

SOUTHWEST WEST CENTRAL SERVICE COOPERATIVE

SWWC

Education & Administrative Resources

Navigating the Family Medical Leave Act

Abby Polzine, Director of Human Resources

What is FMLA?

- The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees of covered employers with unpaid, job-protected leave for specified family and medical reasons.
- Eligible employees may take up to 12 workweeks of leave in a 12-month period for one or more of the following reasons:
 - The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care, and to bond with the newborn or newly-placed child;
 - To care for a spouse, son, daughter, or parent who has a serious health condition, including incapacity due to pregnancy and for prenatal medical care;
 - For a serious health condition that makes the employee unable to perform the essential functions of his or her job, including incapacity due to pregnancy and for prenatal medical care; or
 - For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active-duty status.

What is FMLA?

- An eligible employee may also take up to 26 workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember. An eligible employee is limited to a *combined* total of 26 workweeks of leave for **any** FMLA-qualifying reasons during the single 12-month period.
- In addition to providing eligible employees an entitlement to leave, the FMLA requires that employers maintain employees' health benefits during leave and restore employees to their same or an equivalent job after leave.

What is FMLA?

The FMLA applies to all:

- Public agencies, including local, State, and Federal employers, and local education agencies (schools); and
- Private sector employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year – including joint employers and successors of covered employers.

What is FMLA?

To be eligible, employees must:

- Work for a covered employer;
- Have worked 1,250 hours during the 12 months prior to the start of leave;
- Work at a location where the employer has 50 or more employees within 75 miles; and
- Have worked for the employer for 12 months.

Serious Health Condition

The most common serious health conditions that qualify for FMLA leave are:

- Conditions requiring an overnight stay in a hospital or other medical care facility;
- Conditions that incapacitate you or your family member for more than three consecutive days and have ongoing medical treatment (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication);
- Chronic conditions that cause occasional periods when you or your family member are incapacitated and require treatment by a health care provider at least twice a year; and
- Pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest).

Mental Health

- A serious health condition can include a mental health condition.
- Mental and physical health conditions are considered serious health conditions under the FMLA if they require 1) inpatient care **or** 2) continuing treatment by a health care provider.
- Remember: Leave may also be taken to provide care for a spouse, child, or parent who is unable to work because of a serious health condition. This also applies to children 18 years of age or older who is in need of care because of a serious health condition and the individual is incapable of self-care.

Intermittent FMLA

- Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason.
- A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.
- Employers must accommodate intermittent or reduced schedule leave when deemed medically necessary by a health care provider.
- When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employer agrees.

Example #1

Karen is occasionally unable to work due to severe anxiety. She sees a doctor monthly to manage her symptoms. Karen uses FMLA leave to take time off when she is unable to work unexpectedly due to her condition and when she has a regularly scheduled appointment to see her doctor during her work shift.

Example #2

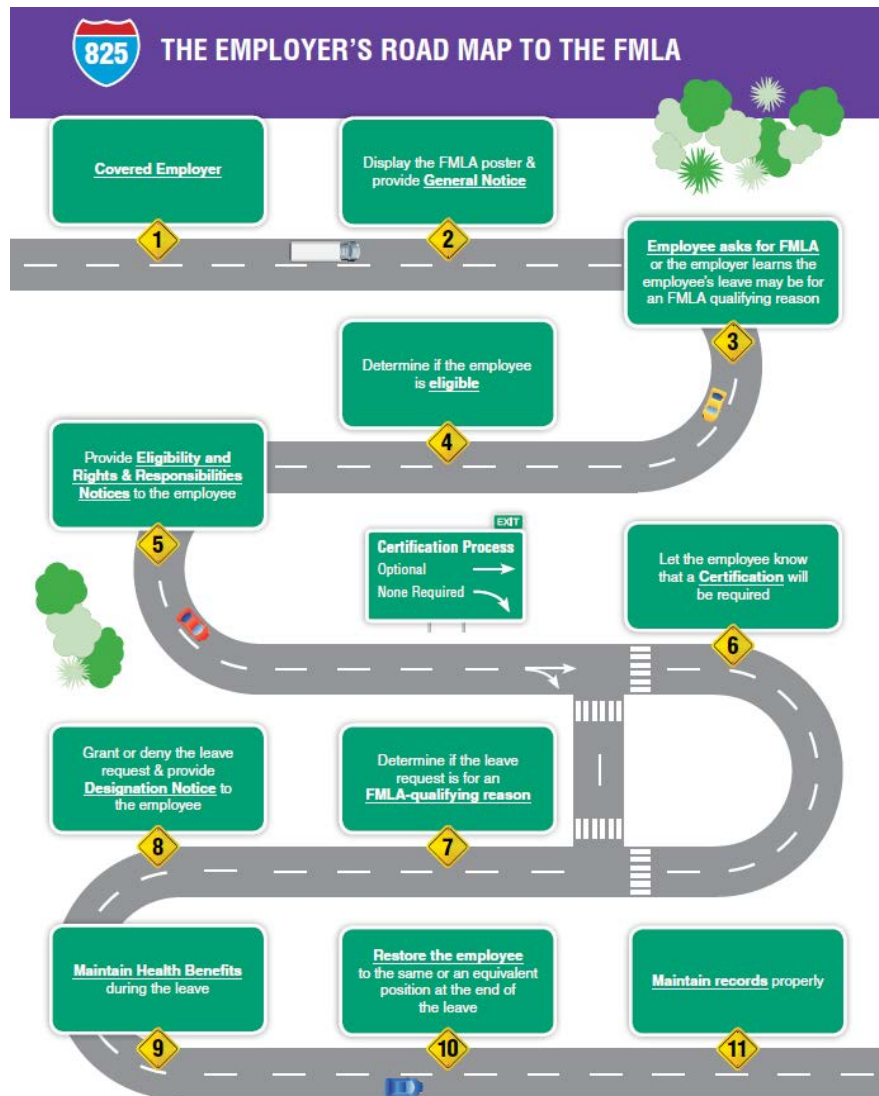
George uses one day of FMLA leave to travel to an inpatient facility and attend an after-care meeting for his fifteen-year-old son who has completed a 60-day inpatient drug rehabilitation treatment program.

