FMLA PROCESS

The Family and Medical Leave Act provides up to 12 weeks of leave (continuous or intermittent) in a 12-month period for an eligible employee's own illness, the birth or placement of a child, the serious illness of a family member, or when an employee's spouse, parent, or child is called to national military duty. Additionally, an eligible employee can take up to 26 weeks in a 12-month period to care for "next of kin" with a military-related injury or illness. Private employers with 50 or more employees within 75 miles, public agencies and schools, both public and private, are covered.



Planned FMLA: Employee contacts HR at least 30 days in advance with a request for a "potential" FMLA leave (i.e. maternity)

Unforeseen FMLA: Employee or family member is injured, ill, or called to active duty and informs HR as soon as practical

OR

Work Absence FMLA: Employee is absent from work for 5 consecutive days for reasons that may be covered by the FMLA

Eligibility Review

HR reviews employee eligibility:

- Worked a minimum of 12 months in the last 7 years, and
- Worked a minimum of 1,250 hours in the last 12 months

AND

Has a serious health condition (SHC), or

OR

Is expecting the birth or placement of a child

Must care for a spouse, child or parent with an SHC

Has a spouse, child, or parent called to active military service

OR

Must care for a "next of kin" service member who was injured or became ill while on active duty

Notification & Documents

Within 5 days of notice employee receives from HR:

- Notice of Eligibility, Rights & Responsibilities (DOL WH-381)
- Employee Certification Form SHC (DOL WH-380E) (optional: information may be provided in another format)
- HIPAA Medical Privacy Rules Notice & Release (required if medical information will be sent directly to employer)
- Employee Job Description

OR

Documentation to confirm the family relationship for leave to bond with a healthy newborn

bond with a healthy newborn child or a child placed for adoption or foster care.

OR Family Member SHC Form (DOL WH-380F) (optional: information may be provided in another format)

OR

Military Exigency Form (DOL WH-384)

OR

 Military Injury/Illness Form (DOL WH-385 & 385V)

FMLA Review & Approval

days:
HR must
receive
documentation
from employee.
Extension may
be granted.

Within 15 Within 5 business days: If

documentation is sufficient, employer designates leave as FMLA or denies and notifies employee (DOL Form WH-382)

Documentation Is incomplete or insufficient:

Employee has 7 days to provide missing information

Employee fails to secure required information:

Medical provider may be contacted by employer (clarification or authentication)

Medical review:

Employer may require (and pay for) a second or third opinion if there is reason to doubt the validity of the medical information

Military leaves: Employer can:

YES

· Require duty orders

OR

OR

- Contact the Department of Defense
- Require a statement of facts regarding qualifying exigency and dates
- Request contact info for third party meetings The employer may contact a third party to confirm but may not request more information.

Reassess, Follow up, Monitor

- Monitor time off and count all applicable hours toward FMLA
- Consider light duty options
- · Recertify as allowed under the Act
- Ensure fitness for duty upon return to work

- Evaluate situation for further entitlements upon exhaustion of FMLA
- Communicate changes and requirements to employees
- Maintain records including payroll, dates and hours of FMLA, copies of notices, premium payments, records of disputes, documents describing benefits/policies

Denial of FMLA – Assess for possible ADA or PDA accommodation

NO

