

# FMLA Cheat Sheet

## What Employers Are Covered?

Those with 50 or more employees

## What Employees Are Eligible?

Employees who have worked for at least 12 months and at least 1250 hours during the previous 12 months

## What's Provided to Employees?

- Up to 12 weeks of unpaid leave in a 12-month period for the serious health condition of the employee or a family member, for the birth or adoption of a child, or because a child, parent or spouse of the employee has been called to active duty in the military
- Up to 26 weeks of unpaid leave during a 12-month period to care for a spouse, child or parent who is an injured member of the military

## What's a "Serious Health Condition"?

- Pregnancy or prenatal care
- Chronic, long term or permanent medical conditions
- Any condition that causes at least 3 consecutive days of absence combined with 2 or more treatments by a health care provider, where the first health care visit occurs within 7 days of the onset of the incapacity
- Any condition that causes a period of incapacity of any length combined with inpatient care

## What Are an Employer's Responsibilities?

- Ensure that employees receive the required FMLA rights notices (including the Eligibility, Rights and Responsibilities, and Designation notices)
- Grant intermittent leave where requested
- Restore an employee returning from leave to the same or a substantially equivalent position held before the leave
- Don't retaliate against employee for taking leave

## Can an Employee Substitute Paid Leave?

Yes. An employer can require or an employee can voluntarily elect to use paid leave benefits during FMLA leave

## What Are the Potential Penalties?

- Back pay
- Reinstatement
- Benefits
- Attorneys' fees

## Top FMLA Tips

- Post the required FMLA poster
- Notify employees of FMLA rights in employee handbook
- Provide written documentation addressing leave obligations and consequences for failing to satisfy those obligations
- Provide employees with the medical certification required for leave and, if necessary, the certification required to return to work following leave
- FMLA leave can't count towards no-fault attendance policies
- An FMLA "serious health condition" is technically not the same as a "disability" under the Americans with Disabilities Act. However, as a result of the ADAA, the definitions are closer than before – check out the ADA Cheat Sheet for more



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