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NTEU Bulletin

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FMLA Basics Federal Employees Should Know

Working people shouldn't be forced to choose between their jobs and caring for themselves or their immediate family members. That's why NTEU pushed hard for the Family and Medical Leave Act (FMLA) and played a key role in persuading Congress to approve it in 1993.

Nearly 25 years later, the law has helped many federal employees care for themselves or family members facing serious health issues. Even so, not everyone fully understands how FMLA leave works.

The Basics

Under FMLA, employees can take up to 12 weeks—or 480 hours—of authorized, unpaid leave within a 12-month window to care for themselves or immediate family members who have a serious medical condition. Employees can use FMLA leave all at once, intermittently or they can use it to work a reduced work schedule.

The law counts as family members spouses, parents, children and those for whom the employee serves as a non-biological parent (in loco parentis).

Apart from medical reasons, employees can use FMLA to care for their newborn, or for the adoption or foster care placement of a child. Employees have until the child turns one year old to use up all or a portion of their FMLA leave for care of the child.

FMLA has a very detailed definition of a serious health condition. Generally, it includes an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a healthcare provider along with an inability to work for specific periods of time. These include chronic or long-term conditions and pregnancy-related absences.

Military Caregivers

Employees with seriously ill or injured spouse, child, parent or next of kin who are currently serving in the armed forces or who have served within the past 5 years can take up to 26 weeks—again, within a 12-month window—to care for that individual. Employees with family members in the military also qualify for up to 12 weeks of unpaid to take care of matters related to that service member's active duty or being called up for duty, such as taking care of financial or childcare arrangements.

Medical Certification

When applying for FMLA leave, federal employees don't have to submit medical records. However, their agency does have the legal right to request medical certification regarding the employee's health condition. The certification, to be signed by a health care provider, must provide details such as when the illness or condition began and how much FMLA leave the employee needs and also include a general description of the condition.

Many agencies have a nurse or doctor, or other medical officer on staff designated to receive and evaluate medical certificates in support of leave requests. In the alternative, some agencies contract with the Federal Occupational Health Service to provide these services.

Once the medical certificate has been submitted, under FMLA regulations, employers may contact an employee's health care provider for authentication of the medical certification through a medical officer, a human resource professional, or similar official; however, in no case may the employee's direct supervisor contact the employee's health care provider without that employee's consent.

Sick Leave to Care for a Family Member

Federal employees may use up to 104 hours of paid sick leave each year for general family care or to arrange and attend the funeral of a family member. Employees may also use up to 12 weeks of sick leave a year to care for a family member with a serious health condition. For these purposes, "family member" is defined more expansively – to include spouses, parents, children, grandparents, grandchildren, domestic partners, and the spouses of all those relatives. Furthermore, employees can also use sick leave to care for anyone they are extremely close to, even if that person isn't related by blood or marriage. General family care is broader than caring for a family member with a serious health condition. It includes caring for a family

member who is ill or taking the person to a medical appointment. Use of sick leave, whether for general family care or to care for a family member with a serious health condition, is capped at 12 weeks a year.

The Next Step

NTEU is working hard to persuade Congress to take the next step up from FMLA and offer federal employees paid parental leave.

FMLA is a great benefit that many federal employees simply cannot afford to take. Losing one or more paychecks can have a serious toll on a family's finances, particularly when faced with the cost of a new child or unexpected medical bills.

NTEU strongly supports paid parental leave legislation introduced in the House by Rep. Carolyn Maloney (D-N.Y.) and in the Senate by Sen. Brian Schatz (D-Hawaii) and Sen. Barbara Mikulski (D-Md.).

For more information and to learn whether and how the law applies in your case, contact your local NTEU steward or chapter officer.