

Family Medical Leave Policy (US Only)

Policy: HR-023	Page 1 of 8
Original Issue Date: 1993	Rev. Date: August 1, 2019 Rev. Letter: C

1.0 Purpose

BorgWarner Inc. and its affiliates (“BorgWarner” or “Company”) are committed to complying with the Family and Medical Leave Act (FMLA), which provides eligible employees with job-protected unpaid leave for certain family and medical reasons as described below.

This Policy provides an overview of employees’ rights and responsibilities under the FMLA as well as the Company’s own policies regarding FMLA Leave. The Company has posted notices of the FMLA at all Company facilities. The information in those posters is incorporated into this policy by reference.

2.0 Scope

This policy applies to US employees who are eligible for FMLA. To be eligible for FMLA Leave, an employee must have worked at the Company for at least 12 months and must have worked at least 1,250 hours during the 12-month period prior to the commencement date of any leave requested under this Policy. Eligibility will be determined as of the date the FMLA leave commences.

3.0 Types and Duration of FMLA Leave

3.1 Bonding Leave; Serious Health Condition Leave; Leave to care for a family member with a Serious Health Condition; Active Duty Leave

An eligible employee may take for up to twelve weeks on unpaid leave during a rolling 12-month period (*measured backward from the date an employee uses FMLA*) for the following reasons:

- the birth of the employee’s child and to bond with the child; or for placement through adoption or foster care and to bond with the newly placed child. Such leave must be concluded no later than 12 months after the birth or placement of the child with the employee;
- to care for an immediate family member (spouse, child under 18 years old or a child 18 and over who is incapable of self-care because of a disability, or parent) with a serious health condition;
- because of a serious health condition which renders the employee unable to perform the functions of his/her job; or
- because of any qualifying exigency arising out of the fact that an employee’s spouse, son (of any age), daughter (of any age) or parent, who is serving in any branch of the US military (including the National Guard or Reserves), has been deployed or called to active duty in a foreign country (“Active Duty Leave”).

Family Medical Leave Policy (US Only)

Policy: HR-023	Page 2 of 8
Original Issue Date: 1993	Rev. Date: August 1, 2019 Rev. Letter: C

3.2 Military Caregiver Leave

An employee also may be eligible for Military Caregiver Leave to care for a spouse, son (of any age), daughter (of any age), parent or next of kin who is: 1) a current member of the Armed Forces, including the National Guard or Reserves, and who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness, which is incurred in the line of duty (or for a pre-existing injury or illness which is aggravated in the line of duty) and that renders the service member medically unfit to perform the duties of his or her office, grade, rank or rating, or 2) a veteran who was a member of any branch of the Armed Forces, including the National Guard or Reserves, and who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness that occurred in the line of duty (or for a pre-existing injury or illness which was aggravated in the line of duty) at any time within 5 years preceding the treatment, recuperation or therapy.

A covered veteran incurs a serious illness or injury for purposes of this paragraph when one of the following occurs:

- The injury or illness makes him or her medically unfit to perform the duties of his or her office, grade, rank or rating.
- It causes the service member to have a VA Service Disability Rating is at 50% or greater.
- It is a mental or physical condition substantially impairs their ability to obtain gainful employment.
- The VA enrolls the employee in the Department of Veteran Affairs Program of Comprehensive Assistance for Family Caregivers.

Eligible employees are entitled to a total of 26 weeks of unpaid Military Caregiver Leave during a single 12-month period. This single 12-month period begins on the first day an eligible employee takes Military Caregiver Leave (as long as it is within 5 years of the covered service member's active duty) and ends 12 months after that date. Military Caregiver Leave applies on a per-covered service member, per-injury basis, so that an employee may be eligible to take more than one 26-week period of Military Caregiver Leave, but no more than 26 weeks of leave may be taken during any one 12-month period.

