

# FAMILY AND MEDICAL LEAVE ACT (FMLA)

## Frequently Asked Questions



The Family and Medical Leave Act (FMLA) allows eligible employees to take a maximum of 12 weeks in a 12-month period of unpaid, job-protected leave each year for approved family and medical reasons. Under identified circumstances to care for a qualified military servicemember, an eligible employee may take up to a total of 26 weeks in a 12-month period.

To help you to better understand FMLA, The Prudential Insurance Company of America (Prudential) is providing you with responses to some of the most frequently asked questions about this Act.

### What is the Family and Medical Leave Act?

#### Basic Leave Entitlement

An eligible employee is entitled to a combined maximum of up to 12 weeks of leave in a 12-month period for the following reasons:

- For incapacity due to pregnancy, prenatal medical care, or childbirth.
- To care for the employee's child after birth or placement for adoption or foster care.
- To care for the employee's spouse, son, daughter, or parent who has a serious health condition.
- For a serious health condition that makes the employee unable to perform the employee's job.

#### Military Leave Entitlement

In addition to the basic FMLA leave entitlement above, eligible employees who have a spouse, son, daughter, or parent who is a member of the National Guard, U.S. Armed Forces Reserves, Active Armed Forces, or a retired member of the Regular Armed Forces or Reserves and who has been called up to active duty in support of a contingency operation are entitled to take leave in the following circumstances:

- For a qualifying exigency such as to prepare for short-notice deployment; to attend military events and related activities; to make child care arrangements and attend school activities; to make financial and legal arrangements associated with military duty; to participate in counseling; to engage in rest and recuperation; to participate in post-deployment activities; to care for a spouse servicemember's parents; and to participate in additional activities for which the employer and employee agree to the leave which arises out of the fact the spouse, or a son, daughter, or parent of the employee is on active duty or has been notified of an impending call or order to active duty in the U.S. Armed Forces in support of a contingency operation.

#### Qualifying Exigency

A non-medical activity that is directly related to a covered military member's active duty or call to active duty status.

- An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember is entitled to a total of 26 workweeks of leave during a single 12-month period to care for the servicemember. A covered servicemember is a current member of the U.S. Armed Forces, including a member of the National Guard or Reserves, or a veteran who has been discharged, other than dishonorably, within the 5 years prior to the leave request. The covered servicemember may be eligible if he or she has had a serious injury or illness incurred in the line of active duty which may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation or therapy; or is in outpatient status; or is on the temporary disability retired list. Illnesses attributed to active service which cause the need for support up to five years after discharge from the service will also qualify.

#### Eligibility

An employee is eligible after completing one year of service, which need not be consecutive, and having worked at least 1,250 hours in the 12 months preceding the leave.

### How much FMLA time is available to employees?

Eligible employees taking care of a covered servicemember who incurred a serious injury in the line of duty are entitled to a maximum of 26 weeks total time (includes FMLA leave used for any other reason) in a 12-month period.

For all other leaves covered by FMLA, including military exigency, eligible employees are entitled to a maximum of 12 weeks total time in a 12-month period.

### What are the benefits and protections of FMLA?

FMLA provides that an employee will be restored to the same or an equivalent position at the time of his or her return to work. An equivalent position is one with equivalent pay, benefits, and other employment terms. If an employee continues to pay his/her portion of group health plan premiums during a period of unpaid eligible FMLA leave, the employer must maintain the employee's group health plan benefits during the leave. The employee must continue to pay his/her portion of the premium to retain this coverage during the leave. If the employee fails to do so, his/her portion of the premium will be placed in arrears and deducted from his/her paycheck upon return to work.

If group health plan benefits are allowed to lapse because of an employee's failure to pay his/her portion of premiums during a period of unpaid eligible FMLA leave, the employer must reinstate the group health plan benefits upon the employee's return to work as if FMLA leave was not taken.

### What information must an employee provide to determine if the leave may qualify for the protections of FMLA?

Employees must provide sufficient information to enable the employer to determine if the leave may qualify for FMLA protection, as well as the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform his/her normal job functions; a family member is unable to perform daily activities; the employee has a need for hospitalization or continuing treatment by a health care provider; or circumstances supporting the need for military family leave. Employees will be required to provide certification and periodic recertification supporting the need for leave.

## **What is a Certification of Health Care Provider (CHCP)?**

Prudential will require, on behalf of the company, that a request for leave due to a serious health condition affecting the employee or a covered family member be supported by medical certification from a health care provider. The completed Certification of Health Care Provider must be returned to Prudential within the amount of time specified by the employer's absence policy guidelines. The form should be faxed to Prudential at 877-889-4885 or mailed to The Prudential Insurance Company of America, Disability Management Services, P.O. Box 13480, Philadelphia, PA 19176. The employee should retain a copy of the certification for his or her records.

## **If an employee fails to provide the CHCP in a timely manner, what are the consequences?**

Prudential will notify the employee in writing that the absence period does not qualify under FMLA because the CHCP was not received. The absence will be subject to the company's attendance guidelines; and the employee may not be guaranteed the job and benefits protections of FMLA.

## **If FMLA is denied, is there anything an employee can do to appeal the denial?**

The federal regulations interpreting FMLA do not require Prudential to establish a formal administrative appeal process; however, we encourage employees who feel that they have been wrongly denied FMLA to contact us for a review of the claim.

