



SECRETARY OF THE ARMY
WASHINGTON

22 JAN 2019

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Directive 2019-05 (Army Military Parental Leave Program)

1. References:

- a. Title 10, United States Code, section 704 (Use of leave; regulations).
- b. Memorandum, Under Secretary of Defense (Personnel and Readiness), March 23, 2018, subject: Parental Leave for Military Personnel in Connection with the Birth or Adoption of a Child.
- c. Department of Defense Instruction 1327.06 (Leave and Liberty Policy and Procedures), June 16, 2009 (incorporating Change 3, effective May 19, 2016).
- d. Army Regulation (AR) 600-8-10 (Leaves and Passes), 15 February 2006, Including Rapid Action Revision Issued 4 August 2011.
- e. Army Directive 2016-09 (Maternity Leave Policy), 1 March 2016 (hereby superseded).

2. Purpose. This directive establishes and consolidates policies, assigns responsibilities, and provides procedures for non-chargeable entitlements for Soldiers in connection with the birth or adoption of a child, which will collectively be known as the Army Military Parental Leave Program (MPLP). Policies and procedures established in this directive replace previously existing Army leave, pass, permissive temporary duty (PTDY), and convalescent leave policies related to pregnancy, childbirth, adoption, and parenthood. Terms and definitions related to this directive are at enclosure 1.

3. Applicability. This directive applies to Regular Army Soldiers on active duty, reserve component Soldiers performing active Guard and Reserve duty or full-time National Guard duty for a period in excess of 12 months, and reserve component Soldiers performing duty under a call or order to active service in excess of 12 months. These eligible Soldiers are referred to as "covered Soldiers" throughout this directive. A period of active service of a reserve component Soldier may not be extended to permit the Soldier to take leave authorized under the MPLP. However, a Soldier can be extended on active service after a qualifying birth event when a competent medical authority determines it is medically necessary.

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4. Effective Date. The entitlements outlined in this directive are retroactive to 23 December 2016. The following conditions apply for qualifying birth events or adoptions that occurred on or after 23 December 2016 through the date of this directive (the MPLP retroactive period):

a. Implementation of this policy will not negate or curtail any leave taken under existing leave policy.

b. Covered Soldiers who gave birth and received 12 or more weeks of non-chargeable maternity leave pursuant to reference 1e will be considered the designated primary caregiver and thus not entitled to retroactive primary caregiver leave or maternity convalescent leave. This limitation will also apply to Soldiers in a maternity leave status as of the date of this directive who have not yet completed their period of leave.

c. Subject to paragraph 4a, covered Soldiers who received 10 days of non-chargeable parental leave (commonly known as paternity leave) or up to 21 days of non-chargeable adoption leave may be retroactively designated as primary or secondary caregivers (in accordance with designation guidance for primary and secondary caregivers in paragraphs 6 and 7 of this directive) and receive a total of 42 days or no more than 21 days, respectively of non-chargeable leave (including any previously authorized leave) to be used within 18 months of the qualifying birth events or adoptions. Such totals include any chargeable ordinary leave a covered Soldier took in conjunction with the non-chargeable parental or adoption leave.

d. In the case of a covered Soldier married to another covered servicemember (for example, dual military couples), each Soldier may be retroactively designated as a primary or secondary caregiver (in accordance with the designation guidance) and receive the appropriate total amount of non-chargeable primary or secondary caregiver leave as stipulated in paragraph 4c. However, only one member of each couple may be designated as the primary caregiver and one designated as the secondary caregiver.

e. Covered Soldiers who are serving a period of active service or full-time National Guard duty as of the date of this directive may elect to have previously charged ordinary leave, which they used after the qualifying birth event or adoption, converted to non-chargeable leave (subject to the stated limits) or use the remainder of their non-chargeable leave entitlements within 18 months of the qualifying birth event or adoption. To request this conversion of ordinary leave to non-chargeable primary or secondary caregiver leave, covered Soldiers may submit a DA Form 4187 (Personnel Action) with supporting documents (DA Form 31 (Request and Authority for Leave)) through their supporting Defense Military Pay Office to the Defense Finance and Accounting Service.

