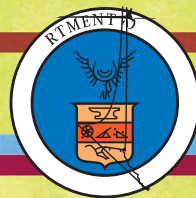




# the Family and Medical Leave Act





# An Introduction to the Family and Medical Leave Act

When you or a loved one experiences a serious health condition that requires you to take time off from work, the stress from worrying about keeping your job may add to an already difficult situation.

The Family and Medical Leave Act (FMLA) may be able to help. Whether you are unable to work because of your own serious health condition, or because you need to care for your parent, spouse, or child with a serious health condition, the FMLA provides unpaid, job-protected leave. Leave may be taken for a variety of reasons.

## This Guide Explains:

- Eligibility
- Qualifying Health Conditions
- Qualifying Family Members
- Medical Certification
- Job Protection
- Interference
- Retaliation
- Notice
- Extensions
- Military and Air Carrier Leave
- State and Local Laws
- Other Resources

# Who Can Use FMLA Leave?

In order to take FMLA leave, you must first work for a covered employer. Generally, private employers with at least 50 employees are covered by the law. Private employers with fewer than 50 employees are not covered by the FMLA, but may be covered by state family and medical leave laws. Government agencies (including local government agencies) are covered by the FMLA.

Employers with 50 or more employees are covered by the FMLA. Employers with fewer than 50 employees are not covered by the FMLA, but may be covered by state family and medical leave laws.

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# When Can I Use FMLA Leave?

If you work for an employer that is covered by the FMLA, and you are an eligible employee, you can take up to 12 weeks of FMLA leave in any 12-month period for a variety of reasons, including:

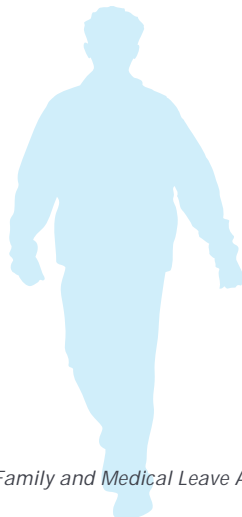
You may take FMLA leave to care for your spouse, child or parent who has a serious health condition, or when you are unable to work because of your own serious health condition.

The most common serious health conditions that qualify for FMLA leave are:

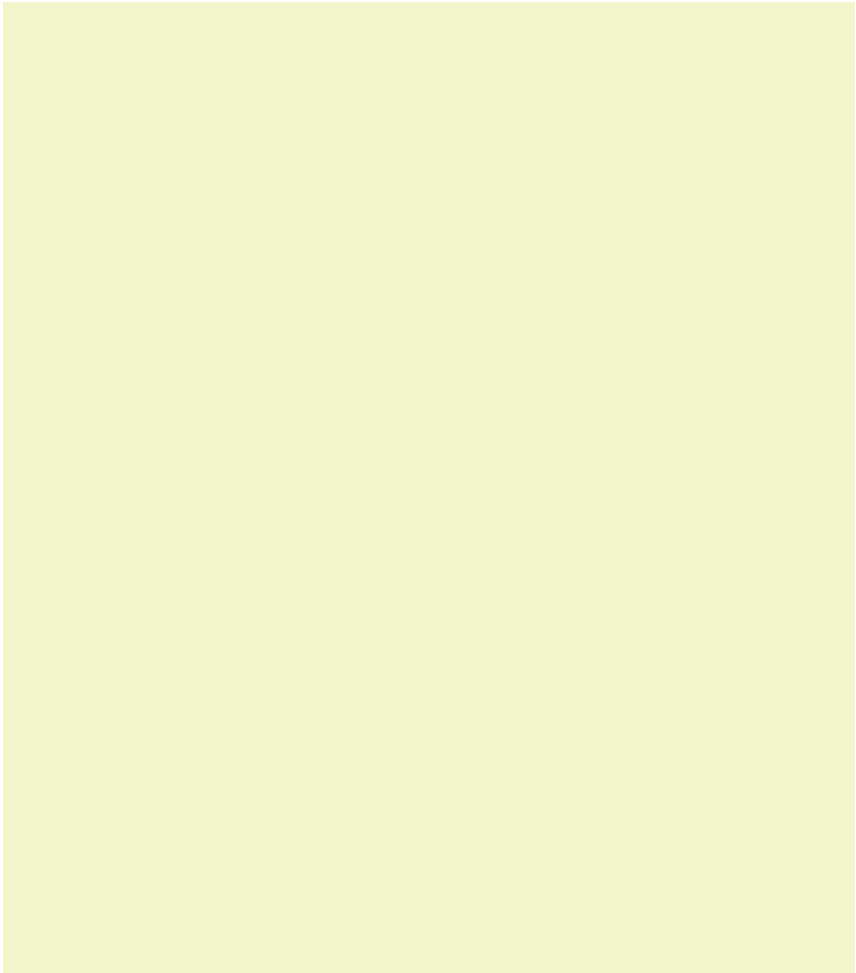
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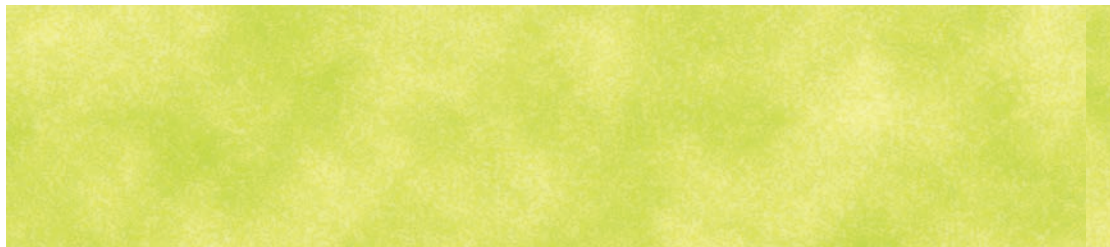
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You may take FMLA leave for the birth of a child and to bond with the newborn child, or for the placement of a child for adoption or









