Family Medical Leave Act (FMLA)

The Family and Medical Leave Act (FMLA) provides eligible employees with up to 12 weeks of unpaid, job-protected leave each year. FMLA is designed to help employees balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons.

To help you better understand FMLA, a few of the most frequently asked questions are answered below.

What is the Family Medical Leave Act?

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

- For incapacity due to pregnancy, prenatal medical care or child birth.
- 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 or U.S. Armed Forces Reserves are entitled to 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; 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.

- An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 workweeks of leave during a single 12-month period to care for the service member. A covered service member is a current member of the U.S. Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty which may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation or therapy; or is in outpatient status; or is on the temporary disability retired list.
How much FMLA time is available to employees?

Eligible employees are entitled to a maximum of up to 12 weeks leave in a rolling 12-month period.

**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.

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.

Group health plan benefits will be maintained during eligible FMLA leave. Employees must continue to pay their portion of the premium to retain this coverage. If the employee fails to make premium payments, the employee’s portion of the premium will be placed in arrears and deducted from his or her paycheck upon return to work.

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 their 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 15 calendar days of the request for leave. The form should be faxed to Prudential at (877) 889-4885 or mailed to The Prudential Insurance Company of America, Pru1Solution, P.O. Box 13480, Philadelphia, PA 19176.

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 Certification of Health Care Provider 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?

No. The federal regulations interpreting FMLA do not require an administrative appeal process.
Can an employee choose whether they want 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 towards 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.

INTERMITTENT OR REDUCED SCHEDULED LEAVE: Intermittent or reduced scheduled 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.

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 as soon as reasonably possible, and by notifying Prudential.

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 of FMLA 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 the employee’s parent with a serious health condition.

They are also required to share the 26-week entitlement under the military service member family leave.

Once the 12-week 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.

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 provide job protection.
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 substantiated duties of their job due to sickness or injury.

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

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 the internet. After Prudential has obtained the employee’s statement, an Attending Physician’s Statement will be completed by the employee’s physician/health care provider.

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 the regular occupation due to their 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 or if an employee is approved for FMLA for their own serious health condition does that mean he or she will automatically be approved for short term disability?
No.

If an employee is approved for STD, will the employee need to complete a separate certification for FMLA?
Approval for STD and FMLA (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 of the return 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.

Disability coverage is issued by The Prudential Insurance Company of America, 751 Broad Street, Newark, NJ.

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