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5. Leave Corrections. Soldiers who are no longer serving a period of active service or full-time National Guard duty cannot request corrections to their leave balances based on MPLP. They also cannot sell back unused leave resulting from retroactive primary and secondary caregiver leave.

6. Leave Entitlements Under the Army Military Parental Leave Program. Three types of non-chargeable leave are authorized under the MPLP. The process for requesting and documenting caregiver leave is at enclosure 2.

a. Maternity convalescent leave:

(1) is limited to a covered Soldier birthparent after a qualifying birth event. When a baby is stillborn or the covered member suffers a miscarriage, convalescent leave, other than maternity convalescent leave, may be granted pursuant to reference 1c.

(2) is limited to 6 weeks of non-chargeable leave, unless additional maternity convalescent leave is specifically recommended, in writing, by the medical provider of the covered member to address a diagnosed medical condition and is approved by the member's commander. A covered birthparent may, with the agreement of a medical provider, choose to receive a period of maternity convalescent leave that is less than 6weeks.

(3) must be taken immediately after childbirth, except that the leave will not begin until the first full day after the date a covered Soldier is discharged or released from the hospital (or similar facility) where the birth took place.

(4) may be taken consecutively with either primary or secondary caregiver leave, but must be taken before any caregiver leave (for a maximum of 12 weeks in conjunction with primary caregiver leave or 9 weeks in conjunction with secondary caregiver leave). If additional maternity convalescent leave is authorized and approved pursuant to paragraph 6a(2), the full period of the extended maternity convalescent leave will be taken before any caregiver leave, and the amount of caregiver leave will be reduced 1 day for each day of additional maternity convalescent leave taken (that is, any maternity convalescent leave in excess of 6 weeks). Primary or secondary caregiver leave must be started within 1 year (or 18 months with respect to the MPLP retroactive period) of a qualifying birth event or adoption.

(5) must be taken in only one increment.

(6) may be taken consecutively with approved chargeable (ordinary) leave. If taken in conjunction with ordinary leave, maternity convalescent leave may exceed the maximum limits in paragraph 6.a(2) if the commander approves. If taken with caregiver

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and ordinary leave, the Soldier must take the leave in this order: maternity convalescent leave, caregiver (primary or secondary) leave, ordinary leave.

(7) may not be disapproved by a commander.

(8) may not be transferred to create any kind of shared benefit.

(9) will be forfeited if unused at separation from active service.

b. Primary caregiver leave:

(1) is limited to covered Soldiers who meet the definition of, and are designated as, primary caregivers in conjunction with qualifying birth events or adoptions.

(2) is limited to 6 weeks of non-chargeable leave and must be taken within 1 year (or 18 months with respect to the MPLP retroactive period) of a qualifying birth event or adoption. A designated primary caregiver may choose to receive a period of primary caregiver leave that is less than 6 weeks.

(3) may be taken consecutively with maternity convalescent leave and/or approved ordinary (chargeable) leave. However, primary caregiver leave may not be taken consecutively with chargeable terminal leave and/or administrative absence for transition (commonly referred to as PTDY). If taken consecutively with maternity convalescent leave, primary caregiver leave must be taken after maternity convalescent leave. If not taken in conjunction with maternity convalescent leave, it must be started within 1 year (or 18 months with respect to the MPLP retroactive period) of a qualifying birth event or adoption. If taken in conjunction with ordinary leave (other than terminal leave or PTDY), the primary caregiver leave must be taken before the ordinary leave. If taken in conjunction with both maternity convalescent leave and ordinary leave (other than terminal leave or PTDY), the Soldier must take the leave in this order: maternity convalescent leave, primary caregiver leave, ordinary leave.

(4) must be taken in only one increment.

(5) may not be authorized in cases of a qualifying birth event when the child is given up for adoption or parental rights are terminated or surrendered.

