

FMLA Cheat Sheet

What Employers Are Covered?

Those with 50 or more employees

What Employees Are Eligible?

Employees who have worked for at least 12 months and at least 1250 hours during the previous 12 months

What's Provided to Employees?

- Up to 12 weeks of unpaid leave in a 12-month period for the serious health condition of the employee or a family member, for the birth or adoption of a child, or because a child, parent or spouse of the employee has been called to active duty in the military
- Up to 26 weeks of unpaid leave during a 12-month period to care for a spouse, child or parent who is an injured member of the military

What's a "Serious Health Condition"?

- Pregnancy or prenatal care
- Chronic, long term or permanent medical conditions
- Any condition that causes at least 3 consecutive days of absence combined with 2 or more treatments by a health care provider, where the first health care visit occurs within 7 days of the onset of the incapacity
- Any condition that causes a period of incapacity of any length combined with inpatient care

What Are an Employer's Responsibilities?

- Ensure that employees receive the required FMLA rights notices (including the Eligibility, Rights and Responsibilities, and Designation notices)
- Grant intermittent leave where requested
- Restore an employee returning from leave to the same or a substantially equivalent position held before the leave
- Don't retaliate against employee for taking leave

Can an Employee Substitute Paid Leave?

Yes. An employer can require or an employee can voluntarily elect to use paid leave benefits during FMLA leave

What Are the Potential Penalties?

- Back pay
- Reinstatement
- Benefits
- Attorneys' fees

Top FMLA Tips

- Post the required FMLA poster
- Notify employees of FMLA rights in employee handbook
- Provide written documentation addressing leave obligations and consequences for failing to satisfy those obligations
- Provide employees with the medical certification required for leave and, if necessary, the certification required to return to work following leave
- FMLA leave can't count towards no-fault attendance policies
- An FMLA "serious health condition" is technically not the same as a "disability" under the Americans with Disabilities Act. However, as a result of the ADAA, the definitions are closer than before – check out the ADA Cheat Sheet for more