An eligible employee is entitled to a combined total of 26 workweeks of leave for all FMLA qualifying reasons during the single 12-month period described above. For example, if an employee takes 10 weeks of FMLA leave due to his/her own serious health condition, the employee may take only 16 weeks of Military Caregiver Leave during that same 12-month period.

Family Medical Leave Policy (US Only)

Policy: HR-023	Page 3 of 8
Original Issue Date: 1993	Rev. Date: August 1, 2019 Rev. Letter: C

4.0 Substitution of Paid Leave for Unpaid Leave and Vacation Accumulation

Short-Term Disability and Workers' Comp: Employees must concurrently exhaust any applicable short-term disability benefits, workers compensation benefits/absence, or any other required paid sick leave provided by applicable law, policy or agreement.

Use of Vacation: Unless otherwise provided below, an employee may, but is not required to use accrued and unused vacations during FMLA leave.

- Hourly Employees at the following locations are required to exhaust ½ of any accrued and unused vacation during FMLA leave: Bellwood, IL; Frankfort, IL; Laredo, TX; Melrose Park, IL.
- Hourly Employees at the following locations are required to exhaust all accrued and unused vacation during FMLA leave: Seneca, SC (only if FMLA is to care for someone other than themselves) and Water Valley, MS.

Vacation Accrual: Unless otherwise provided, vacation allocation shall accumulate during unpaid FMLA leave. Hourly employees at the following locations, however, will not accumulate vacation entitlement during unpaid FMLA leave*; Bellwood, IL; Ithaca, NY; Melrose Park, IL

*where vacation is granted in January, if an employee leaves the company, FMLA time taken will be deducted when calculating the payment of unused but earned vacation.

Continued Benefits: Healthcare benefits will be maintained while an employee is on FMLA, subject to the payment of premiums explained in this paragraph. For all other benefits, they will be maintained similarly to others on similar forms of leave (paid/unpaid). Employees on paid FMLA (because they are concurrently exhausting a paid leave benefit) will continue to have their premium payments deducted from their paycheck as if they were on non-FMLA paid leave. Employees on an unpaid FMLA leave (for which no paid leave is substituted or after all paid leave has been exhausted) will need to maintain the benefits they accrued prior to commencement of the leave by making premium payments. If the payment is not received on the due date or thereafter, the company will provide the employee written notice of non-payment and provide 15 days to make the payment. If the payment is not made within the 15-day window, and at least 30 days have passed from the due date, then coverage under the benefit plan will lapse, retroactively to the original due date.

5.0 Notice of Need for FMLA Leave

An employee requesting FMLA leave must follow the below steps to request FMLA leave:

- Follow the normal call-in procedure for your location. You should give 30 days' advance notice if the leave is foreseeable. If it is not foreseeable, you should provide as much notice as possible and follow the call-in procedure for your location.

Family Medical Leave Policy (US Only)

Policy: HR-023	Page 4 of 8
Original Issue Date: 1993	Rev. Date: August 1, 2019 Rev. Letter: C

- Contact the leave plan vendor, **ReedGroup, at 1-800-441-9628 (Monday – Friday 8:00am – 8:00pm EST) or via their self-service portal at <https://borgwarner.myleaveproservice.com>**. This initial notice must be given for both continuous leaves of absences and intermittent leaves of absences.

To avoid a delay in FMLA protection, the employee must give notice as soon as possible and practicable under the circumstances of enough facts to advise ReedGroup that FMLA may apply. Employees are always required to give notice as soon as practicable and possible. Except for instances of active duty military leave, an employee is not required to provide more than thirty (30) days advance notice.

Failure to provide timely notice of the need for a FMLA leave or to provide the necessary documentation supporting the leave within the time required, with a reasonable excuse, may result in the leave being delayed or denied, or the absences being counted against the Company's attendance policy.

Employees should make every reasonable effort to schedule foreseeable medical treatments so as not to disrupt the ongoing operations of the Company.

