As provided in 2-18-615, MCA, an absence due to an illness will not be charged against unused vacation leave unless approved by the employee.

If leave qualifies for FMLA leave and leave provided under State law, the leave used counts against the employee's entitlement under both laws.

For information about a specific leave policy, contact your supervisor, agency personnel representative, or cal the State Personnel Division, Employee and Labor Relations Bureau, at 444-3871.

JOB BENEFITS AND PROTECTION During and upon returning from FMLA leave, the employees health insurance coverage will be maintained under the same conditions existing prior t the us of FMLA leave.

An employee who normally pays a portion of the premium costs for health care or other insurance coverage will be required to make the same contributions to maintain coverage during FMLA leave.

If the employee fails to make a required payment within 30 days of the scheduled due date, benefits under the State's health car Plan may be discontinued.

The employee may be liable for repayment of health insurance premiums paid by the State during the employee's unpaid FMLA leave, if the employee fails to return to work after taking FMLA leave.

An employee on FMLA leave may elect to alter their contributions to a Flexible Spending Account under certain conditions.

For information about arranging insurance payments or changing participation in a Flexible Spending Account during leave, contact your payroll representative or call the State Personnel Division, Employee Benefits Bureau, at 444-3871.

In most situations, employees will be returned to their original position or an equivalent position with equivalent pay, benefits, and other conditions and terms of employment.

The use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

UNLAWFUL ACTS BY EMPLOYERS FMLA makes it unlawful to:

- Interfere with, retrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT The U.S. Department of Labor is authorized to investigate and resolve complaints of violations. An eligible employee may bring a civil action against an employer for violations.

For additional information contact one of the following:

- Your agency personnel officer;
- The State Personnel Division at 444-3871;
- The regional office of the U.S. Department of Labor, Wage and Hour Division in Salt Lake City, Utah, at (801) 524-5706.

NOTICE TO EMPLOYEE OF RIGHTS AND OBLIGATIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

The Family and Medical Leave Act (FMLA) of 1993 entitles eligible employees of the State of Montana up to 12 weeks of unpaid, job-protected leave for certain family and medical reasons. Eligible State employees must have worked for the State of Montana for a total of 12 months, and for 1,040 hours during the previous 12 months to qualify for FMLA leave.

REASONS FOR TAKING LEAVE Unpaid leave will be granted for any of the following reasons:

- To care for the employee's child after birth, or because of the placement of a child with the employee for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform his or her job.

ADVANCE NOTICE AND MEDICAL CERTIFICATION The employee is required to provide advance notice of leave whenever possible. Leave may be denied or delayed if these requirements are not met.

The employee must provide 30 days' advance notice when the leave is foreseeable. When it is not possible to provide advance notice, the employee must provide notice as soon as "practicable," ordinarily within one or two business days after the employee learns of the need for leave.

Medical certification may be required to support a request for leave because of a serious health condition. Leave may be denied until the employee submits the medical certification. The agency may request a second or third medical opinion at the agency's expense.

An employee is not required to obtain medical certification for the first six (6) calendar weeks of leave following childbirth.

An agency may require an employee to obtain subsequent medical certification to support the need for ongoing leave. An employee may be asked to periodically report on his or her status and intent to return to work following leave.

An employee who has been on FMLA leave due to a serious health condition may be asked to provide medical certification that the employee is able to resume work. Restoration to employment may be denied until the employee provides the fit-for-work certificate.

Supervisors will work with employees to accommodate requests for a reduced schedule or intermittent absences that are medically necessary. An agency will consider requests for reduced schedule or intermittent absences on a case-by-case basis for other reasons.

SUBSTITUTION OF PAID LEAVE Employee may request, or an agency may require, substitution of appropriate paid leave for unpaid leave provided by FMLA. For example, it may be appropriate to substitute accrued sick leave, annual leave, or compensatory time for unpaid FMLA leave. Approval to substitute paid leave is contingent upon the employee's compliance with applicable eligibility criteria and condition-for-use provision according to State policy. Therefore, the substitution of paid leave for unpaid leave will not be possible in every instance of FMLA leave.