



Facts a CDM®, CFPP® Should Know About the Family Medical Leave Act

The Family Medical Leave Act of 1993 is a “must-know” for CDM®, CFPP®s who work in facilities with 50 or more employees. The following Top 10 list gives readers the facts they need to know to be current on FMLA and how it can impact their facility and employees.

1. The Family Medical Leave Act of 1993 (“FMLA”) is a federal law that provides eligible employees with job-protected, unpaid leave for specified reasons. It also requires that their group health benefits be maintained during the leave. In addition, the FMLA prohibits an employer from interfering with an employee’s rights under the law, including discriminating or retaliating against an employee for utilizing FMLA leave. The FMLA generally applies to all public agencies, all public and private elementary and secondary schools, and companies with 50 or more employees.
2. Eligible employees are entitled to up to 12 workweeks of leave (or longer, if the leave is to care for a covered servicemember with a serious injury or illness) in a 12 month period. Regardless of the need for leave (whether the leave is needed for the employee or his/her spouse or child), the employee is entitled to a combined total of 12 workweeks.
3. Not all employees are eligible for leave. Employees are eligible for leave if they have worked for their employer at least 12 months, at least 1,250 hours over the past 12 months, and work at a location where the company employs 50 or more employees within 75 miles.
4. Employees may choose to use, or employers may require the employee to use, accrued paid leave (e.g., paid vacation, personal or sick leave) to cover some or all of the FMLA leave.
5. Not every condition constitutes a “serious health condition” for purposes of FMLA. Unless complications arise, the common cold, ear aches, upset stomach, and minor ulcers do not meet the definition of a serious health condition, and do not qualify for FMLA leave.
6. Alternatively, mental illness—such as depression—can constitute a “serious health condition” entitling the employee to FMLA leave, if it meets the other requirements for a serious health condition.
7. Absent unusual circumstances, employees can be required to comply with the employer’s established call-in policy—even when the employee is utilizing intermittent FMLA leave.
8. Upon return from FMLA leave, employers must restore the employee to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.
9. Employers should be cautious when terminating an employee who has exhausted his/her FMLA. Employees who have exhausted all of their FMLA leave time may still be eligible for additional leave as a reasonable accommodation under the Americans with Disabilities Act, or leave under other state or federal laws. Employers should consult with human resources and legal counsel before taking action.
10. Supervisors and managers can be held individually liable for violations of the FMLA statute. It is important that management understand the law, and work closely with human resources or legal counsel when questions arise.

This list was compiled by Julie M. Conrad, Associate Chief Counsel for Eskenazi Health. This list is for informational purposes only and is not intended and should not serve as legal advice.