

## What is FMLA?

The **Family Medical Leave Act** was signed into law in 1993 to balance needs of employers and employees in circumstances when employees must take extended medical leaves for serious medical conditions, including pregnancy, or to care for family members. The purpose of the law is to protect employee jobs in these circumstances. It does not necessarily pay the employee during this time, if the employee does not otherwise have paid time off (sick days, vacation, personal days).

A "covered employer" is an employer: "who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year."

Eligible employees are those who

- Have worked for their covered employer at least a year (not necessarily consecutive), and
- Have worked at least 1,250 hours during the 12-month period immediately before the leave, and who
- Work at a location where at least 50 employees are employed at the location or within 75 miles of the location.

## What Are the Main Provisions?

FMLA provisions require employers to grant eligible employees up to 12 weeks of unpaid leave, for one or more of the following:

- for the birth and care of the newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- take medical leave when the employee is unable to work because of a serious health condition.

The term "serious health condition" is defined specifically in the law.

## What else should I know about this law?

Medical certification is required to be presented to the employer to validate the reason for the leave request.

The FMLA **does not require the employer to pay** the employee; it is intended **only to protect the employee's job and status during this time**. Pay for the employee is determined by the availability/use of sick time/vacation/personal days, and by any long term disability coverage. The law states that "Employees may choose to use, or employers may require the employee to use, accrued paid leave to cover some or all of the FMLA leave taken."

The 12 workweeks do not have to be consecutive, nor are complete days required to be taken; the employee may take intermittent leave or work on a reduced schedule, the time in any increments and periods of time allowed by the employer.

The employer is required to continue health benefits (including family coverage) for an employee who is on FMLA leave.

## **How Does FMLA work with Military leave?**

Included in the new FMLA regulations were brand new final rules that flesh out the workings of the January 2008 military family leave statute, passed as part of the National Defense Authorization Act.

That legislation created two new FMLA benefit entitlements:

- 1) qualifying exigency leave under which eligible employees may take up to 12 weeks of FMLA leave for reasons related to the call to active duty of covered service member spouses, children, or parents; and
- 2) **Military caregiver leave**, which gives employees up to 26 weeks of leave in a single 12-month period to care for a seriously injured or ill covered service member.

### **The FMLA Guidelines state:**

Upon return from FMLA leave, an employee must be restored to his or her original job, or to an "equivalent" job, which means virtually identical to the original job in terms of pay, benefits, and other employment terms and conditions. In addition, an employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using (but not necessarily during) FMLA leave.

Employers must display a poster in a "conspicuous place" in each location, letting employees know about FMLA provisions, and employers must comply with FMLA recordkeeping and reporting requirements of the DOL/WHD.

Some states have their own versions of FMLA laws.

### **Where Can I Find Details From The Federal Government?**

The FMLA is administered by the U.S. Department of Labor's Wage and Hour Division.