

Family and Medical Leave Act

When certain situations arise, the Family and Medical Leave Act, or FMLA, guarantees employees have the option to take time off work without risk of losing their position. As an employee, it is important you know what your rights are. Not every employee qualifies for FMLA, and only certain situations are eligible for a leave of absence. The following is just a simple guide to introduce you to the basics of the FMLA regulations. By looking, you will have the working information you need to be prepared, but in the case of taking advantage of an FMLA leave, you may want to conduct some more in-depth research and reach out to human resources.

Eligibility

Before employees can request time off, they should know who is eligible for FMLA leave. First, an employee must work for an employer who has at least 50 employees. Additionally, the employee needs to work in a location within 75 miles of the facility with 50 employees or more. Second, the employee needs to have worked with this employer for at least 12 months and 1,250 hours in that period of time. If all of these requirements are met, the employee is eligible for FMLA leave.

FMLA Qualifications

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

- Twelve workweeks of leave in a 12-month period for:
 - the birth of a child and to care for the newborn child within one year of birth;
 - the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
 - to care for the employee's spouse, child, or parent who has a serious health condition;
 - a serious health condition that makes the employee unable to perform the essential functions of his or her job;
 - any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or
- Twenty-six work weeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).

Types of Absence

There are two types of absences detailed in the FMLA requirements:

- Foreseeable and unforeseeable.
- Foreseeable absence” If the reason for taking a FMLA leave is foreseeable, the employee is required to provide 30 days advance notice, if possible. Even if an absence is considered foreseeable, federal law only requires advance notice to be given “as soon as practical.” Foreseeable situations include expected childbirth or scheduled medical procedures. Sometimes it is still impossible to give 30 full days advance notice or foreseeable reasons for absence are moved up unexpectedly.
- Unforeseeable absence” These kinds of absences do not require 30 days advance notice, but still require “as soon as practical” notice. These include medical emergencies, sudden illnesses, or children born prematurely.

The definition of whether an absence is foreseeable or unforeseeable is intentionally vague. It is intended for the specific circumstances and details to determine whether it was possible to foresee the events.

Requirements for Leave

The federal FMLA law requires employees to follow the standard sick leave operations of the employer. Additionally, employees must provide sufficient information about their reason for leaving. It is not required that the employee request an FMLA leave specifically or by name, but the “sufficient information” they provide must be enough for the employer to determine whether it is qualified for FMLA. Finally, some employers may choose to require certification of their need to leave. This requirement cannot prevent employees from leaving in the case of unforeseeable absences. The FMLA must always guarantee employees have the opportunity to take time off work for special circumstances.