Upon receiving an employee's request for leave under this policy, the Company through ReedGroup will provide the employee with the following:

- Notice of eligibility for leave (if the employee is ineligible, the Company will provide the reason(s) as to why;
- Notice of employee rights and responsibilities related to the leave; and
- Notice of designating the leave as FMLA and whether it will be counted against the employee's FMLA leave entitlement.

Intermittent FMLA Leave that has already been approved: If an employee has already been approved for FMLA leave and the employee subsequently needs time off for that same reason, absent unusual circumstances, the employee must (1) follow the normal call-in policy for your location and (2) notify ReedGroup that he/she is taking FMLA leave within two (2) business days from the date leave is taken. Failure to adhere to normal call-in policies for your location can result in discipline, as with any other type of leave.

6.0 Documentation Supporting FMLA Leave

The Company, through ReedGroup, will require medical certification to support a claim for leave for an employee's own Serious Health Condition or to care for a seriously ill child, spouse or parent, or to care for a covered military member or a covered veteran. The Company is not responsible for any charges incurred for completing the certification forms.

Generally, this certification must be completed within 15 days of when it was requested. If the employee fails to provide timely certification after being required to do so, covered leave may be

Family Medical Leave Policy (US Only)

Policy: HR-023	Page 5 of 8
Original Issue Date: 1993	Rev. Date: August 1, 2019 Rev. Letter: C

delayed moving forward until the certification form is finally submitted. Absences counted against the employee for a late certification will not be reversed absent exceptional circumstances. If an employee never returns the completed form, the FMLA will be denied and the absences will be unprotected. If the Certification form is incomplete or insufficient, an employee will be given written notification of the information needed and will be given a period of seven (7) days to provide the necessary information.

In its discretion, the Company may require a periodic recertification or a second medical opinion at its own expense. If the first and second opinions differ, the Company, at its own expense, may require the binding opinion of a third health care provider, approved jointly by the Company and the employee.

The Company may require certification to support a claim for FMLA leave to address a “qualifying exigency” as defined in the Regulations due to a child (of any age), spouse, or parent on active duty or call to active duty status in the Armed Forces in support of a contingency operation.

Once ReedGroup has received a complete and sufficient certification form from the employee, it will advise the employee whether he or she has been approved or denied FMLA and, if possible, will advise how much FMLA will be used.

7.0 Intermittent Leave

FMLA leave may be taken on an intermittent or reduced schedule basis if medically necessary for a Serious Health Condition or to care for a covered military member or covered veteran who has a serious injury or illness or to care for a military member’s parent who is incapable of self-care when necessitated by military member’s covered active duty, when necessary due to a qualifying exigency, with the required medical certification presented. Intermittent or reduced schedule leave is not available for the birth or placement of a child for adoption or foster care, unless the Company agrees.

Employees who take foreseeable intermittent or reduced schedule leave must attempt to schedule their intermittent or reduced schedule leaves so as not to disrupt the operations of the business and in some instances, the Company may require employees taking foreseeable intermittent or reduced schedule leaves to transfer temporarily to an alternative position for which the employee is qualified and which better accommodates the employee’s leave schedule. Pay and shifts would not be affected by a change to an alternate position. Time worked in the alternate position would not count towards the employee’s FMLA leave entitlement. See section 5 above regarding notification during an approved FMLA intermittent leave.

8.0 When Spouses Work Together

Spouses who are both employed by the Company are entitled to a combined total of twelve weeks of leave (rather than twelve weeks each) for the birth or adoption of a child; and a combined total of twenty-six weeks (rather than twenty-six weeks each) to care for a covered military member or

Family Medical Leave Policy (US Only)

Policy: HR-023	Page 6 of 8
Original Issue Date: 1993	Rev. Date: August 1, 2019 Rev. Letter: C

covered veteran with a serious injury or illness incurred or aggravated in the line of duty on active duty.

9. Returning to Work

Employees returning from a leave due to their own serious health condition will be required to provide the Company with a fitness for duty certification. Generally, employees who return from leave within the allowed time limits will be reinstated to the same or an equivalent position with the Company. However, there are limitations. Exceptions to reinstatement apply where the employee would not have been employed even if FMLA leave was not taken.

