

Understanding Family Medical Leave: What you Need to Know

Scenario:

What if you found yourself in a situation where one of your parents gets an unexpected illness and you have to take leave to take care of that parent for two months?



Because you took the time off, you exhausted all of your leave banks and shortly after you return to work, you come down with the flu and need to be absent again. To make matters worse, your supervisor is disciplining you for abuse of your leave time.

In the meeting with your supervisor, you learn that there is a benefit called the Family Medical Leave Act (FMLA), in which you are entitled to take up to 12 weeks of leave paid or unpaid with no repercussions. You request that the 12 weeks be applied when you were taking care of your parent. However, you learn that this can't be used—and you may still be disciplined—because you didn't put in for FMLA before you left to take care of your parent.

This was an actual circumstance in a Local 17 bargaining unit. However, you can prevent this from happening to you and the members you represent as a Shop Steward, if you are equipped with the right resources. Those resources include knowing about: FMLA, the Washington Family Leave Act, the Family Care Act, Collective Bargaining Agreements, internal policies or statutes of your employer, and other relevant statutes. You'll need to consider all of the above to get the maximum use of the leave time that you may be eligible for. For example, be familiar with the FMLA. It states:

- *Employees unable to report for duty due to a serious health condition shall notify the employer's designated representative in accordance with procedures and timelines established at the department level.*
- *The employee requesting the leave for a qualifying circumstance must state why they are off work, the expected duration of the time off of work, and if the leave is to care for a family member. The employee must identify which family member.*
- *In situations where an emergency arises the employee must notify the designated representative as soon as reasonably possible. For Family Care Leave, the employee should provide as much advance notice of the need as possible.*

Family Medical Leave Act (FMLA)

Covered employers must grant an eligible employee up to a total of 12 work weeks of unpaid leave during any 12-month period for one or more of the following reasons:

- for the birth and care of the newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- to take medical leave when the employee is unable to work because of a serious health condition.

This law is enforced by the U.S. Dept. of Labor, Wage and Hour Division. Go to the Department of Labor website, www.dol.gov, for the latest information.

Washington Family Leave Act

In addition to FMLA, Washington employers with 100 or more employees must also comply with the Washington Family Leave Act, Chapter 49.78 RCW.

Under that statute, employees are entitled to 12 workweeks of unpaid family leave during any 12-month period to care for:

- a newborn or adopted child under six;
- a terminally ill child under 18 years of age.

Also, an employee returning from leave is entitled to a position within 20 miles of the employee's workplace when leave commenced. (The FMLA requires return to "the same or a geographically proximate worksite.")

- *For FMLA leave, where possible, an employee should give 30 calendar days advance notice of the need for leave. If 30 days advance notice is not possible, the employee or the employee's designee shall request leave as soon as the employee knows of the need to be away from work.*

Additionally, FMLA can also be used intermittently. When an employee has a chronic, serious condition in which consecutive leave is not necessary, the same notice, provisions and medical certification are required.

It is important to know what other benefits you may have through your Collective Bargaining Agreement and internal policies or statutes where you work. You may have some additional benefits beyond just Family Medical Leave and the Family Care Act. If you have any questions or need more information, contact your Union Representative.