-070-1030.

“Claimant” means an individual who has submitted an application or established a claim for benefits.

“Consecutive leave” means leave taken in a continuous period of time, without interruption, based upon a claimant’s regular work schedule from all employers for a single qualifying purpose. A claimant who is taking consecutive leave cannot perform work for any employer during the leave period.

“Domestic violence” as the term is used for a safe leave purpose described in ORS 659A.272, means abuse or the threat of abuse, as abuse is defined in ORS 107.705.

“Employee” means an individual performing services for an employer for remuneration or under any contract of hire, written or oral, express or implied. “Employee” does not include an independent contractor; participant in a work training program administered under a state or federal assistance program; participant in a work-study program that provides students in secondary or postsecondary educational institutions with employment opportunities for financial assistance or vocational training; a railroad worker exempted under the federal Railroad Unemployment Insurance Act; a volunteer; a judge as defined in ORS 260.005; a member of the Legislative Assembly; or a holder of public office as defined in ORS 260.005

“Eligible employee” means: (1) an employee who has earned at least \$1,000 in wages during the base year or an employee who has earned at least \$1,000 during the alternate base year; and (2) who may apply for paid family and medical leave insurance benefits under ORS 657B.015.

“Eligible employee’s average weekly wage” means an amount calculated by the State by dividing the total wages earned by an eligible employee during the base year by 52 weeks.

“Employment” means any service performed by an employee for the County for remuneration or under any contract of hire.

“Equivalent Plan” means a PFML insurance plan approved by the Oregon Employment Department that provides benefits that are equal to or greater than the benefits provided by the Oregon program.

“Family Member” includes spouses, domestic partners, children, parents, siblings or stepsiblings, grandparents, grandchildren, and any individual related by blood or affinity whose relationship is equivalent to family.

“Fully insured equivalent plan” means an equivalent plan in which the County purchases an insurance policy from an approved insurer and the benefits related to the plan are administered through the insurance policy.

“Harassment” as the term is used for a safe leave purpose described in ORS 659A.272, means the crime of harassment described in ORS 166.065.

“Health care provider” means:

(a) A person who is primarily responsible for providing health care to the claimant or the family member of the claimant before or during a period of PFML leave, who is licensed or certified to practice in accordance with the laws of the state or country in which they practice, who is performing within the scope of the person’s professional license or certificate, and who is:

(A) A chiropractic physician, but only to the extent the chiropractic physician provides treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated to exist by X-rays;

(B) A dentist;

(C) A direct entry midwife;

(D) A naturopath;

- (E) A nurse practitioner;
- (F) A nurse practitioner specializing in nurse-midwifery;
- (G) An optometrist;
- (H) A physician;
- (I) A physician's assistant;
- (J) A psychologist;
- (K) A registered nurse; or
- (L) A regulated social worker.

(b) A person who is primarily responsible for the treatment of the claimant or the family member of the claimant solely through spiritual means before or during a period of PFML leave, including but not limited to a Christian Science practitioner.

"Holiday" means any of the holidays listed in ORS 187.010(1)(b)–(k) and (2), ORS 187.020 and any holiday designated by Clackamas County, a union contract, or otherwise.

"Holiday pay" means any remuneration that the County pays an employee for a holiday, including, but not limited to, full or partial paid time off or additional pay for work on a holiday.

"Intermittent leave" means leave taken periodically in separate blocks of time for an entire work day or work week from all employers. A claimant who is taking intermittent leave can perform work for an employer on work days they are not taking leave.

"Leave from work" means a claimant's approved absence from employment during the claimant's typically scheduled work day or work week.

"Maximum wage amount" means the maximum employee wages per employer subject to PFML contributions per calendar year.

"Paid time off" means compensated time away from work provided by the County that the employee can choose to use for any reason, including, but not limited to, vacation, sickness, and personal time.

"Serious health condition" means an illness, injury, impairment, or physical or mental condition of a claimant or their family member that:

- (a) Requires inpatient care in a medical care facility such as, but not limited to, a hospital, hospice, or residential facility such as, but not limited to, a nursing home or inpatient substance abuse treatment center;
- (b) In the medical judgment of the treating health care provider poses an imminent danger of death, or that is terminal in prognosis with a reasonable possibility of death in the near future;
- (c) Requires constant or continuing care, including home care administered by a health care professional;
- (d) Involves a period of incapacity. "Incapacity" is the inability to perform at least one essential job function, or to attend school or perform regular daily activities for more than three consecutive calendar days. A period of incapacity includes any subsequent required treatment or recovery period relating to the same condition. The incapacity must involve one of the following:
 - (A) Two or more treatments by a health care provider; or
 - (B) One treatment plus a regimen of continuing care.
- (e) Results in a period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity, such as, but not limited to, asthma, diabetes, or epilepsy;
- (f) Involves permanent or long-term incapacity due to a condition for which treatment may not be effective, such as, but not limited to, Alzheimer's Disease, a severe stroke, or terminal stages of a

disease. The employee or family member must be under the continuing care of a health care provider, but need not be receiving active treatment;

(g) Involves multiple treatments for restorative surgery or for a condition such as, but not limited to, chemotherapy for cancer, physical therapy for arthritis, or dialysis for kidney disease that if not treated would likely result in incapacity of more than three calendar days;

(h) Involves any period of disability due to pregnancy, childbirth, miscarriage or stillbirth, or period of absence for prenatal care; or

(i) Involves any period of absence from work for the donation of a body part, organ, or tissue, including preoperative or diagnostic services, surgery, post-operative treatment, and recovery.

