

FMLA Administration Procedure Guide



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Introduction

About the FMLA

The **Family and Medical Leave Act of 1993 (FMLA)**, as amended, allows employees to take job-protected leave during a 12-month period to care for themselves or a family member.

About this Guide

If your Company is an FMLA-covered employer, it has a statutory requirement to offer FMLA leave. This procedure provides guidance as to how the company should administer FMLA leave.

We understand roles can be flexible and there may be a variety of people handling leave requests from organization to organization. For the sake of simplicity, we use the term “HR Representative” to describe any person who would be responsible for coordinating with an employee the terms of their leave.



Step 1

Recognition of Possible FMLA Qualifying Event

It is each manager's responsibility to recognize possible FMLA events. The FMLA process should be triggered if a manager receives a request or otherwise has knowledge of an employee's need for leave based in whole or in part on any of the reasons listed below. If a manager hears of an employee's need for leave based on one of these reasons, they should notify the HR Representative immediately.

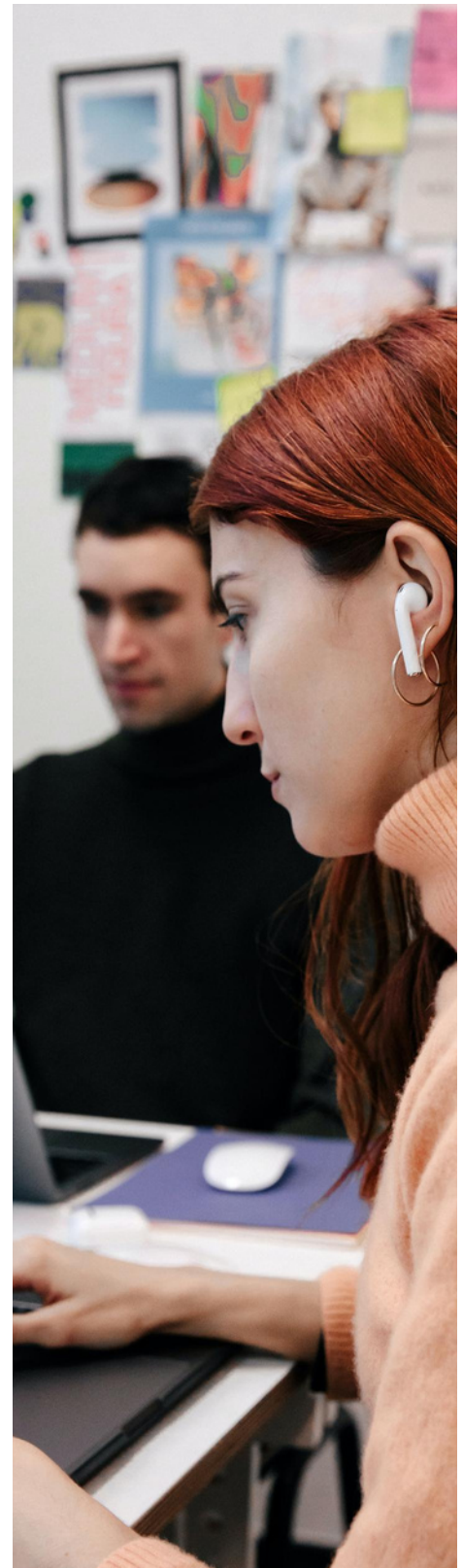
Basic Reasons for FMLA Leave

- **Health Condition:** Because of the employee's own serious health condition that renders the employee unable to perform an essential function of their position.
- **Baby Bonding:** To care for the employee's newborn during the first 12 months following birth.
- **Adoption or Foster Care:** To care for a child during the first 12 months following placement with the employee for adoption or foster care.
- **Caregiver for Family Member:** To care for a spouse (of any gender), child, or parent ("covered relation") with a serious health condition.
- **Pregnancy or Childbirth:** For incapacity due to the employee's pregnancy, including prenatal care, pregnancy-related disability or child birth recovery.

Military Family Reasons for FMLA Leave

- **Qualifying Exigency Leave:** To address certain qualifying exigencies when the employee's spouse or child is on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation.
- **Leave to Care for an Injured or Ill Servicemember:** To provide care to a covered servicemember who has been rendered medically unfit to perform their duties due to a serious injury or illness incurred in the line of duty for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Again, should any member of the management team learn of an employee's need to take leave, the manager should immediately notify the HR Representative as there are timing compliance requirements that must be satisfied in terms of administering FMLA. Even if the management team member is unsure of whether the employee's leave reason qualifies, notification is necessary.



Step 2

Determining Eligibility, Based on Length of Service

Once the Company learns of a potential need for FMLA leave, it will perform an analysis of the employee's length of service to determine eligibility.

Keep in mind these questions when determining an employee's length of service eligibility:

Has the employee worked for the business for at least **12 months** in the last **7 years**?

Has the employee been paid by the business for at least **1,250 hours** during the last **12 months** before the start of the leave?

Is this the employee's **only** FMLA request in the past **12 months**?

If the answer to all three of these questions is "yes," the employee qualifies for length of service eligibility.

If the answer to any of these questions is "no," the Company will determine if the employee is eligible for any leave under the FMLA at this time.

In either case, this information will be noted on the **Notification of Eligibility, Rights and Responsibilities (WHD-381)** – see **Step 3**.



Step 3

Employee Request and Certification

Once the Company learns of a potential FMLA leave, the Company will provide the employee with the initial paperwork.

1. Appropriate Request Form

No federal forms provided,
use business created forms.