(6) eligibility, or the leave itself if started, terminates upon the death of the child. However, in those cases, covered members may be transitioned to an emergency leave (chargeable) status pursuant to reference 1c.

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(7) will be forfeited if any portion remains unused at separation from active service. It will also be forfeited if not used within the time periods established in paragraph 6b(3).

(8) may not be transferred to create any kind of shared benefit.

c. Secondary caregiver leave:

(1) is limited to covered Soldiers who meet the definition of, and are designated as, secondary caregivers in conjunction with qualifying birth events or adoptions.

(2) is limited to 21 days of non-chargeable leave and must be taken within 1 year (or 18 months with respect to the MPLP retroactive period) of a qualifying birth event or adoption. A designated secondary caregiver may choose to receive a period of secondary caregiver leave that is less than 21 days.

(3) may be taken in conjunction with maternity convalescent leave and/or approved chargeable (ordinary) leave, except it may not be taken consecutively with chargeable terminal leave and/or administrative absence for transition or PTDY. If taken in conjunction with maternity convalescent leave, secondary caregiver leave must be taken after maternity convalescent leave. If not taken in conjunction with maternity convalescent leave, it must be taken within 1 year (or 18 months with respect to the MPLP retroactive period) of a qualifying birth event or adoption. If taken in conjunction with ordinary leave (other than terminal leave or PTDY), the secondary caregiver leave must be taken before the ordinary leave. If taken in conjunction with both maternity convalescent leave and ordinary leave (other than terminal leave or PTDY), the Soldier must take the leave in this order: maternity convalescent leave, secondary caregiver leave, ordinary leave.

(4) must be taken in only one increment.

(5) may not be authorized in cases of a qualifying birth event when the child is given up for adoption and/or parental rights are terminated or surrendered.

(6) eligibility, or the leave itself if started, terminates upon the death of the child. However, in those cases, covered members may be transitioned to an emergency leave (chargeable) status pursuant to reference 1c.

(7) will be forfeited if any portion remains unused at separation from active service.

(8) may not be transferred to create any kind of shared benefit.

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7. Designation of Primary and Secondary Caregivers

a. Primary and secondary caregiver designations will apply as those terms are defined in enclosure 1. The process for designating caregivers is at enclosure 3.

b. In the case of a qualifying birth event or adoption, the covered Soldier, within the constraints of the definitions in enclosure 1, will designate the child's primary caregiver. See paragraph 7e for information about designations for dual military couples.

c. Only one primary and one secondary caregiver may be authorized for each qualifying birth event or adoption.

d. In no case will a covered member be designated as both primary and secondary caregiver and permitted to receive both primary and secondary caregiver leave for the same qualifying birth event or adoption.

e. In the case of a dual military couple, one covered Soldier will be designated as the primary caregiver and the other covered Soldier as the secondary caregiver. Each will be granted the caregiver leave associated with those respective designations. Caregiver leave is not transferable between members of a dual military couple.

f. In the case of a member who desires designation as a primary or secondary caregiver for a qualifying birth event of a child(ren) born outside a marriage, the member's parentage of the child(ren) must be established pursuant to criteria prescribed by the Defense Enrollment Eligibility Reporting System. Proof of parentage may include, but is not limited to, being listed (with consent) as a parent on the child's birth certificate or other government-issued document and written acknowledgment of an obligation to support the child, either by voluntary agreement or court order. Registration within the system must occur within 30 days of the birth. A birthparent is not required to establish proof of parentage.

g. Designations of primary and secondary caregivers will be made as early as practicable. Under normal circumstances, designation should occur at least 60 days before the anticipated due date (in the case of a qualifying birth event) or anticipated date of a qualifying adoption.

8. Designation of Primary and Secondary Caregivers Who Are Currently Deployed or Within 3 Months of an Operational Deployment

a. Covered members who are operationally deployed or within 3 months of an operational deployment may be designated as a primary or secondary caregiver.

