

Facts about the Family and Medical Leave Act

The Family and Medical Leave Act is a law that says that some employers have to let you take unpaid time off for illness, having a baby, or caring for an ill family member. Your job is protected when you return. This time off is called family or medical leave.

Reasons you can take family or medical leave. Under this law, you can take time off for:

- The birth of your baby and to care for the baby if you are the baby's mother or father. Your right to this leave ends 12 months after the birth of your child.
- Adopting a child or becoming a foster parent. Your right to this leave ends 12 months after placement of your child.
- Having a serious health condition.
- Caring for a family member who has a serious health condition.

Having a "serious health condition" means that you cannot perform the necessary functions of your job. For this kind of leave, you must have a serious condition for more than three days, or you must require continuing treatment, or you must be in the hospital.

A family member is your child, your husband or wife, or your parent. Your in-laws are not included. Your child does not have to be your biological or your legal child. Your child can be anyone that you have everyday responsibility to care for and to support.

Does this law cover you?

This law covers most people, but not everyone. To know if the law covers you, you need to look at who your employer is and about how much you have worked for your employer.

Your employer. This law covers you if you work for the government. If you work for a private employer that has 50 or more workers, it also covers you. These workers can work full-time or part-time. This law does not cover you if you work for an employer that has fewer than 50 workers.

How much you have worked. This law covers you if you have worked for at least 12 months for your employer. You need to have worked at least 1,250 hours for this employer during these 12 months. This is a little more than half time for most jobs. If you have not worked that much, this law does not cover you.

Also, this law doesn't cover you if you are a "key" employee who is one of the highest paid in your company. "Highest-paid" means you are paid in the top 10% of your employer's workforce.

How much time you can take off. Your employer must give you up to 12 weeks of unpaid leave per year. If you get paid time off—like vacation or sick days—your employer can count the paid time off as a part of these 12 weeks in some cases. In other words, the paid time off you get can be part of the 12 weeks, not in addition to it.

If it is medically necessary, you can take “intermittent” leave. Intermittent leave means you take time off in separate blocks. One example is taking time off for doctor’s appointments. Another example is taking a few days off at a time for chemotherapy. If your employer agrees, you can take intermittent leave for the birth or adoption of a child.

What happens to your health insurance and other benefits while you are on leave?

If you have health care that your employer pays for, your employer should keep paying it as before the leave. If you usually pay for insurance, this will continue during your leave. You should not lose any benefits you had before your leave.

If your employer pays for your health care while you are on leave, and then you don’t return to work after the leave, your employer can ask you to pay back this money. Your employer must count that you have returned to work if you work for at least 30 days after you return from leave. You don’t have to pay back money if you don’t return because of a serious health problem, or because of another situation that is not under your control.

If you take time off in separate blocks for intermittent leave, your employer cannot ask you to take off more time than you need. For example, if you only need one hour, your employer can’t ask you to take a full day off. Your employer can decide if the minimum amount you can take is one hour, or less than one hour.

If it is medically necessary, you can take “reduced” leave. Reduced leave means you work fewer than your usual number of working hours. For example, one way of taking reduced leave is to work part-time instead of full time. If your employer agrees, you can take reduced leave for the birth or adoption of a child.

Getting your job back. You should be able to return to the same job or an equivalent job. An equivalent job means the same pay, benefits and other conditions.

One exception is if you are a “key” employee and keeping your job open for you would cause severe economic problems to your employer. A key employee is one who is among the highest paid. In this case, your employer does not have to keep your job open.

Your responsibilities when you want a family or medical leave. You must tell your employer at least 30 days in advance if you can predict that you will have to take a leave. If you know less than 30 days in advance, you must tell your employer as soon as you can. If you don’t give notice for a leave that you could have predicted, your employer can delay giving you leave until 30 days after you give notice.

Your employer may ask you to provide certification from a health care provider if:

- You need a leave because of a serious health condition
- You need to take intermittent leave or reduced leave, or
- You need leave to take care of a family member.

Your employer can ask for a second or third opinion from a medical provider. Your employer must pay for this. Also, your employer may ask you to present a “fitness-for-duty” certificate in order to return to work, but only if your employer asks all employees in the same situation to do this.

Your employer’s responsibilities.

Your employer must tell you if your leave qualifies under the Family and Medical Leave Act. Your employer must tell you in writing what your responsibilities are in taking leave.

Who can you call if you have questions?

If you have questions about the Family and Medical Leave Act, call the Wage and Hour Division of the Department of Labor. You can reach them at 1-866-487-9243 (the TTY number is 1-877-889-5627) or at www.wagehour.dol.gov. In Illinois the number is 312-596-7230.

All employers that must follow this law must post a sign about it. This sign must be in an obvious place where employees can see it. The sign must explain the law and provide information about how to file complaints if you don’t think your employer is following the law.

A Women Employed Fact Sheet.

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