Additionally, the Company may deny reinstatement to certain “key employees” consistent with the Regulations. Absent extraordinary circumstances or other reasons protected by law, an employee who fails to return to work on the first business day after the expiration of the leave period will be considered a voluntary quit.

Employees who knowingly misrepresent facts to be granted Family Medical Leave may be subject to discipline, up to and including termination.

Unless required otherwise by law an employee granted a leave of absence under these provisions who fails to return to work upon expiration of the leave will no longer have protected absences. Further absences would count against the attendance policy.

10. Definitions

A “serious health condition” as referred to above means an illness, injury, impairment, or physical or mental condition that involves:

- in-patient care (*i.e.*, an overnight stay) in a hospital or other medical care facility (including any period of incapacity or any subsequent treatment in connection with such in-patient care);
- a period of incapacity of more than three (3) consecutive full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves: (i) treatment two (2) or more times by a health care provider or under the supervision of a health care provider the first being within seven (7) days of the onset of the incapacity and the second being within thirty (30) days of the start of the incapacity, or (ii) treatment by a health care provider on at least one (1) occasion within seven (7) days of the start of the incapacity which results in a regimen of continuing treatment under the supervision of a health care provider;
- any period of incapacity or treatment due to pregnancy, or for prenatal care;

**Family Medical Leave Policy
(US Only)**

Policy: HR-023	Page 7 of 8
Original Issue Date: 1993	Rev. Date: August 1, 2019 Rev. Letter: C

- any period of incapacity or treatment due to a chronic serious health condition requiring periodic visits of at least twice a year for treatment by a health care provider;
- a period of incapacity or treatment which is permanent or long-term due to a condition for which treatment may not be effective, during which the employee (or family member) must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider; or
- any period of absence to receive multiple treatments by a health care provider or under the supervision of a health care provider, either for restorative surgery after an accident or other injury, or for a condition that will likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment.

“Foster care” means 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care and involves agreement between the State and foster family that the foster family will take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody. See §825.121 for rules governing leave for foster care.

A “qualifying exigency” referenced above under “Active Duty Leave” refers to the following circumstances:

- Short-notice deployment: to address issues arising when the notification of a call or order to active duty is seven (7) days or less;
- Military events and related activities: to attend official military events or family assistance programs or briefings;
- Childcare and school activities: for qualifying childcare and school related reasons for a child, legal ward or stepchild of a covered military member;
- Care of the covered military member’s parent if the parent is incapable of self-care;
- Financial and legal arrangements: to make or update financial or legal affairs to address the absence of a covered military member;
- Counseling: to attend counseling provided by someone other than a health care provider for oneself, for the covered military member, or child, legal ward, or stepchild of the covered military member;

Family Medical Leave Policy (US Only)

Policy: HR-023	Page 8 of 8
Original Issue Date: 1993	Rev. Date: August 1, 2019 Rev. Letter: C

- Rest and recuperation: to spend up to fifteen (15) calendar days for each period in which a covered military member is on a short-term rest leave during a period of deployment; or
- Post-deployment activities: to attend official ceremonies or programs sponsored by the military for up to 90 days after a covered military member's active duty terminates or to address issues arising from the death of a covered military member while on active duty.

12. Interaction with State Laws

Certain states require employers to provide greater or different job-protected leave. When applicable, the Company complies with all such leave laws. When leave provided under one of these laws is covered under the federal FMLA, it also shall count toward the employee's federal FMLA entitlement and as FMLA Leave under this Policy. These leave laws vary by state, and the employee should contact Human Resources if you have questions about them.

APPROVALS

Policy Committee

Corporate

REVISION HISTORY

Rev.	Date	Description
A	January 2009	Amended in accordance with revised regulations
B	April 2013	Amended in accordance with revised regulations
C	August 2019	Amended in accordance with revised regulations, change in Leave Vendor. Changed from LEG-042 to HR-023