

FMLA Eligibility Requirements

ELIGIBLE EMPLOYEES

An employee who has been employed by the company for 12 months / 52 weeks as of the date the leave commences. During the preceding 12 months / 52 weeks the employee must have worked a minimum of 1250 hours and the Employer has at least 50 employees (during 20 weeks of the previous calendar year or during 20 weeks of the current calendar year) within 75 miles of the worksite. Your worksite employer is your Primary Employer, A Plus Benefits, Inc. is your Secondary Employer.

Requests for leave before eligibility:

In the event the employee notifies of the need for leave before the employee has met the eligibility requirements, the company may wait to confirm eligibility until the employee has met the stated requirements.

ELIGIBLE LEAVES

1. For the birth of a son or daughter, and to care for the newborn child.
2. For placement with the employee of a son or daughter for adoption or foster care.
3. To care for the employee's spouse, son, daughter, or parent, with a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.
5. Because of a qualifying exigency arising out of the fact that an employee, or an employee's spouse, son, daughter, or parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves or, because the employee is a spouse, son, daughter, or parent, or next of kin of a covered service member with a serious injury or illness.

Miscellaneous: Medical certification may be required for serious health conditions. Certain certifications may be required before the actual event, e.g. leaves for the birth of a child or for placement for adoption or foster care. No maximum age limits applies to children who are the subject of adoptions or foster care placements.

LEAVE ENTITLEMENT -MEDICAL Up to 12 weeks of FMLA leave in any 12-month period.

12 -month period: The 12-month period of time is measured forward from

the time that leave commences. Leave for birth or placement for adoption or foster care must end within 12 months after the birth or placement.

Husband and wife: In the event that both the husband and wife are employed by the company, only a total of 12 weeks combined leave may be taken for birth (or subsequent care), placement for adoption or foster care (or subsequent care), or to care for a parent with a serious health problem.

LEAVE ENTITLEMENT – MILITARY

Exigency Leave : Up to 12 weeks of unpaid leave during a 12 month period for exigent leave benefits for family members of covered military personnel.

Caregiver leave: Up to 26 weeks of unpaid leave during a 12 month period to care for a family member (spouse, son, daughter parent or next of kin) who is injured while serving on active military duty. Caregiver leave provision include veterans who are undergoing medical treatment, recuperation or therapy for serious injury or illness that occurred any time during the five years preceding the date of treatment.

12 -month period: The 12-month period of time is measured forward from the time that leave commences.

INTERMITTENT OR REDUCED LEAVE SCHEDULE Leave may be taken on an intermittent or reduced leave schedule in the following situation :

1. When "medically necessary", if due to a serious health condition of the employee or family member. Intermittent leave may be either limited (e.g., for medical appointments) or lengthy (e.g., for chemotherapy).

Affect on leave entitlement : Only the actual time taken as FMLA leave is charged against an employee's entitlement. For part-time employees and those working variable hours, the FMLA leave entitlement is calculated on a pro-rata or proportional basis. For example : if a 30 -hour-per-week employee is reduced to 20 hours per week the 10 hours of FMLA leave equals one-third of a week of FMLA leave each week, if an employee's work week schedule varies, the average weekly hours worked during the 12 weeks prior to FMLA leave will be considered the "normal" work week.

Temporary transfers : An employee may need to be temporarily transferred to another position to better accommodate the recurring periods of leave. The alternate position must have equivalent pay and benefits.

Employees must adhere to the attendance reporting policy while on intermittent leave. An employee must notify the proper supervisor when the employee must miss work due to an unscheduled need for intermittent leave. Failure to follow established policy for calling out “sick” may lead to termination of employment.

PAID / UNPAID LEAVE Leave need not be paid. However, paid vacation or personal leave may be substituted without limitation, for any FMLA - qualifying purpose.

Family / medical / sick leave : An employee or employer may unilaterally elect to use paid vacation if FMLA leave is due to birth, placement for adoption or foster care, or to care for the serious health condition of a family member.

Miscellaneous : FMLA leave entitlement is not reduced by paid leaves which are non-qualifying and is not expanded after childbirth simply because multiple purposes for the leave could each independently support FMLA leave.

