

# EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND EMPLOYMENT DIVISION

## LEAVE ENTITLEMENTS

Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within one year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform his or her job functions;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise appropriate, an employee may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employer substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's policies and procedures for accrued paid leave.

While employees are on FMLA leave, employers must continue health insurance coverage as if the employee were still working.

Upon return from FMLA leave, most employees must be restored to the same job or one that is substantially equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for exercising FMLA rights, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under the FMLA.

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave;\* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

\*Special "hours of service" requirements apply to airline flight crew employees.

## BENEFITS & PROTECTIONS

## ELIGIBILITY REQUIREMENTS

## REQUESTING LEAVE

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30 days' advance notice, an employee must notify the employer as soon as possible and, generally, follow the employer's policies and procedures for requesting leave.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer to determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that continuing medical treatment is necessary. Employees must inform the employer if the need for FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If an employer requires a certification, the employee must provide it to the employer.