

SDASBO

2014

FMLA

Jennifer Koehler, PHR

**FAMILY & MEDICAL
LEAVE ACT
(FMLA)**

ENTITLEMENTS

- Basic Leave – 12 weeks unpaid, job protected leave
 - Pregnancy, Prenatal Care or Childbirth
 - Care for child after birth, or placement for adoption or foster care
 - Serious Health Condition
 - Qualifying Military Leave
 - Attend Military Events
 - Arrange for Child Care
 - Addressing Financial and/or Legal Arrangements
 - Attend Counseling Sessions
 - Attend Post-Deployment Reintegration Briefings
- Special Entitlement for Care of a Service Member
 - 26 weeks in 12 month period

ENTITLEMENTS (CONT'D)

- **Serious Health Condition – Self/Spouse/Child/Parent**
 - Illness, injury, impairment or physical or mental condition involving
 - **INPATIENT Care** in a Hospital, Hospice, or Residential Medical Care Facility
 - **OUTPATIENT Care** for a disabling condition which includes continuing treatment by a Health Care Provider
 - **PERIOD OF INCAPACITY**
 - More than 3 consecutive calendar days and/or requires subsequent treatment
 - Treatment two or more times by a health care provider within 30 days or once that results in a regimen of continuing treatment

USE OF LEAVE

- Continuous
- Intermittent – taken in separate blocks of time
- Reduced – Reduce usual number of working hours.

LIMITATIONS FOR INSTRUCTIONAL EMPLOYEES

- School Breaks
 - If not required to report, does not count towards FMLA
- Intermittent/Reduce Leave- Foreseeable Treatment
 - If planned leave is more than 20% of total working days over period of leave, employer may require employee to:
 - Take leave for a particular duration, not greater than duration of total leave.
 - Temporarily transfer to available alternative EQUAL position during period of time.
 - Example: Employee normally works 5 days a week, needs 2 days off each week = 40% of time off, above rules apply

LIMITATIONS FOR INSTRUCTIONAL EMPLOYEES

- When Leave Begins...
 - More than 5 weeks before end of semester
 - May require taking off until end of semester IF
 - Leave will last at least 3 weeks
 - Employee would return during last three weeks
 - During the 5-week period before the end
 - May require taking off until end of semester IF
 - Leave will last at least 2 weeks
 - Employee would return during last 2 weeks
 - During the 3-week period before the end
 - May require taking off until end of semester IF
 - Leave will last more than 5 working days

* Required Leave Beyond ability to return does not count as FMLA time, BUT get benefits

EMPLOYEE ELIGIBILITY REQUIREMENTS

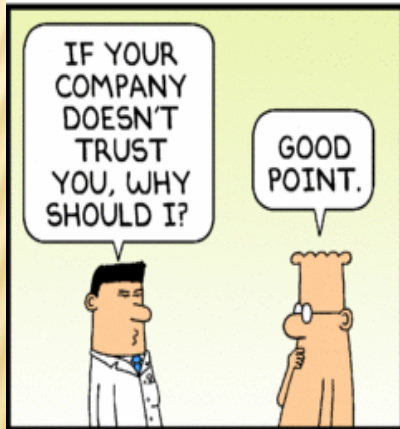
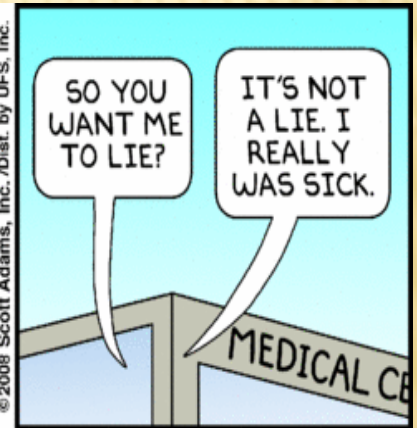
- Worked for covered employer for at least one year
- 1,250 hours worked over previous 12 months
 - Does not include paid leave EXCEPT Military
- Employer has 50 or more employees within 75 miles
 - Employees are anyone on your payroll