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b. A covered member who is operationally deployed normally will be required to defer the primary or secondary caregiver leave until the Soldier completes the deployment. However, in exceptional and compelling circumstances, caregiver leave may be granted to covered members who are operationally deployed if the commander determines the Soldier's leave will not adversely affect unit readiness. Higher level commanders may restrict this authority.

c. A member who is within 3 months of an operational deployment may:

(1) defer primary or secondary caregiver designation and/or caregiver leave until the operational deployment is completed, or

(2) use the 21 days of secondary caregiver leave if approved by the unit commander and the Soldier has been designated as a secondary caregiver.

d. Any period of deferral of caregiver leave under this section because of an operational deployment will not be counted against the 1-year period after a qualifying birth event or adoption in which members must take caregiver leave.

9. Primary and Secondary Caregiver Leave as it Relates to Surrogacy

a. Soldiers are not authorized to act as surrogates. In coordination with the Assistant Secretary of the Army (Manpower and Reserve Affairs), the Deputy Chief of Staff, G-1 will develop and promulgate any additional administrative procedures necessary to implement surrogacy, including appropriate internal controls applicable to commanders, in accordance with AR 11-2.

b. A covered Soldier whose spouse serves as a surrogate and gives birth is not entitled to primary or secondary caregiver leave.

c. When a covered Soldier (or a covered dual military couple) uses a surrogate and the member (or couple) becomes the legal parent(s) or guardian(s) of the child, the event will be treated as an adoption. The Soldier(s) will be entitled to either primary or secondary caregiver leave in accordance with this guidance.

10. Unused Military Parental Leave

a. Soldiers will forfeit any amount of primary or secondary caregiver leave remaining unused at the time of separation from active service.

b. Primary or secondary caregiver leave that is not started before the end of 1 year (or 18 months with respect to the **MPLP** retroactive period) from the date of a qualifying birth event or adoption will be forfeited.

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c. Subject to the requirements and guidance in paragraph 3, any leave authorized under the MPLP for a covered reserve component member that is not taken by the time the member is separated from active service will be forfeited:

(1) The period of active service of a covered reserve component member may not be extended to permit the member to take leave authorized under the MPLP.

(2) Covered reserve component members will not be recalled to active service for the use of any category of leave (either singly or in combination) under the MPLP.

11. Proponent. The Deputy Chief of Staff, G-1 is the proponent for this policy and will update AR 600-8-10 to incorporate the requirements of reference 1b and this directive with 2 years of the date of this directive.

12. Rescission. This directive is rescinded upon publication of the revised AR 600-8-10.



Mark T. Esper

Encls

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DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this Army directive.

Birth Event: Any live birth of a child(ren) to a Soldier (or spouse). Multiple births resulting from a single pregnancy (for example, twins or triplets) will be treated as a single birth event so long as the multiple births occur within the same 72-hour period. Multiple births that do not occur within the same 72-hour period will be treated as separate birth events. (In this case, maternity convalescent leave and primary or secondary caregiver leave must run concurrently but before expiration of the leave.)

Birthparent: The parent who gives birth.

Maternity Convalescent Leave: A 6-week convalescent period for a military member immediately following pregnancy and childbirth. Maternity convalescent leave, as with any convalescent leave, is non-chargeable. It will begin on the first full day after the date of discharge or release from a hospital (or similar facility) following childbirth.

Military Parental Leave: Any combination of the three types of non-chargeable leave associated with childbirth or adoption, including maternity convalescent leave, primary caregiver leave, and secondary caregiver leave. The collective program under which these types of non-chargeable leave occur is known as the Military Parental Leave Program.

Operational Deployment: An operational deployment begins when the majority of a unit or detachment, or an individual not attached to a unit or detachment, departs home port, station, or base, or departs from an en route training location to meet a Secretary of Defense-approved operational requirement.

An event is an operational deployment if it is recorded in the Joint Capabilities Requirement Manager or Fourth Estate Manpower Tracking System and is contained in the annual Global Force Management Data Initiative compliant tool under the Global Force Management Data Initiative reporting structure specified in Department of Defense Instruction 8260.03 (The Global Force Management Data Initiative (GFM DI)).

