

feddesk

FREE Federal Handbooks

www.feddesk.com

Adoption Benefits Handbook

FREE Federal Handbooks

Every week, feddesk.com brings you the latest FREE handbooks published by the Federal Government. Written specifically for Federal Employees, these handbooks are brought together on one, easy-to-use website. Now you can quickly - and easily - find the handbooks you want and need!

FREE Federal Handbooks

www.feddesk.com

WAEPA Protects You and Your Family

- Group Life Insurance
- Long-Term Care Insurance
- Postal Employee Coverage
- Spouse Coverage
- Retired Annuitant Coverage
- Parent Coverage
- Parent-In-Law Coverage
- Children Coverage

WAEPA is a non-profit association that has provided life and long-term care insurance to civilian federal employees and their families since 1943.

To learn more about WAEPA, just visit their website at <http://www.waepa.org>

Or call WAEPA today at
1-800-368-3484

Adoption Benefits Handbook

Introduction	2
Leave Programs	2
Sick Leave for Adoption	2
Family and Medical Leave Act	3
Additional Leave Benefits	4
Health Benefits	5
Tax Benefits for Adoption	7
State Adoption Subsidy Programs	8

Introduction

Adoption can be a challenging and rewarding experience and the Federal Government provides a number of work/life programs and benefits which can ease the adoption process for Federal employees.

Work/life programs are spreading across Government and making it easier for Federal employees to balance all aspects of their lives, including helping employees with the adoption process.

This Adoption Benefits Handbook provides questions and answers on leave programs and health and tax benefits available to Federal employees who are prospective adoptive parents.

It also provides information on other Federal adoption assistance, State adoption subsidy programs, and national adoption resources.

Leave Programs

The Federal Government has an impressive and flexible array of work/life leave options which support employees' family responsibilities and enhance the productivity of the workforce. Key components of the Federal leave system include: annual leave; sick leave; family and medical leave; family-friendly leave; leave for bone marrow and organ donation; leave sharing; and leave banks.

Two laws which have specific provisions for adoptive parents are Sick Leave for Adoption and the Family and Medical Leave Act.

Sick Leave for Adoption

This law became effective on September 30, 1994, and allows Federal employees to use sick leave for absences relating to adopting a child.

Following are some questions and answers regarding sick leave for adoption.

What adoption-related activities are covered?

The purposes for which an adoptive parent may request sick leave include appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

Can I use sick leave for the purpose of bonding with my adopted child?

There is no provision in the law or regulation to permit the use of sick leave by birth parents or adoptive parents who choose to be absent from work to bond with a birth or adopted child.

However, you may use sick leave if required by the court or adoption agency to take time off from work to care for the newly adopted child.

Is the amount of sick leave I may use for adoption-related purposes limited to 13 days as it is for other family care purposes?

No. The amount of sick leave taken for adoption-related activities is not limited to 13 days and does not count towards the annual 13-day limit under the Family-Friendly Leave Act.

At one time, Federal employees were given the opportunity to request that sick leave be substituted for annual leave used for adoption purposes between September 30, 1991, and September 30, 1994. Is that still in effect?

No. That opportunity ended on September 30, 1996.

Family and Medical Leave Act

To help balance the demands of the workplace with the needs of the family, the Family and Medical Leave Act (FMLA) was signed into law on February 5, 1993 (Public Law 103-3) and became effective on August 5, 1993. This law ensures that family and medical leave is available on a gender-neutral basis and mandates job security for employees who take leave. In addition, it accomplishes these purposes in a manner that accommodates the legitimate interests of employers.

Title II of the Act, "Leave for Civil Service Employees," provides eligible Federal employees an entitlement to a total of 12 administrative workweeks of unpaid leave during any 12-month period for certain family and medical needs.

For what purposes can leave be taken under the Family and Medical Leave Act (FMLA)?

FMLA provides eligible Federal employees with an entitlement to 12 workweeks of unpaid leave during any 12-month period for the following purposes:

- birth of a son or daughter of the employee and care of the newborn;*
- placement of a son or daughter with the employee for adoption or foster care;*
- care of a spouse, son, daughter, or parent of the employee who has a serious health condition; and
- a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

*Entitlement to 12 weeks of leave expires 12 months after the date of birth or placement for adoption or foster care. (Employees may begin this leave prior to the birth or placement.)

How much leave can I take each year under the Family and Medical Leave Act (FMLA)?