BENEFITS & PROTECTIONS

- Maintain Health Coverage
- Restored to Original or Equivalent Position
- Equivalent Pay, Benefits, other Employment terms

RESPONSIBILITIES- EMPLOYEE

- Notification
 - Provide 30 day notice, when foreseeable
 - Provide as soon as practicable
 - Must comply with normal call-in procedures
- Information
 - Assist Employer to determine qualification
 - Anticipated timing and duration
 - Previously taken or certified FMLA leave
 - Certification



E-mail: SCOTTADAMS@AOL.COM

© 2008 Scott Adams, Inc. /Dist. by UFS, Inc.

www.dilbert.com
3/2/08

RESPONSIBILITIES- EMPLOYER

- Notification
 - General
 - Post General Notice
 - Provisions/procedures for filing
 - At HIRE
 - Specific
 - Eligibility
 - 5 business days of request or upon learning of potential need
 - Rights
 - Responsibilities
 - certification/recertification (30 day), fit for duty
 - Time designated as FMLA protected

FMLA
QUICK REFERENCE
STEPS

STEP 1: RECEIVE REQUEST

- 30 days notice required or as soon as possible for unforeseen events
- Employee not required to specifically request FMLA

STEP 2: DETERMINE ELIGIBILITY

- Worked for covered employer for at least one year
- 1,250 hours worked over previous 12 months
- Employer has 50 or more employees within 75 miles

STEP 3: NOTIFY EMPLOYEE

- Respond within 5 days
 - Eligible or ineligible
 - Rights and Responsibilities
 - Sample Form: <http://www.dol.gov/whd/forms/WH-381.pdf>

STEP 3: NOTIFY EMPLOYEE (CONT'D)

- Request Certification, if eligible
 - Sample Forms: Employee serious health condition
 - <http://www.dol.gov.whd/forms/WH-380-E.pdf>
 - Sample Forms: Family member serious health condition
 - <http://www.dol.gov.whd/forms/WH-380-F.pdf>
 - Sample Forms: Qualifying Exigency for Military Family Leave
 - <http://www.dol.gov.whd/forms/WH-384.pdf>
 - Sample Forms: Serious injury or illness of covered service member
 - <http://www.dol.gov.whd/forms/WH-385.pdf>

STEP 4: RECEIVE CERTIFICATION

- Allow 15 days to return certification
- Request clarification if certification is not complete
 - Allow 7 days for clarification, in most states
 - Can deny request if not clarified

STEP 5: DESIGNATION- GRANT/DENY

- Notify within 5 days of receiving certification
- No certification received, send denial
 - Sample Form: <http://www.dol.gov.whd/forms/WH-182.pdf>

USEFUL LINKS FROM DEPARTMENT OF LABOR

Overview from DOL -

- <http://www.dol.gov.whd/fmla>

Compliance Poster -

- <http://www.dol.gov.whd/regs/compliance/posters/fmla.htm>

Guide for Employees (good for employers too) -

- <http://www.dol.gov.whd/fmla/employeeguide.htm>

SCENARIOS

#1

Joey told me that she is pregnant, does she have to “apply” for FMLA, or can I just give her an eligibility letter?

SCENARIOS

#2

Hayden and Nicole are married and both work for us. Hayden's mother has a serious health condition in which she needs care. Do both each get 12 weeks?

SCENARIOS

#3

What do I do if I think Derek is abusing intermittent leave?

SCENARIOS

#4

I have a teacher, Christina, who had a baby August 4. She wants to use Sick Leave for the time she is gone on Maternity Leave after school starts.

SCENARIOS

#5

Cody's wife just had a baby and he wants to take some time off. We don't have a Paternity Policy.

SCENARIOS

#6

Brittany is a Paraprofessional who works 20 hours per week. She doesn't qualify for FMLA as she doesn't work enough hours, but can we give her time off for surgery?

SCENARIOS

#7

Caleb was injured on the job. How does Work Comp work with FMLA?