Forces deployed in support of execute orders, operational plans, or concept plans approved by the Secretary of Defense are also considered operationally deployed. An operational deployment ends when the majority of the unit or detachment, or an individual not attached to a unit or detachment, arrives back at their home port, station, or base. Forces operationally employed by Secretary of Defense orders at their home station or in "prepare-to-deploy" status at home station are not operationally deployed.

Primary Caregiver: The parent with the primary responsibility for caring for a child (in most cases the nonmilitary parent) in the case of a qualifying birth event or adoption. In some cases, the covered military member, including an unmarried non-birthparent with proof of parentage, may be designated as the primary caregiver. Such cases may include, but are not limited to, situations where the covered member is the birthparent, dual military couples where one member of the couple is designated as the primary caregiver, the unavailability or incapacity of the birthparent if the birthparent is not a military member, the death of one parent, or other circumstances where the covered military member must act as primary caregiver.

Primary Caregiver Leave: A 6-week period of non-chargeable leave granted to a designated primary caregiver for the care of a child obtained through a qualifying birth event or adoption.

Proof of Parentage: Birthparents are not required to establish proof of parentage. Other unmarried Soldiers desiring designation as a primary or secondary caregiver for a qualifying birth event must establish parentage in accordance with criteria prescribed by the Defense Enrollment Eligibility Reporting System (DEERS). Proof of parentage may include, but is not limited to, being listed (with consent) as a parent on the child's birth certificate or other government-issued document and written acknowledgment of an obligation to support the child, either by voluntary agreement or court order. Registration within DEERS must occur within 30 days of the birth.

Secondary Caregiver: The parent who is not designated as the primary caregiver. Secondary caregiver leave may be approved for an unmarried, non-birthparent if that Soldier's parentage of the child is established in accordance with criteria prescribed by the DEERS (see proof of parentage).

Secondary Caregiver Leave: A 21-day period of non-chargeable leave granted to a designated secondary caregiver for the care of a child obtained through a qualifying birth event or adoption.

Surrogacy: An agreement by a woman to undergo pregnancy so as to produce a child who will be surrendered to others.

Qualifying Adoption: An adoption that is arranged by a "qualified adoption agency" as that term is defined in Title 10, United States Code, section 1052.

PROCESS TO REQUEST AND DOCUMENT CAREGIVER LEAVE

1. Three types of non-chargeable absence are authorized under the Military Parental Leave Program (MPLP): maternity convalescent leave (42 days), primary caregiver leave (42 days), and secondary caregiver leave (21 days).
2. Maternity convalescent leave of up to 42 days for qualifying birth events will be authorized by the supporting military treatment facility or the Soldier's commander. Only a military treatment facility, the U.S. Army Reserve Command Surgeon's office, or the Regional Support Command Surgeon may approve maternity convalescent leave in excess of 42 days. All maternity convalescent leave exceeding 42 days will be deducted, one for one, from the birthparent's authorization for primary or secondary caregiver leave.
3. Soldiers will use DA Form 31 to request primary caregiver leave. The leave cannot be granted until after the Soldier requests designation as the primary caregiver. In block 7 of the DA Form 31, the Soldier will mark "other," then write in "primary caregiver." The commander, or designated approving authority, may approve primary caregiver leave. However, if the Soldier requesting primary caregiver leave is not the birthparent or is not legally married to the birthparent, the Soldier must first provide proof of parentage. In case of adoption, the Soldier must provide legal documentation that the adoption is finalized.
4. Soldiers will also use DA Form 31 to request secondary caregiver leave. The leave cannot be granted until after the Soldier requests designation as the secondary caregiver. In block 7 of the DA Form 31, the Soldiers will mark "other," then write in "secondary caregiver." The commander, or designated approving authority, may approve secondary caregiver leave. However, if the Soldier requesting secondary caregiver leave is not the birthparent or is not legally married to the birthparent, the Soldier must first provide proof of parentage. In case of adoption, the Soldier must provide legal documentation that the adoption is finalized.
5. Maternity convalescent leave will be entered on the DA Form 4179 (Leave Control Log), as "CM." Primary caregiver leave will be entered on the log under code "CP." Secondary caregiver leave will be entered on the log under code "CS."
6. The unit S1 or G1 will forward DA Form 31s for MPLP leave to the supporting Defense Military Pay Office. The Defense Finance and Accounting Service will temporarily track all three categories of MPLP leave as convalescent leave, but primary and secondary caregiver leave are not convalescent statuses.
7. Process a DA Form 31 for any of the MPLP leave statuses as convalescent leave (see AR 600-8-10, table 12-16 or table 12-17).

