

FMLA Q&A

What is FMLA?

It is a federal regulation that provides job protection to eligible employees who are out due to:

- A serious health condition
- Care for family member with a serious health condition
- Incapacitated due to pregnancy, prenatal care or child birth
- The birth, adoption or foster care placement of a child
- Paternity/Baby Bonding
- Care for a Service Member
- Qualifying Exigencies for family member on active duty.

What makes a company FMLA eligible?

Any company with 50 or more employees in a 75 mile radius in the US must offer FMLA.

Who is eligible for FMLA?

Any employee who has worked at least 1250 hours in the past 12 months for an eligible company. Additionally the employee must have been employed by your current eligible employer for 12 months.

WORK & WELL

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Family and Medical Leave Act (FMLA) Questions & Answers for Supervisors



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How does FMLA protect my employee's job?

The federal regulations mandate that when an employee out on FMLA returns to work, they must be returned to their original or equivalent position.

How much time can employees take off while on FMLA?

Eligible employees are allowed up to a total of 12 weeks of consecutive or intermittent leave in a 12 month period. Caregivers for injured Service Member can take 26 weeks of leave in a 12 month period.

Can an employee have more than 1 FMLA case?

Yes. An employee is allowed 12 weeks total of FMLA time in a 12 month period regardless of the number of FMLA cases open.

What are the criteria for a serious health condition?

- Pregnancy
- Hospital Care
- Absence Plus Treatment
- Chronic Condition and seeing a health care professional 2x a year for treatment
- Permanent/Long Term Condition requiring supervision
- Multiple Treatments

The condition must prevent the employee from performing one essential job function.

When should I offer an employee FMLA?

It is best to inform an employee of FMLA than not to. Always inform an employee of FMLA if they were out for more than 3 consecutive days, frequently are calling out or noticed a change in their work habits possibly due to a medical condition.

How soon after an employee provides notice for leave must we notify the employee that the leave will count as FMLA leave?

Within 5 business days.

What is Intermittent FMLA?

Intermittent FMLA is taking time in periodic increments vs. one straight block. The employer must track the time used.

Can an employee be transferred to a different position while on Intermittent FMLA?

Yes, if it better accommodates the employees time out of work. The position must have equal pay and benefits.

Can an employee be layed off while on FMLA.

Yes, FMLA does not protect the employee from a down-sizing that would occur whether the employee was working or on a disability.

Does light duty count against FMLA time?

No, but reduce scheduled time does count.

When is a second opinion on an employee's medical condition necessary?

A second opinion or and an Independent Medical Exam (IME) is used to verify an employee's condition by a doctor other than their own. An IME is typically used when abuse is suspected to verify the medical validity of the case.

What are employers FMLA posting requirements.

In a conspicuous place, employers must post a general notice explaining FMLA provisions and procedures for filing a claim. Failure to do so can result in a fine.

Is an employee required to follow an employer's normal call-in procedures while taking FMLA leave.

Yes. Failure to do so can be grounds for disciplinary actions. Additionally, the employee must state the absence is for FMLA to be counted.

Can mandatory overtime be counted against an employee's FMLA time.

Yes.

How often can you ask an employee to recertify their FMLA case?

You can ask for recertification of a case from every absence to once a year. Work & Well recommends a minimum of every 6 month recertification and more frequently for suspected abusers