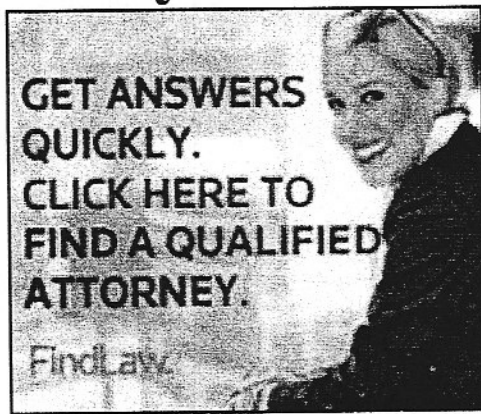


Family and Medical Leave: Overview



The Family and Medical Leave Act (FMLA) is a federal law that lets covered employees take extended time away from work, to handle certain family or medical needs. Many states have similar laws that may provide additional coverage above and beyond that outlined in the FMLA. Following is a brief discussion of employees' rights under the FMLA.

Covered Employers

Not every employer is required to provide its employees with family or medical leave. Federal law states that an employer is required to provide eligible employees with leave if the employer is either:

- A state, local, or federal governmental agency; or
- A private business engaged in, or affecting, interstate commerce, that employed fifty or more employees in twenty or more weeks in the current or prior calendar year.

This criteria may sound complicated, but in reality virtually every business in the U.S. engages in, or affects, interstate commerce. The "fifty or more employees" standard includes everyone on the employer's payroll, including part-time employees, employees on approved leave, and leased or temporary employees.

Covered Employees

An employee who works for a covered employer is eligible for leave if he or she worked for the employer for at least twelve months, and for at least 1,250 hours over the twelve months immediately preceding the need for leave. The employee must also work at a worksite in the United States, or a U.S. territory, at which the employer has at least fifty employees within seventy-five miles.

The requirements set out here are those under the federal FMLA. Laws in your state may have other requirements that provide leave to more (or different) employees.

What Leave is Provided?

A covered employer must provide eligible employees with a maximum of twelve weeks of leave. The leave may be unpaid, but it may be combined with accrued paid leave (such as vacation or sick leave).

An eligible employee may take leave:

- For the birth, adoption, or placement of a child;
- To care for a spouse, minor, or incompetent child, or parent who has a "serious health condition" (more on this below); or

- To handle the employee's own serious health condition that makes him or her unable to work.

A "serious health condition" is defined as an illness, injury, impairment, or condition that involves:

- Hospital care;
- Absence from work, plus continuing treatment;
- Pregnancy;
- Treatment for a chronic condition;
- Permanent long-term supervision; or
- Multiple treatments.

Employees may be required to provide advance notice, if possible, and medical certification of the need for leave. An employer who provides health insurance is required to maintain coverage for an employee on leave on the same terms as if the employee had continued to work.

Returning to Work

When an employee returns from leave granted by the FMLA, he or she is entitled to be restored to his or her former job, or to an equivalent job, with equivalent pay, benefits, and other terms of employment. Taking leave may not result in the loss of any benefit to which an employee was entitled before taking leave, and may not be counted against an employee under a "no-fault" attendance policy.

Certain employees may be denied restoration of their jobs if returning them to their former positions would result in substantial and grievous economic harm to the employer. A "key" employee is defined as a salaried employee who is among the highest paid ten percent of the employees within a seventy-five mile radius. An employer must notify an employee that he or she is a key employee when the employee gives notice of intent to take leave, and must notify the employee when a decision is made to deny reinstatement.

Your Rights under the Family and Medical Leave Act of 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for their employer for at least one year, and for 1,250 hours over

the previous 12 months, and if there are at least 50 employees within 75 miles. The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

Reasons for Taking Leave:

Unpaid leave must be granted for *any* of the following reasons:

- to care for the employee's child after birth, or placement 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 the employee's job.

At the employee's or employer's option, certain kinds of *paid* leave may be substituted for unpaid leave.