You are entitled to a total of up to 12 workweeks of unpaid leave during any 12-month period (not necessarily a calendar year or leave year). The 12-month period begins on the date you first take the

leave and continues for 12 months. You are not entitled to 12 additional weeks of leave under FMLA until the previous 12-month period ends and an event or situation occurs that entitles you to another period of such leave. (This may include a continuation of a previous situation or circumstance, e.g., a serious health condition.)

What justification is required to use leave under the Family and Medical Leave Act (FMLA)?

You may be required to provide advance leave notice and medical certification. Ordinarily, you must provide 30 days advance notice when the need for leave is foreseeable. If the need for leave is not foreseeable, e.g., because of a medical emergency, you must provide notice within a reasonable period of time appropriate to the circumstances involved. An agency may require medical certification to support a request for leave because of a serious health condition and may require second or third opinions (at the employer's expense).

If you cannot provide the required medical certification before FMLA leave is to begin, you must be provided provisional leave. Once this leave has commenced and you fail to provide the medical certification, the agency may charge you as absent without leave (AWOL) or may allow you to request that the provisional leave be charged as leave without pay or to your appropriate leave account.

What are the job benefits and protections provided under the Family and Medical Leave Act (FMLA)?

Upon return from this leave, you must be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment. When you take FMLA leave, you are entitled to maintain health benefits coverage and may choose to pay the employee share of the premium on a current basis or pay upon return to work. The use of this leave cannot result in the loss of any employment benefit that accrued prior to the start of your leave.

Can I substitute paid leave for leave under the Family and Medical Leave Act (FMLA)?

You may elect, but the agency may not require you, to substitute advanced, accrued or accumulated annual and/or sick leave for the unpaid leave in accordance with current law and regulations. You may not retroactively substitute paid time off for unpaid leave under FMLA. FMLA leave is in addition to other paid time off available to you.

Under certain conditions, this leave may be taken intermittently, or you may work under a work schedule that is reduced by the number of hours of leave taken as family and medical leave.

Additional Leave Benefits

Further information on additional leave benefits may be obtained from the Office of Personnel Management's (OPM) brochure, "Family-Friendly Leave Policies for Federal Employees." This publication is available on OPM ONLINE and can be ordered from the Government Printing Office (LEAVE-95-1, November 1995).

You may also contact your agency personnel office, or OPM's Compensation Administration Division at (202) 606-2858.

Health Benefits

Federal employees may cover a legally adopted child or a foster child under their Federal Employees Health Benefits (FEHB) family enrollment upon showing proof of the child's eligibility as a family member. The child must be single, under the age of 22, and financially dependent on the employee. Proof of adoption or foster child status must be provided by the employee.

Following are some questions and answers regarding health benefits.

Do adopted and foster children receive the same health coverage as the Federal employee?

The child receives the same health benefits coverage that is available to the Federal employee and all other family members. There are no exclusions or waiting periods because of preexisting medical conditions.

A child who meets the definition of "member of family" under the Federal Employees Health Benefits (FEHB) law receives coverage regardless of whether he or she has coverage under Medicaid.

Where do I apply for coverage for my adopted or foster child?

You must apply at your employing office. The employing office makes the determination whether the child meets the requirements for an adopted or foster child based on documents you provide.

What proof must I provide for an adopted child?

You must provide the final decree papers.

What are the requirements for covering foster children?

The child must be living with you, you must be raising the child as your own, and you must have assumed full parental responsibility and control of the child. There must be an expectation that you will continue to raise the child into adulthood. A child living with you under a pre-adoption agreement may qualify as a foster child.

Under the Federal Employees Health Benefits (FEHB) law, a foster child is an unmarried dependent child under 22 years of age who lives with you in a regular parent-child relationship; not a child who is temporarily living with you nor one who is placed in your home by a welfare or social service agency which retains control of the child and pays for maintenance.

Must I obtain a court order for custody in order to cover my foster child on my health benefits enrollment?

A court order for permanent custody is acceptable as proof of dependency, but is not necessarily required.

However, a court order for temporary custody or a Power of Attorney is not acceptable proof for health benefits enrollment. Other acceptable proof of foster child status are:

- evidence that the child has been included as a dependent on your tax returns for previous years;
- canceled checks, money orders, or receipts for periodic payments received from you for or on behalf of the child;
- evidence of goods or services which show regular or substantial contributions of considerable value; and
- sworn affidavits from people unrelated to you that the child lives in your home.

The employing office will ultimately make the final decision as to what proof is acceptable in an individual case.

When does health coverage for an adopted or a foster child begin?

Coverage for an adopted child begins the day the adoption decree is final.

Coverage for a foster child begins the first day of the pay period in which the employing office receives all properly completed documents necessary to establish eligibility of the child as a foster child.