DESIGNATION OF FMLA LEAVE (OR NOT) The company designates leave (or portions) as FMLA – whether the qualifying or not is based on information obtained from the employee.

Notification / timing : When leave is designated as FMLA leave, the employee will be notified in a timely manner. If the company requires paid vacation be substituted for unpaid leave, or that leave must be counted as FMLA leave, the designation must be made at the time the employee requests or gives notice of the leave (or as soon thereafter as it is determined that the leave is FMLA qualified). This designation must be made before the leave starts, unless sufficient information is unavailable, leave may also be retroactively re-designated.

EMPLOYEE BENEFITS DURING LEAVE The employee's group health plan coverage must continue on the same conditions as if continuously employed and the same benefits must be maintained.

Premium payments : If the leave is paid, employees pay premiums in the manner customarily used (payroll deduction). If the leave is unpaid the insurance premium is due at the same time as if by payroll deduction, or by prepayment in advance.

Late payments : If premium payments are more than 30 days late, the company's obligation to maintain health insurance coverage ceases. If coverage lapses for late payment, upon employment reinstatement, equivalent coverage / benefits / terms will be restored to the employee (without any qualification requirements, including a preexisting condition waiting period, or a wait for the next open enrollment period)

Recovery of premiums : Any premium payments advanced to an employee delinquent in the employees payments will be recovered. If an employee fails to return from unpaid leave after the FMLA leave entitlement has expired, premiums that the company paid for maintaining coverage will be recovered (for up to the entire leave period), unless the employee does not return due to the following conditions :

1. The continuation, recurrence, or onset of an FMLA qualified serious health condition (medical certification will be required).

2. Other conditions beyond the control of the employee as defined in the "ACT".

Recovery is limited to premiums paid during appropriate unpaid periods of leave.

Benefits reinstatement / maintenance : An employee choosing not to retain health coverage during the leave is entitled to reinstate coverage upon returning, on the same terms as before, without any qualifying period. Except as required by COBRA and for key employees, the obligation to maintain health benefits ceases if and when an employee:

1. Informs the company of the employees intent not to return,
2. Fails to return,
3. Exhausts the employee FMLA leave entitlement.

Plan amendments : The employee is entitled to any new or changed plan benefits (including notices) to the same extent as if not on leave.

"Key" Employees : A "key" employee given notice that "substantial grievous economic injury" would occur if the employee were reinstated, who does not return, is still entitled to group benefits until:

1. The employee advises the company that reinstatement is not desired.
2. FMLA leave entitlement is exhausted.
3. Reinstatement is actually denied.

EMPLOYMENT REINSTATEMENT After FMLA leave, an employee is entitled to the same or equivalent position, with equivalent benefits, pay and other terms and conditions of employment.

Job qualifications : Upon return to work, an employee must be allowed a reasonable opportunity to fulfill all job qualifications. ADA may govern situations in which a physical or mental condition impacts abilities.

Pay : An employee must be granted any unconditional pay increase which occurred during the leave period.

Benefits : Unless otherwise elected by the employee, benefits must be resumed in the same manner and at the same levels. FMLA leave is continued service for purposes of vesting or eligibility to participate in a pension or other retirement plan, however other

benefits that accrue with time worked (vacation, sick leave, etc.) will not accrue during FMLA leave.

Position : An equivalent position must include the same working conditions, privileges, perks and status, and must involve the same or substantially similar duties and responsibilities, requiring substantially equivalent skill, effort, responsibility and authority.

Limitations : An employee has no greater rights than if leave had not been taken. An employee hired for a specific term or project need not be restored if the term or project is over and the employee would not otherwise have continued in employment. Restoration may be denied to certain "key" employees as well as to certain employees who fail to provide fitness for duty certificate.

KEY EMPLOYEES A salaried employee, is a FMLA eligible employee who is among the highest 10% (but not more than 10%) of all employees. Earnings include wages, premium pay, incentive pay, and bonuses, but do not include incentives to be valued at some future date, (e.g., stock options), benefits, or perks.

Denial of employment reinstatement : Denial of employment reinstatement to a key employee is a function of a determination that restoration (not the absence) would cause "substantial and grievous economic injury" to the company's operations.

Determinations and notices : If the company believes reinstatement may be denied, an employee must be given written notice of the employee's Key employee status, at the time FMLA leave is requested or commences.