## **Can an employee choose whether he or she wants to use FMLA qualifying leave?**

No. If time away from work qualifies for FMLA, the employee may not choose whether the leave will be counted toward his or her FMLA entitlement.

## **Must FMLA leave be taken all at once?**

FMLA leave may be taken on an intermittent or reduced-schedule basis in certain circumstances which include medical necessity or military-qualifying events. Your employer may require you to take your leave all at once if the leave is to bond with a newborn or child placed for adoption.

## **Must each intermittent FMLA incident be documented?**

Yes. Each incident is viewed as a new event and must be documented if FMLA-qualifying time off is being requested. If an intermittent period has been established, each absence within that intermittent period must be documented by notifying your manager and Prudential.

### **Intermittent or Reduced-Schedule Leave**

Intermittent or reduced-schedule leave is FMLA leave taken in separate blocks of time, due to a single qualifying reason and/or any certified leave reducing the usual number of hours per workweek or per workday.

## **If an FMLA qualifying leave is taken for the birth of a child, or for placement of a child for adoption or foster care, must the leave be completed within a specific period of time?**

Yes. All FMLA-qualifying leaves must be completed within 12 months of the birth or placement of a child. The 12-month period begins on the date of birth or placement.

## **If a husband and wife are both employed by the company, are they both eligible for 12 weeks (26 weeks for military exigency) of FMLA leave in all situations?**

No. If both spouses work for the company, are covered by FMLA, and both request leave, they must share the 12-week leave entitlement for the birth, adoption, or placement of a foster child or for the care of an employee's parent with a serious health condition. They are also required to share the 26-week entitlement under the military servicemember family leave. However, each employee/spouse is entitled to take the remainder of his or her individual entitlement to care for a sick child or his or her own serious health condition.

## **Once the 12-week (26-week for military exigency) FMLA leave has been exhausted, are other types of company leave available to the employee?**

An employee should contact his or her manager and Human Resources about requesting any leave beyond the FMLA time allotment.<sup>1</sup>

### **Exhausted**

An employee has utilized all of his or her available leave time (federal and/or state), and the employer is no longer required by law to extend job restoration rights under federal or state FMLA.

## **Short-Term Disability**

### **What is short-term disability?**

Short-term disability (STD) helps to provide financial protection for employees by paying a portion of their income during a period of time when they are unable to work and perform the material and substantial duties of their job due to sickness or injury.

### **What is the difference between FMLA leave and short-term disability and why must an employee be approved for both?**

FMLA leave offers job and benefits protections during an absence from work; short-term disability pays a portion of an employee's income during this absence, if the absence is for the employee's own serious health condition. As they offer different protections/benefits and their approval processes are not connected, the employee must obtain approval for both.

### **What information must be provided to qualify for short-term disability?**

Prudential will obtain an employee's statement, which will be completed during the intake phone call or may also be completed via a secured Prudential website. In addition, Prudential will request information from your employer and your treating physician(s) supporting your absence from work. We encourage you to provide us with a Medical Authorization that will enable Prudential to gather additional information as it becomes necessary. This form can be obtained from our website at [www.prudential.com/mybenefits](http://www.prudential.com/mybenefits).

### **What are the determining factors for disability approval?**

An employee is considered disabled when Prudential determines that:

- The employee is unable to perform the material and substantial duties of his or her regular occupation due to sickness or injury; and
- The employee is under the regular care of a doctor.

## How long does it take to approve a short-term disability claim?

A short-term disability claim will be approved when Prudential determines that the employee is eligible for disability benefits, according to the terms and conditions of the plan. Some claims may be immediately approved; others may require additional information or review.

## If an employee is approved for short-term disability, does that mean he or she is automatically approved for FMLA leave; or if an employee is approved for FMLA leave for his or her own serious health condition, does that mean he or she will automatically be approved for short-term disability?

No, neither approval guarantees automatic approval of the other benefit. An employee must meet all conditional requirements of each program in order to be approved.

## If an employee is approved for STD, will the employee need to complete a separate certification for FMLA leave?

Approval for STD and FMLA leave (concerning the same condition) will require completion of the STD authorization only and the submission of necessary documentation to support the STD claim.

## What happens if the employee needs his or her absence extended? Who should the employee notify?

The employee must notify his or her manager and Prudential to request extending the time away from work. If the request requires additional information in order to process the extension, Prudential will inform the employee and the employee must supply the additional information within a specified time frame.

## What is required for an employee on STD to return to work?

The employee must notify Prudential at least two days prior to the return. If the absence is for the employee's own serious health condition, the employee must supply a Return to Work Authorization to his or her manager prior to returning.

1. You may be entitled to benefits under state FML. Contact Prudential or your Human Resources manager for further details.

This policy provides disability income insurance only. It does NOT provide basic hospital, basic medical or major medical insurance as defined by the New York Department of Financial Services.

**North Carolina Residents: THIS IS NOT A MEDICARE SUPPLEMENT PLAN. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare, which is available from the company.**

Family Medical Leave is administered by and Short Term Disability Insurance coverages are issued by The Prudential Insurance Company of America, 751 Broad Street, Newark, NJ. 07102. The Booklet-Certificate contains all details, including any policy exclusions, limitations, and restrictions, which may apply. Contract Series: 83500

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