

Your Family Medical Leave Act (FMLA) Rights

FMLA gives eligible employees of a covered employer the right to take unpaid, job-protected, leave for a period of up to 12 work weeks in any 12-month period. FMLA leave is contingent upon the following factors:

Qualifying Leave Reasons:

FMLA allows eligible employees to take leave for the following reasons:

- For the birth and care of a newborn child of the employee;
- For placement with the employee of a son or daughter for adoption or foster care;
- To care for a spouse, son, daughter, or parent with a serious health condition; or
- For medical leave when the employee is unable to work due to his or her own serious health condition.

Military Leave

Eligible employees with a spouse, son, daughter or parent on active duty status or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period.

A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty.

Eligible Employee

To be eligible for FMLA benefits, an employee must satisfy **ALL** of the following conditions:

- Have worked for the employer for a total of 12 months;
- Have worked at least 1,250 hours over the previous 12 months; and
- Work at a location in the United States or in any territory or possession of the United States where at least 50 employees are employed by the employer within 75 miles.

While the 12 months of employment need not be consecutive, employment periods prior to a break in service of seven years or more need not be counted unless the break is occasioned by the employee's fulfillment of his or her National Guard or Reserve military obligation.

12-Month Period Determined for FMLA

An employer may choose the method for determining the 12-month period. Most employers calculate it on a rolling year basis starting at the time the FMLA leave begins.

Notification Requirements

Employees must provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable. When 30-day notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employers require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by an authorized health care provider.

Medical Certification

The Certification of Health Care provider forms are available on the Department of Labor website as well as through your employer.

A separate Certification of Health Care provider form is required for each condition for which an employee is requesting leave.

An employer may use a health care provider, a human resource professional, a leave administrator, or a management official to authenticate, review, and/or clarify a medical certification of a serious health condition.

An employer can require a second or third medical opinion (at the employer's expense).

Maintenance of Health Benefits

FMLA does not require continuation of non-health benefits but all the employee's benefits must be restored to their previous status upon return to work. If a lapse occurs, the employer cannot require current evidence of insurability or exclude coverage for conditions arising while the employee was on FMLA leave and not covered by the plan.

Health Insurance Administration

- If an employee fails to pay his/her share of the health insurance premium during leave, the regulations permit the employer to cancel the employee's insurance.
- There is a required minimum grace period of 30 days and the employer must send a written notice of the cancellation at least 15 days before the coverage will cease.
- Once the employee returns to work, health insurance must be restored without condition.

Premium Payment

- If an employer elects to continue health coverage for an employee by paying the employee's share and the employee fails to return to work at the end of FMLA leave, the employer may recover all of the health benefit premiums it paid for group health coverage (both the employer's share and the employee's share) during the period of unpaid FMLA leave.