“Sexual Assault” as the term is used for a safe leave purpose described in ORS 659A.272, means any sexual offense or the threat of a sexual offense as described in ORS 163.305 to 163.467, 163.472 or 163.525.

“Stalking” as the term is used for a safe leave purpose described in ORS 659A.272, means:

(a) The crime of stalking or the threat of the crime of stalking as described in ORS 163.732; or

(b) A situation that results in a victim obtaining a court’s stalking protective order or a temporary court’s stalking protective order under ORS 30.866.

“Sick pay” means remuneration paid by the County to an employee for time away from work due to sickness, unless excluded as a fringe benefit under ORS 657.115.

“Stand-by pay” means remuneration paid by the County to an employee who is required to be immediately available for work.

“Subject Wages” means PFMLI wages that are paid and reported for an employee, as defined in ORS 657B.010(13).

“Vacation pay” means remuneration paid by the County to an employee for time away from work to use for any reason the employee chooses but does not include leave for sick pay, compensatory time, holiday, or other special leave.

“Wages” include:

(a) (1) Commission or a guaranteed wage;

(2) Compensatory pay;

(3) Dismissal or separation allowances;

(4) Holiday pay;

(5) Paid time off;

(6) Sick pay;

(7) Stand-by pay;

(8) Tips or gratuities;

(9) Vacation pay.

(10) Dividends; and

(11) wages include the cash value of all remuneration paid in any medium other than cash, including board, lodging, services, facilities or privileges furnished by the County is considered remuneration paid for services performed by an employee unless it appears that furnishing of these items is not required by the terms of the contract of hire.

(b) (1) When the County continues the payment of wages during a disability period, or pays to the employee all or part of the difference between benefits or compensation received from an insurance carrier or State Accident Insurance Fund and the employee’s regular or usual wage, the sums so paid by the employer are wages unless excluded from the term wages by ORS 657.115 and 657.125.

(b) (2) Lump sum or other special payments to compensate an employee for an accident sustained in the course of employment are not wages.
Bonuses, fees, and prizes paid or given by Clackamas County to the employee as compensation, reward or added remuneration for services.

(c) Employee benefits paid through a cafeteria plan, as defined in Internal Revenue Code Section 125 if listed as excluded in ORS 657.115, even if paid through a payroll deduction.

“Wages” do not include:

- (a) Moneys paid to employees to reimburse them for meal expenses in the event employees are required to perform work after their regular office hours; and
- (b) Amounts paid to employees to reimburse them for traveling or other expenses actually incurred by them while performing service for the employer.
- (c) Amounts received as a pension.
- (d) Compensation, reimbursement, fees, lodging, meals or other remuneration paid or provided to an individual for services performed as a juror.
- (e) Gifts, other than tips or gratuities, received by an employee during the course of employment from persons other than their employer.

PFML benefits issued through an approved equivalent plan are not wages.

“Willful” and “willfully” means a knowing and intentional act or omission.

“Willful false statement” means any occurrence where:

- (a) A claimant or the County makes a statement or submits information that is false;
- (b) The claimant or the County knew or should have known the statement or information was false when making or submitting it;
- (c) The statement or submission concerns a fact that is material to the rights and responsibilities of either the claimant or the County under ORS chapter 657B; and
- (d) The claimant or the County made the statement or submitted the information with the intent that the State would rely on the statement or information when taking action.

“Willful failure to report a material fact” means any occurrence where:

- (a) A claimant or the County omit or fails to disclose information;
- (b) The claimant or the County knew or should have known that the information should have been provided;
- (c) The information concerns a fact that is material to the rights and responsibilities of either the claimant or the County under ORS chapter 657B; and
- (d) The claimant or the County omitted or did not disclose the information with the intent that the State would act based on other information or a lack of information.

“Work day” means any day on which an employee performs any work for the County and is an increment of a work week. The number of workdays in a work week is based on the average number of workdays worked by an employee at all employment. There are a maximum of seven work days in a work week. If a workday spans two calendar days, such as a shift beginning on day one at 10 p.m. and ending on the next day at 5 a.m., the workday will count on the calendar day in which the shift began.

“Work week” means a seven-day period beginning on a Sunday at 12:01 a.m. and ending on the following Saturday at midnight. If a claimant works a variable or irregular schedule, the number of workdays in a work week is determined by counting the total number of workdays worked in the preceding 12 work weeks and dividing the total by 12 and rounding down to the nearest whole number. If the employee has not been employed by the County for at least 12 weeks, the number of

weeks the employee has been employed from the date of hire to the first day of leave shall replace 12 in the calculation.