

The easy way to understand the Family Medical Leave Act

Knowing Your Rights Under The Federal FMLA

How did FMLA become Law?

- ❖ **Debated for 8 years in Congress**
- ❖ **Voted on 13 times**
- ❖ **Vetoed twice by President Bush I**
- ❖ **Signed into Law in 1993 by President Clinton**

Who is Covered by the FMLA?

- ❖ **Employers with 50 or more employees in one location or**
- ❖ **An employer with 50 employees within a 75 mile radius**
- ❖ **Employee must have worked for the employer for at least**
 - **12 months and**
- ❖ **Worked at least 1250 hours in the last 12 months**

Reasons to Use FMLA

- ❖ **Medical Leave (Employee)**
- ❖ **Family Leave (Child, Spouse, Parent)**
- ❖ **Childbirth/Newborn Care Leave**
- ❖ **Adoption/Foster Placement Leave**

Serious Health Condition Defined

- ❖ **Inpatient hospital care (over-night stay)**
- ❖ **Injury, illness or condition lasting more than three consecutive calendar days that involves medical treatment**
- ❖ **Pregnancy**
- ❖ **A chronic serious health condition**
- ❖ **A long-term or disabling health**
- ❖ **A condition requiring multiple treatments to prevent a period of incapacity of more than three days**

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Some Conditions Considered Serious

Severe Arthritis
Asthma
Diabetes
Back injuries
Colitis
Depression, or other stress-related disorders

Epilepsy
Heart Conditions
Migraine Headaches
Kidney Stones
Pneumonia
Alzheimer's
Cancer

Some Conditions Not Considered Serious

Colds
Earaches
Flu
Headaches (other than migraines)
Minor Ulcers

Periodontal disease
Routine Dental disease and orthodontic problems
Upset stomach
Chicken Pox

Health Care Providers

Physicians
Optometrists
Osteopaths
Chiropractors
Dentists
Clinical Psychologists

Nurse Practitioners
Christian Science Practitioners
Clinical Social Workers
Other providers recognized by your health insurance plan
Nurse-midwives

How much time can I use?

The FMLA allows for 12 weeks of leave in a 12 month period

The 12 weeks can be taken all at once or at different times for different reasons

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Intermittent Leave Examples

- ❖ **Mary is having a difficult pregnancy and often has morning sickness. As a result, she is often late to work or absent. She can use FMLA leave for these occasions.**
- ❖ **John has cancer and is sometimes absent from work due to receiving Chemotherapy. John can use FMLA leave for these occasions.**

Can I work Part-Time?

- ❖ **The FMLA allows you to work a part-time schedule if needed because of your own health condition or a family member's health condition.**

Example of a Part-time Schedule

- ❖ **Sally's mother is very ill. She and her sister are sharing the responsibility of caring for her. Sally is able to care for her in the morning, while her sister cares for her in the afternoon. Sally is able to request FMLA leave from her job during the morning hours and work a part-time schedule in the afternoon.**

Example of a Part-Time Schedule

- ❖ **Ray has had back surgery and his doctor has instructed him work a half-time schedule. The FMLA allows for Ray to work a half-time schedule for up to 24 weeks (equal to 12 full weeks).**

What about Light-Duty?

- ❖ **The employer cannot force you to work light-duty instead of taking FMLA leave. See Preamble of DOL FMLA Regs. WH Publication 1419 p. 25**

Is FMLA Leave Paid Leave?

- ❖ **The FMLA grants the right to unpaid leave.**
- ❖ **However, employees may be able to use accrued vacation, personal, or sick leave during an FMLA absence.**
- ❖ **Also, an employer may be able to require that an employee use accrued time, unless prohibited by a collective bargaining agreement.**

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Workers' Compensation

- ❖ **An employer may designate you, if you qualify, as being on FMLA leave while you are on Worker's Compensation leave, unless prohibited by a collective bargaining agreement.**
- ❖ **FMLA leave is a subject of bargaining. See International Association of Firefighters, Local 1749 v. City of Butler, Pa (2001)**

Can FMLA Be Used Against Me?

- ❖ **You cannot be disciplined or harmed in any way as a result of using the FMLA.**
- ❖ **Also, FMLA leave should not be counted as "occasions" of absenteeism.**

Notifying the Employer

- ❖ **Give 30-days notice, when possible**
- ❖ **You need not mention FMLA when requesting leave.**
- ❖ **The employer may request documentation. You have 15 days to provide information.**

Examples of Notification

- ❖ **I broke my leg last night. I will be out of work for 10-12 weeks.**
- ❖ **My wife has serious health condition, I will be taking time off to care for her.**

Caring for Sons and Daughters

- ❖ **Biological children**
- ❖ **Adopted children**
- ❖ **Foster children**
- ❖ **Stepchildren**
- ❖ **Child for whom you are a legal guardian**
- ❖ **Child for whom you are in loco parents**

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Caring for a Spouse

- ❖ **The FMLA recognizes a spouse as a person who is a “legal” spouse under State law.**
- ❖ **Note: Connecticut statutes do not recognize “common-law” marriages.**

Caring for a Parent

- ❖ **Biological parents**
- ❖ **Adoptive parents**
- ❖ **Foster parents**
- ❖ **Those who were in loco parentis for you when you were a child**
- ❖ **The Federal FMLA does not recognize parents “in-law”**

Medical Insurance

- ❖ **While on FMLA leave,, the employer must maintain your health insurance coverage just as if you were still at work.**

Returning to Work

- ❖ **You should be returned to the same position or to a position that is “substantially” similar.**
- ❖ **You may be required to provide information that indicates you are able to return to work.**

What if I am denied FMLA?

- ❖ **The U.S. Department of Labor, Wage and Hour Division enforces the FMLA**
- ❖ **1-800-959-FMLA**
- ❖ **www.dol.gov**

Connecticut FMLA Laws

- ❖ **State employees may, in a 24 month period, take up to 24 weeks or FMLA leave to care for themselves or up to 24 weeks to care for a family member.**
- ❖ **Private Sector employees may, in a 24 month period, take up to 16 weeks of FMLA leave, Parents “in-law” are included.**

Sources

- ❖ **AFSCME website: www.afscme.org**
- ❖ **“The FMLA Handbook: A Practical Guide to the Family Medical Leave Act for Union Members and Stewards”, by Robert M. Schwartz**