Advance Notice and Medical Certification:

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable."
- An employer 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) and a fitness for duty report to return to work.

Job Benefits and Protection:

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."

- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot 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 for any employer to:

- interfere with, restrain, 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.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

For Additional Information:

If you have access to the Internet visit our FMLA website: <http://www.dol.gov/esa/whd/fmla>. To locate your nearest Wage-Hour Office, telephone our Wage-Hour toll-free information and help line at 1-866-4USWAGE (1-866-487-9243): a customer service representative is available to assist you with referral information from 8am to 5pm **in your time zone**; or log onto our Home Page at <http://www.wagehour.dol.gov>.



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Notice for Employees Requesting Leave for Conditions Covered by the Family and Medical Leave Act

Under the Family and Medical Leave Act (FMLA), employees have certain obligations to provide notice and information such as medical certification to their employers. Failure to provide such notice, medical certification, or other required supporting information could result in denial of leave or other protections afforded under the Act.

I. Qualifying Conditions

The FMLA provides that, if you meet the eligibility requirements, you must be allowed to take time off for up to 12 workweeks in a leave year for the following conditions:

1. Because of the birth of a son or daughter (including prenatal care), or in order to care for such son or daughter. Entitlement for this condition expires 1 year after the birth.
2. Because of the placement of a son or daughter with you for adoption or foster care. Entitlement for this condition expires 1 year after the placement.
3. In order to care for your spouse, son, daughter, or parent who has a serious health condition. Also, in order to care for those who have a serious health condition and who stand in the position of a son or daughter to you or who stood in the position of a parent to you when you were a child.
4. Because of a serious health condition that makes you unable to perform the essential functions of your position.

II. Eligibility

For an absence to be covered by FMLA, you must have been employed by the Postal Service™ for a total of at least 1 year **and** must have worked a minimum of 1,250 hours during the 12-month period before the date your absence begins. Once eligible for a given condition, if your work hours subsequently fall below 1,250 during the Postal Service leave year, your eligibility for FMLA-protected absences for that condition remains in effect for the duration of the leave year. However, if a second and unrelated condition arises in the leave year, you must meet the 1,250 eligibility test anew in order to obtain FMLA-protected leave for that (i.e., second) reason.

III. Type of Leave or Pay

Absences counted toward the 12 workweeks allowed for the qualifying conditions can be any one or a combination of the following:

1. Time off you take as annual leave, sick leave, and/or leave without pay (LWOP) in accordance with current leave policies and collective bargaining agreements.
2. In the case of job-related injuries or illnesses, time off during which you are receiving continuation of pay (COP) and/or time during which you are placed on the Office of Workers' Compensation Program (OWCP) payroll.

IV. Documentation on Request for Absence

Supporting documentation is required for your absence request to receive final approval.

Documentation requirements may be waived by your supervisor in specific cases. *However, failure to provide requested medical or other documentation could result in a denial of FMLA-protected leave and/or paid leave.*

1. **For qualifying condition (1) or (2)** — you must provide the birth or placement date.
2. **For qualifying condition (3) or (4)** — you must provide documentation from the health care provider.
 - a. **In both of these cases** — the medical report must include:
 - (1) The health care provider's name, address, phone number, and type of practice, and the patient's name.
 - (2) A certification that the patient's condition meets the FMLA definition of *serious health condition*, supporting medical facts, and a brief statement of how the medical facts meet the definition's criteria.
 - (3) The approximate date the serious health condition commenced, its probable duration, and the probable duration of the patient's present incapacity, if different.
 - (4) Whether it is a medical necessity that you be absent intermittently or work on a reduced schedule as a result of the serious health condition; and, if so, the probable duration of such schedule; an estimate of the probable number of, and the interval between, treatments and/or episodes of incapacity; the period required for recovery, if any; and whether the medical need for absence is best accommodated through intermittent absence or a reduced work schedule.
 - b. **For absence due to pregnancy or a chronic serious health condition** — the medical certification must include whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.
 - c. **If additional or continuing treatments are required** — the medical certification must include the nature and regimen of the treatments, an estimate of the probable number of treatments, the length of absence required by the treatments, and actual or estimated dates of the treatments, if known.
 - d. **For absence due to your own serious health condition, including pregnancy, a permanent or long-term condition, or a chronic condition** — the medical certification must include whether you are unable to perform work of any kind, parts of the job you are unable to perform, and whether you must be absent for treatments.
 - e. **For absence to care for a family member with a serious health condition** — the medical certification must include whether the patient requires assistance for basic medical or personal needs or safety or for transportation; or, if not, whether your presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery, and the probable duration of the need for care on an intermittent or reduced work schedule basis. You must indicate on the form the care you will provide and an estimate of the time period.
3. **If the serious health condition is a result of a job-related injury or illness** — the documentation requirements are provided separately in accordance with Injury Compensation policies and procedures.