3. FMLA Safe Harbor Form

No federal forms provided,
use business created forms.

4. WH-381: Notification of Eligibility, Rights and Responsibilities

This form must be provided within five business days after an employee has informed management of the need for leave.

2. Appropriate Certification Form

WH-380-E

Certification of Health Care Provider for Employee's Serious Health Condition

WH-384

Certification of Qualifying Exigency for Military Family Leave

WH-385-V

Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave

WH-380-F

Certification of Health Care Provider for Family Member's Serious Health Condition

WH-385

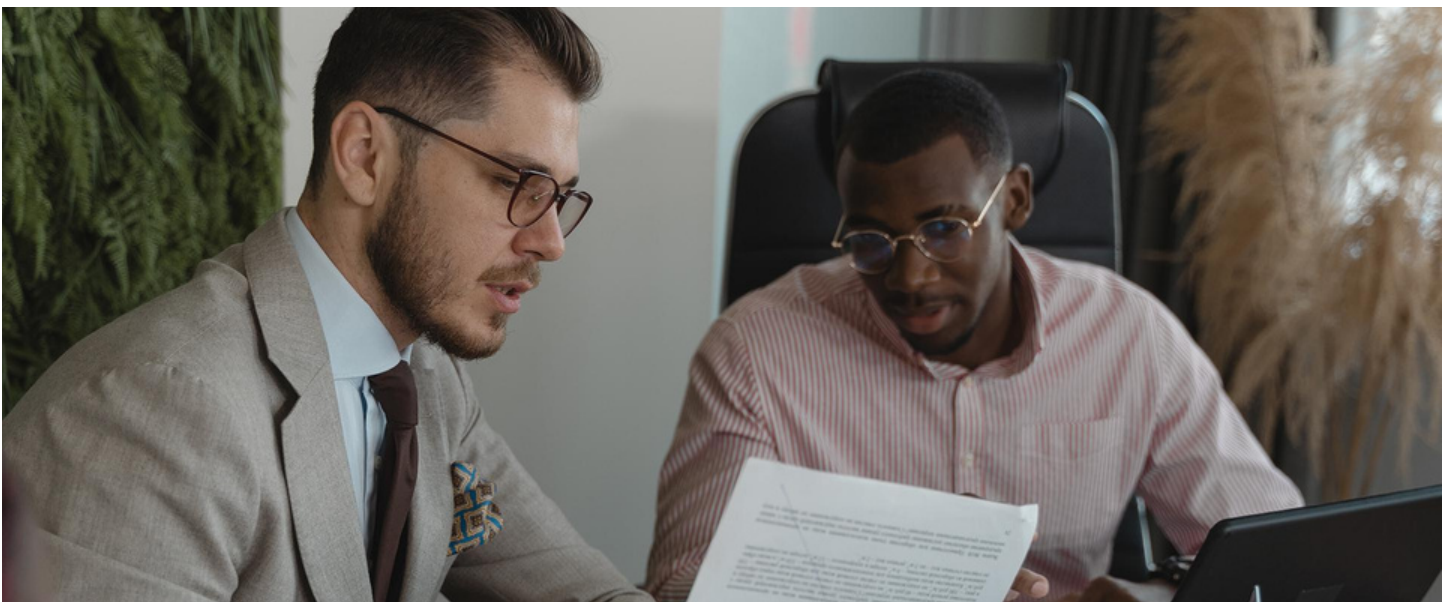
Certification for Serious Injury or Illness of Covered Servicemember - for Military Family Leave

These certification forms and Form WH-381 in box 4 are from the Department of Labor. Click each title for the newest version.

5. Short-Term Disability Claim Form, if applicable

Form will vary by provider.

When this paperwork is provided, the employer will inform the employee that they have **15 calendar days** to return the certification form.



Step 4

Determining Eligibility, Based on Reason

The Company will review the completed Certification Form and determine employee eligibility for leave. The Company will also determine whether the leave will be in the form of a *lump sum* or *intermittent leave* and communicate the leave dates with the employee's manager.

After an eligibility determination is made and dates are finalized, this information will be communicated to the employee formally in **Step 5**.

Step 5

Formal Designation and Logistics

Once the Company receives back the FMLA Request Form and the appropriate Certification Form, the Company will formally designate the leave by providing the following forms:

- **Designation Notice (WHD-382)**
- **Benefits Continuation Letter:** If the employee participates in any company-sponsored insurance plans, this letter explains the employee's rights and responsibilities with respect to benefits continuation.

WH-382: Designation Notice

This form must tell the employee if their leave has been approved, if you need more information to approve the request, or if the employee's leave was not approved and why.



Step 6

Management of Leaves

During leave, **the HR Representative will take the lead regarding communication with the employee.** The HR Representative will keep the employee's manager posted regarding the employee's return to work status.

The employee's benefits will be maintained as long as payment is received in a timely manner. **If the employee's insurance payment is late**, the Company will send out the 15-day nonpayment letter.

If payment is more than 30 days late, the Company will cancel the employee's Company-sponsored insurance plans as long as the 15-day nonpayment letter was mailed and received by the employee at least 15 days prior to cancellation.



Step 7

Return to Work

Once the employee has notified the Company that they can to return to work, the Company will require that the employee submit a **Fitness for Duty Certification Form** from their treating physician. If the employee's treating physician indicates that the employee has any work restrictions upon return, the Company will provide the employee with the **Work Restrictions Response Letter and Employee Acknowledgment Form**. The HR Representative will work directly with the employee and the employee's manager to determine a return to work date.

Search our library for sample forms and letters you can use for FMLA leave administration.



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