

The Family & Medical Leave Act (FMLA)

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Learning Objectives

- FMLA protections, eligibility and entitlements
- Qualifying events and other special leave considerations
- Supervisors & Supervisor Training
- Managing intermittent FMLA
- Leave Management at the University of Iowa
- Resources

What is the Family & Medical Leave Act?

- The Family & Medical Leave Act provides job-protected, unpaid leave for up to a total of 12 workweeks per year.
- Employee continues to receive salary increases while on FMLA.
- Employee's health insurance benefits and the employer's contribution to health insurance are maintained while on FMLA leave
- Employee has the right to return to same or equivalent position with the same benefits

FMLA Eligibility

Eligible employer:

All public employers, including federal and state; elementary and secondary schools, and private employer who employs 50 or more employees within a 75-mile radius of the worksite.

Eligible employee:

1. Must have worked for a covered employer for a total of twelve months without a break in service of greater than 7 years.

-AND-

2. Must have worked 1250 actual hours in the preceding 12 months prior to the need for leave.

FMLA Qualifying Events



I. Serious Health Condition

1. Inpatient care (overnight admission)
2. Incapacity of more than three consecutive, full calendar days (does not need to be consecutive scheduled work days) -and- subsequent treatment:
 - A. Two or more in-person visits to a health care provider for treatment within 30 days of the first day of incapacity. The first visit must be within seven days of the first day of incapacity; or,
 - B. At least one in-person visit to a health care provider within seven days of the first day of incapacity, which results in a regiment of continuing treatment under the supervision of the HCP (i.e., prescription medication, physical therapy)

FMLA Qualifying Events



II. Chronic Condition (intermittent leave):

- Any period of incapacity due to or treatment for a chronic health condition which:
 - Requires visits to a health care provider at least twice a year, and continues over an extended period of time

III. Birth of a child, adoption, or foster care

Other Qualifying FMLA Events

- IV. Permanent or long term period of incapacity required by a condition that may or not respond to treatment (Alzheimer's, terminal stages of a disease)
- V. Exigency leave for spouse, son, daughter, or parent who is a military member on active duty or ordered to covered active duty.
- VI. Up to 26 workweeks to care for a covered service member with a serious injury or illness

FMLA Employer Obligations

- Notice of Rights & Responsibilities - within 5 business days
- Medical Certification - 15 calendar days (an additional 7 calendar days to satisfy any deficiencies)
- Designation Notice - within 5 business days

FMLA for spouses working for the same employer

Qualifying leave reasons for which spouses are subject to the combined limitation:

1. Birth of a child and bonding time with the newborn child
2. Placement of child with the employee for adoption or foster care and bonding time with the newly-placed child
3. Care of a parent with a serious health condition
4. Care for a covered service member with a serious injury or illness.

Supervisors & Supervisor Training



1. What supervisors can and can not discuss with the employee?
 - Can ask about: time off needs, medical restrictions, accommodation needs
 - Can not ask about: diagnosis, medications, or other specific health information
2. Sharing information with other employees, colleagues, or others.
3. Identifying a disclosure of a leave event and how to respond
4. FMLA Retaliation and Interference

When can you talk to the health provider?

- First must allow employee to cure any deficiencies
- To authenticate medical information - verify the information was completed by the health care provider
- To clarification medical information - to understand the handwriting or to understand the meaning of a response.
- No other information may be solicited

Re Certifications

- No more than every 30 days in conjunction with an absence
- May request before 30 days IF: circumstances have changed significantly or we have information that casts doubt on the validity of the leave.
- If condition will last more than 30 days must wait the minimum duration before requesting
- Every six months regardless of duration -with- an employee absence

Annual Certifications

- Renew annually in conjunction with an absence
- Exercise your right to get a new health certification annually
- Can use second and third opinion options with annual certifications

Managing intermittent leave

- Require employees to follow call in procedures
- Address absences that exceed the designated frequency and duration
- Require recertification if employee consistently exceeds their designation
- Ask the THP to verify absences are in line with the health condition
- When a wide range of intermittent leave is stated on the health cert what are options?
- Monitor FMLA usage closely and code time accurately

UI Centralized Leave & Disability Management



- Training for all supervisors
- FSDS Consultation Form
- FSDS Database
- eMedical File System
- Metrics

Case Examples & Topic Discussion

Seriously, I have to give how much leave?

Taking Dad to Vegas to play slots

Heading on vacation to Cancun for my depression

Is it elective or cosmetic?

The most FMLA events of all time?

I can't call in to work BECAUSE of my health condition

FMLA Resources

- [Department of Labor Website](#)
- [FMLA Insights blog](#)
- [EEOC Website](#)
- [DOL Employer's guide](#)
- [DOL Employee's guide](#)
- Twitter: @useeoc, @jeffreysnowak, @FramNELI

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Thank You!!

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