Example #3

Sally uses FMLA leave to care for her daughter, Alex. Alex is 24 years old and was recently released from several days of inpatient treatment for a mental health condition. She is unable to work or go to school and needs help with cooking, cleaning, shopping, and other daily activities as a result of the condition.



THE EMPLOYER'S ROAD MAP TO THE FMLA



Employer's Responsibilities

- Ensure mandated poster is posted at all locations in a conspicuous spot
- Ensure that employees receive the required FMLA rights notices (including the Eligibility, Rights and Responsibilities, and Designation notices)
- Grant intermittent leave when 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
- Receive a Return-to-Work Certification (Optional)

MN Parental Leave

- Employees may take up to 12 weeks of unpaid leave upon the birth or adoption of their child. Employees are eligible for this leave regardless of the size of their employer and the amount of time for which they have worked for their employer.
- The leave must be taken within 12 months of the birth or adoption.
- Employees must request the leave from their employer.
- Employees can choose when the leave will begin.
- Employers can adopt reasonable policies about when requests for leave must be made.
- The health insurance continuation and job protections also apply.

FMLA to ADA

An FMLA “serious health condition” is technically not the same as a “disability” under the Americans with Disabilities Act.

However, because of the ADA, the definitions are closer than before.

FMLA to ADA

- Health condition that requires 12 weeks of FMLA may also constitute a disability under the Americans with Disabilities Act (ADA).
- When an employee is returning to work, their health condition may have an impact on their ability to perform the essential functions of the job.
- Can initiate Accommodations paperwork after receiving Return-to-Work Certificate, if restrictions are in place.
- Only applies to self, not for family members.
- Accommodations may be short-term or long-term.

Example #1

Rachel was involved in a car accident. She was approved to take 12 weeks of FMLA for her recovery. As a result of the accident, Rachel suffers from chronic back pain and is not able to sit for more than 2 hours at a time.

Rachel and her employer engage in the interactive process and determine that allowing Rachel more frequent breaks throughout her day and/or providing her with a sit-to-stand desk are reasonable accommodations that can be made for her approved disability.



Scenario #1

Jamie reaches out and shares that they will need to attend upcoming family counseling sessions for their spouse who is in an inpatient treatment program for substance abuse.

Scenario #2

Sam utilizes intermittent FMLA leave to take his 10-year-old son to doctor appointments for attention-deficit/hyperactivity disorder. He received an email from his supervisor that he is being put on notice for his attendance.

Scenario #3

Holly began working for the organization in January of 2024. She is expecting and due in November of 2024.

COMING in 2026

- Paid Leave is a new program launching for Minnesotans in 2026. It provides paid time off when a serious health condition prevents you from working, when you need time to care for a family member or a new child, for certain military-related events or for certain personal safety issues.

There are two main types of leave:

- **Family Leave** to care for a family member with a serious health condition, or if you're bonding with a new baby or child in your family.
- **Medical Leave** when your own serious health condition prevents you from working.
- Additionally, you will be able to take leave to support a family member in the military deploying overseas, or if you or a family member are facing a significant personal safety issue.

Questions?



Thank you!

Abby Polzine

Abby.Polzine@swwc.org