4. **If the time off requested is to care for someone other than a biological parent or child** — appropriate explanation or evidence of the relationship may be required.

Supporting information that is not provided at the time of the request for absence must be provided within 15 days of receipt of notice, unless this is not practical under the circumstances. If the Postal Service questions the adequacy of a medical certification, a second opinion may be required. If the first and second opinions differ, a third and final opinion may be required. These opinions are obtained off the clock. However, the Postal Service will pay for these opinions, plus reasonable out-of-pocket travel expenses incurred to obtain the opinions. Employees may be required to provide recertification periodically. During your absence, you must keep your supervisor informed of your intentions to return to work and status changes that affect your ability to return.

V. Benefits

Health Insurance — to continue your health insurance during your absence, you must continue to pay the employee portion of the premiums. This payment continues to be withheld from your salary. If the salary for a pay period does not cover the full employee portion, you will be invoiced and are required to make the payment.

Life Insurance — your basic life insurance and any optional life insurance that you carry continue while you are in a pay status. In an LWOP status, these are continued at no cost to you for one (1) year. After you are in a non-pay status for one (1) year, this coverage is discontinued, but you have the option to convert the coverage to an individual policy within thirty-one (31) days of the discontinuance in accordance with the Office of Personnel Management's (OPM) current Federal Employee Group Life Insurance policy on conversion. See OPM's Web site at <http://www.opm.gov/insure>.

Flexible Spending Accounts (FSAs) — if you participate in the FSA program, see your employee brochure for the terms and conditions of continuing coverage during leave without pay.

VI. Placement and Documentation on Return to Duty

At the end of your FMLA-covered absence, you will return to the same position you held when the absence began (or to an equivalent position) provided you are able to perform the essential functions of the position and would have held that position at the time you returned had you not taken the time off. If you are returning to work after an absence due to your own incapacitation, you must provide certification from your health care provider that you are able to return to work and perform the essential functions of your position.

In addition, if you are a bargaining unit employee returning to work from your own serious health condition, management may require more detailed return-to-work clearance when there is a reasonable belief, based upon reliable and objective information, that you may not be able to perform the essential functions of your position or that you may pose a direct threat to the health or safety of yourself or others due to your medical condition.

Your return-to-work medical certification must be detailed medical documentation and not simply a statement that you may return to work. There must be sufficient information to make a determination that you can perform the essential functions of your job and do so without posing a hazard to yourself or others. In addition, the documentation must note whether there are any medical restrictions or limitations on your ability to perform your job and any symptoms that could create a job hazard for you or other employees.

You should provide your return-to-work certification, whether you are a bargaining or nonbargaining unit employee, as soon as your physician anticipates your return to work, and no later than one workday before the anticipated return-to-work date. Providing this certification as early as possible will facilitate the return-to-work process and help you avoid unnecessary delays due to incomplete medical information. The medical information requested is basic to the treatment provided by the physician and should be readily available. There is no need for a diagnosis or other private information to be included.

A Postal Service medical officer will evaluate the medical information and make an individual assessment of your suitability for return to work based on the essential functions of your position.