I will be traveling overseas to pick up a child who I am adopting and will be staying three to four weeks to ensure the paperwork goes through. Since the child might qualify only as a foster child prior to final adoption, how will she meet the "living with" requirement when she is not at my home back in the States?

It is true a child is not considered adopted until the adoption is final. Nevertheless, the child would meet the foster child requirement even though the child is not technically residing with you at your permanent home. The effective date would be the first day of the pay period in which you begin living with the child overseas.

When does an adopted or foster child's health benefits coverage stop?

Health benefits stop when the child reaches the age of 22, marries, or is no longer dependent on the employee. Health benefits can continue after age 22 if the person is incapable of self-support because of a disability incurred before age 22. Contact your employing official for information on how to continue coverage in such cases.

Would my adopted or foster child qualify for continued health benefits under the temporary continuation of coverage (TCC) provisions of the Federal Employees Health Benefits (FEHB) law?

The TCC provisions allow children who no longer qualify as a dependent child (e.g., child reaches age 22, marries before age 22, no longer lives with the employee) to continue their FEHB coverage for up to 36 months. The child is enrolled in his or her own right and pays both the employee and the Government's share of the premium, plus an additional 2% administrative cost. You should notify your employing office within 60 days after the child no longer qualifies for coverage as a family member.

A child who loses FEHB coverage for any reason other than by cancellation has a 31-day temporary extension of coverage, at no cost, for the purpose of converting to a non-group contract with his or her current health benefits plan. To convert the child's coverage to a non-group plan, you or your child must apply directly to the health benefits plan within 31 days after the child's eligibility ends.

For further information on health benefits, contact your personnel office.

Tax Benefits for Adoption

Adoptive parents may be able to take a tax credit for qualifying expenses paid to adopt an eligible child. The adoption credit is a non-refundable credit that you subtract from your tax liability.

Also, money or other benefits from a private sector employer for qualifying adoption expenses may be excluded from your gross income. (The Federal Government does not provide such benefits, but you might work part-time for a private sector employer or your spouse might be employed by a private sector employer.)

For information on tax benefits for adoption, visit the Internal Revenue Service website or call 1-(800) 829-1040.

Adoption Assistance Programs

Two adoption assistance programs that you should be aware of are the Federal Title IV-E Adoption Assistance and State Adoption Subsidy Programs. Eligibility criteria for State adoption subsidies vary. Check with your adoption agency and State adoption officials to find out what your State allows.

Federal Title IV-E Adoption Assistance

Under this assistance program, parents of an eligible child may receive a monthly subsidy for the ordinary needs of the child. These payments are not designated for a specific purpose such as medical expenses, living expenses or special services. The funds may be used for any identifiable needs of the child.

An eligible child is one who has been determined by the State to be a special needs child, i.e., free for adoption and considered hard to place because of a specific factor or condition (member of a

sibling group, medically disabled, etc.). In some circumstances, the State must make an effort to place the child without adoption subsidy.

Adoptive parents do not have to meet any financial eligibility criteria to receive adoption assistance on behalf of their child. A child for whom Title IV-E adoption assistance is provided is automatically eligible for medical assistance under Title XIX (Medicaid) and may receive social services under Title XX.

In addition, non-recurring adoption expenses (legal fees, court costs) are available to adoptive parents. A non-recurring adoption expense is a one-time adoption fee that is necessary for the adoption of a special needs child, which is not incurred in violations of State and Federal law, and has not been reimbursed from other sources or other funds.

State Adoption Subsidy Programs

These programs provide assistance for children who are not eligible under the Federal Title IV-E program. Adoption subsidies take various forms in different States depending on the child's needs and State agency's program. Under State-funded programs, there are generally three types of adoption subsidies: medical, maintenance, and special services. Medical subsidies cover some or all for the costs related to a child's specific medical condition that are not covered by the family's health insurance. They may also cover the costs of related therapy, rehabilitation and special education. Some States provide medical assistance through Medicaid which also pays for health care needs not covered by the adoptive family's health insurance policy or other community resources.

Maintenance or support subsidies are direct payments to the adoptive family to help cover the child's living expenses.

Special service subsidies are usually one-time payments to cover a child's emergency needs or other extra-ordinary needs; less often, they are repeated payments for services not covered by medical or maintenance subsidies. Each State determines what is an allowable cost.

Further information on adoption assistance can be obtained by calling the National Adoption Information Clearinghouse at (703) 352-3488; the National Adoption Center at (215) 735-9988; and the U.S. Department of Health and Human Services' Children's Bureau at (202) 205-8618