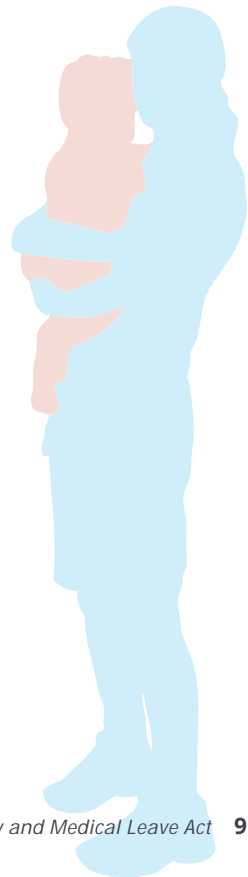
# How Do I Request FMLA Leave?

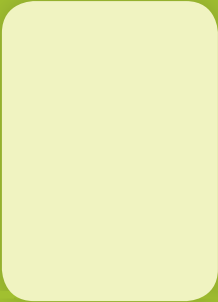
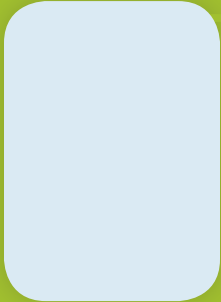
# Communication with Your Employer

Ongoing communication between you and your employer will make the FMLA process run much more smoothly. Each of you has to follow guidelines about notifying the other when FMLA leave is being used.

You will need to inform your employer if your need for FMLA leave changes while you are out (i.e., if you need to extend your leave or if you need to return to work earlier than expected). You should also inform your employer if you need to change your leave schedule.

When your employer has the information necessary to determine if your leave is FMLA protected, it must notify you whether the leave will be designated as FMLA leave and, if possible, how much leave will be counted against your FMLA entitlement. If your employer determines that





Your leave **is not** FMLA-protected  
 (You may request leave again in the future.)

**Your employer must** notify you whether your leave has been designated as FMLA within five business days  
*Please see page 8*

Your leave **is** FMLA-protected  
 (There are employee responsibilities while out on FMLA leave.)  
*Please see page 8*

When you return to work, **your employer must** return you to your same or nearly identical job  
*Please see page 14*

# Medical Certification

If your employer requests medical certification, you only have 15 calendar days to provide it in most circumstances. You are responsible for the cost of getting the certification from a health care provider and for making sure that the certification is provided to your employer. If you fail to provide the requested medical certification, your FMLA leave may be denied.

The medical certification must include some specific information, including:

- contact information for the health care provider;
- when the serious health condition began;
- how long the condition is expected to last;
- appropriate medical facts about the condition (which may include information on symptoms, hospitalization, doctors visits, and referrals for treatment);
- whether you are unable to work or your family member is in need of care; and
- whether you need leave continuously or intermittently. (If you need to take leave a little bit at a time, the certification should include an estimate of how much time you will need for each absence, how often you will be absent, and information establishing the medical necessity for taking such intermittent leave.)

If your employer finds that necessary information is missing from your certification, it must notify you in writing of what additional information is needed to make the certification complete. You must provide the missing information within seven calendar days.

If your employer has concerns about the validity of your certification, it may request a second opinion, but it must cover the cost. Your employer may request a third opinion if the first and second opinion differ, but it must cover the cost.

If your need for leave continues for an extended period of time, or if it changes significantly, your employer may require you to provide an updated certification.



# Returning to Work



When you return to work, the FMLA requires that your employer return you to the same job that you left, or one that is nearly identical.

If you are not returned to the exact same job, the new position must:

- involve the same or substantially similar duties, responsibilities, and status;
- include the same general level of skill, effort, responsibility and authority;
- offer identical pay, including equivalent premium pay, overtime and bonus opportunities;
- offer identical benefits (such as life insurance, health insurance, disability insurance, sick leave, vacation, educational benefits, pensions, etc.); and
- offer the same general work schedule and be at the same (or a nearby) location.

Please keep in mind that if you exhaust your FMLA leave entitlement and are unable to return to work, your employer is not required to restore you to your position.

Certain *key employees* may not be guaranteed reinstatement to their positions following FMLA leave. A *key employee* is defined as a salaried, FMLA-eligible employee who is among the highest paid 10 percent of all the employees working for the employer within 75 miles of the employee's worksite.

Special rules apply to employees of local education agencies. Generally, these rules apply when you need intermittent leave or when you need leave near the end of a school term.









Please refer to *The Employee's Guide to Military Family Leave under the Family Medical Leave Act* (WH1513) for more specific information about taking FMLA leave under the provisions for military family leave.

WAGE AND HOUR DIVISION  
UNITED STATES DEPARTMENT OF LABOR