EMPLOYEE NOTICE TO THE COMPANY

If need for leave is foreseeable : At least 30 days advance notice must be given if the need is for birth, placement for adoption or foster care, or planned medical treatment for a serious health condition. If 30 days notice is not practical, notice must be given as soon as both possible and practical under the circumstances (normally that would mean at least verbal notice to the human resource department within 1 or 2 business days after the employee knows of the need).

Failure to meet requirements : Employees failing without reasonable excuse to give the required 30 days notice may be denied FMLA leave until at least 30 days notice is given. It must be clear, however, that,

1. The employee has actual notice of the FMLA requirements.
2. The need for leave and the approximate date leave would be taken must have been clearly foreseeable to the employee 30 days in advance.

If need for leave (or timing) is not foreseeable : The notice should be given as soon as practicable under the circumstances, normally within no more than 1 or 2 working days of learning of the need for the leave. It should be provided either in person, or by phone, telegraph, fax machine or other electronic means. If the employee is unable to do so personally, it may be provided by the employee's representative, spouse, family member, etc.

MEDICAL CERTIFICATION

Company Requests : While the notice to employees of overall medical certification requirements must be written, the actual request for certification may be verbal. Along with the request for certification, the employee may be advised of the anticipated consequences of failure to provide adequate certification. Reasonable opportunity to present certification will be provided.

Frequency : Certification may be requested whenever reasonably necessary; recertification may be requested at any reasonable interval, but not more often than every 30 days, unless:

1. A leave extension is requested.
2. Circumstances have significantly changed since the original certification.
3. The company has good reason to doubt the continuing validity of the certification. Certification may also be required when an employee alleges inability to return to work due to a serious health condition (which impacts the company's ability to recover its share if benefit premiums made on the employee's behalf during unpaid FMLA leave).

Due date : Unless not practicable under the circumstances (despite diligent good faith efforts), an employee must provide medical certification within the time frame requested by the company, or within 15 calendar days, whichever is later.

Employee failure to meet requirements : If leave was foreseeable, leave may be denied until certification is provided. If not foreseeable, continuation of leave may be denied if an employee fails to provide certification within a reasonable time, considering the circumstances. Reinstatement at the end of leave may be denied until applicable certification requirements are met.

Return-to-work certifications (fitness-for-duty reports)

Conditions : The company requires that all employees who take leave for their own serious health conditions provide medical certification that the employee is able to return to work.

Notices to employees : An employee from whom such certification will be required must also be given specific notice of the requirements at the time leave is requested or immediately after leave commences.

Miscellaneous : Employment restoration will be denied until employee provides such certification. Failure to provide certification by the final return to duty date may result in termination if the employment relationship.

Failure to return to full duty status when leave authorization expires:

Failure to return to work at the end of FMLA authorized leave will be considered as the employee's voluntary resignation from employment.

WORKER'S COMPENSATION LEAVE

When an employee is injured on the job and the injury requires that the employee must be on a medical leave, the medical leave time will be considered as qualifying for leave under the rules of FMLA.

When an employee is injured on the job and the medical leave is considered Worker's Compensation leave, and if that leave time is also considered to be FMLA leave, the employee is eligible for benefits related to health insurance that the employee could not otherwise retain.

A Worker's Compensation medical leave will be considered to be an FMLA qualified leave.

Worker's Compensation medical leave and FMLA qualified leave will run concurrently.

OTHER EMPLOYMENT WHILE ON LEAVE

Employees are prohibited from taking other employment while on any approved leave of absence, including Family and Medical Leave Act designated leave.

Any employee who begins other employment whether full-time, part-time, or self employment, while on any approved leave, will be considered to have voluntarily resigned from their employment on the day that the other employment begins.

WORK AT HOME WHILE ON LEAVE

Exempt and non-exempt employees are not authorized to work from home while on leave. Employees should leave company owned lap top computers and cell phones (Blackberries, iphones, etc.) at the worksite while on FMLA qualified

leave. Checking e-mail, voice mail, etc. while on FMLA qualified leave is not permitted.

While on FMLA qualified leave employees are not allowed to perform any business functions while at home without the express written consent of their direct executive supervisor.