

Questions and Answers About the Family and Medical Leave Act (FMLA)

What is the Family and Medical Leave Act (FMLA)?

FMLA is a federal law that entitles employees to 12 weeks of unpaid leave for qualifying medical and family reasons. This time can be used over the course of 12 months for medical and family reasons. If taking leave to care for an injured servicemember, an employee is eligible for a one-time allotment of 26 weeks of leave in a single 12-month period.

When can an employee take FMLA?

You are eligible to take FMLA for:

- The birth of a child
- Adoption or foster care
- Care for your own serious health condition
- Care for a child, spouse or parent with a serious health condition
- Care for a child, spouse, parent or next of kin who is an injured servicemember
- The need to be with a child, spouse, parent or next of kin who is on active duty or call to active duty status in support of a contingency operation

How do I know if I am eligible for FMLA?

An employee must meet two requirements to be eligible for FMLA:

- You must have worked for your employer for at least 12 months, and
- You must have worked at least 1,250 hours during the last 12 months

Will an employee be paid for hours protected under FMLA?

No. FMLA does not require your employer to pay you during your leave. In some circumstances, accrued paid sick leave or vacation time may be used.

How is “family” defined under FMLA?

Family members are defined under FMLA as:

- The employee’s parent
- The employee’s child, including adult children who are incapable of caring for themselves
- The employee’s spouse when having a serious medical condition
- The employee’s “next of kin,” but only in situations of caring for an injured service member

Can an employee take a few hours every week to take a family member to a medical appointment?

Yes. Family leave may be taken intermittently when medically necessary. An employee may take leave in blocks of time such as an hour, a half-day, a day, a week, four weeks or 12 weeks to care for a family member if certified by your health care provider.

Will an employee have the same job when they returns from FMLA leave?

The employer must reinstate an employee to the position held before leave began or must provide a position that has the same benefits, pay, working conditions and seniority.

Will an employee have insurance while on leave?

The employer must continue to pay for the employee's health insurance coverage as it normally would. If an employee contributes to the health insurance plan the employee is required to continue making payments while on leave.

Can an employer stop making insurance payments?

Yes. If an employee does not return to work after 12 weeks or if an employee tells the employer that they do not intend to return to work, the employer can stop making insurance payments. If an employee does not return from leave, the employer may require the employee to pay back the money paid to maintain the employee's health insurance during leave.

For More Information

FMLASource® provides quick access to experts who will answer questions, review guidelines and provide information regarding a job-protected medical or family leave of absence. Please contact FMLASource® for information and forms required for your leave.