PROCESS TO DESIGNATE CAREGIVERS

1. Soldiers must submit a DA Form 4187 (Personnel Action) to request designation as a primary or secondary caregiver.
2. The DA Form 4187 must be submitted through the chain of command for the commander's approval before the S1 or G1 submits it to iPERMS for inclusion in the Soldier's personnel records.
3. The DA Form 4187 should be submitted about 60 days before the estimated date of birth or finalized adoption. However, caregiver leave cannot be granted until after the birth or finalized adoption of the child{ren). In addition, non-birthparents not legally married to the birthparent must provide proof of parentage before any form of caregiver leave may be granted.
4. In Section III of the DA Form 4187, the Soldier will check "Other," and type in "caregiver designation."
5. In Section IV of the DA Form 4187, Soldiers should use these comments:
 - a. The birthparent, if not married to another servicemember, will state either "I request designation as the primary caregiver for my child, who is due to be born on about DDMMYYYY," or "I request designation as the secondary caregiver for my child, who is due to be born on about DDMMYYYY."
 - b. The birthparent, if married to another servicemember, will state either "I request designation as the primary caregiver for my child, who is due to be born on about DDMMYYYY, and my spouse, GRADE Last, First, MI, will request designation as the secondary caregiver _____ (initials of spouse)," or "I request designation as the secondary caregiver for my child, who is due to be born on about DDMMYYYY, and my spouse, GRADE Last, First MI, will request designation as the primary caregiver _____ (initials of spouse)."
 - c. The non-birthparent, if having a child with another servicemember but not married to the other servicemember, will state either "I request designation as the primary caregiver for my child, who is due to be born on about DDMMYYYY, and I hereby certify that the birthparent, GRADE Last, First, MI, will request designation as secondary caregiver," or "I request designation as the secondary caregiver for my child, who is due to be born on about DDMMYYYY."
 - d. The non-birthparent, if married to another servicemember, will state either "I request designation as the primary caregiver for my child, who is due to be born on about DDMMYYYY, and my spouse, GRADE Last, First, MI, will request designation as the secondary caregiver _____ (initials of spouse)," or "I request designation as

the secondary caregiver for my child, who is due to be born on about DDMMYYYY, and my spouse, GRADE Last, First, MI, will request designation as the primary caregiver _____ (initials of spouse)."

e. The non-birthparent, if not married to the nonmilitary birthparent, will state either "I request designation as the primary caregiver for my child, who is due to be born on about DDMMYYYY," or "I request designation as the secondary caregiver for my child, who is due to be born on about DDMMYYYY."

f. For adoptions, a Soldier not married to another servicemember will state either "I request designation as the primary caregiver for my child, whose adoption will be finalized on about DDMMYYYY," or "I request designation as the secondary caregiver for my child, whose adoption will be finalized on about DDMMYYYY."

g. For adoptions, a Soldier married to another servicemember will state either "I request designation as the primary caregiver for my child, whose legal adoption is due to be finalized on about DDMMYYYY, and my spouse, GRADE Last, First, MI, will request designation as the secondary caregiver _____ (initials of spouse)," or "I request designation as the secondary caregiver for my child, whose legal adoption will be finalized on about DDMMYYYY, and my spouse, GRADE Last, First, MI, will request designation as the primary caregiver _____ (initials of spouse)."