

# U.S. Department of Labor Wage and Hour Division

## Family and Medical Leave Act (OVERVIEW)

Corey Walton  
USDOL-WHD



U.S. Department of Labor  
Wage and Hour Division



# LAWS ENFORCED BY WHD

- **Family and Medical Leave Act**
- **Fair Labor Standards Act**
- **Davis Bacon and Related Acts**
- **Service Contract Act**
- **Polygraph Protection Act**
- **Wage Garnishment**
- **Temporary Worker Programs**



# FAMILY MEDICAL LEAVE ACT



U.S. Department of Labor  
Wage and Hour Division



# INTRODUCTION TO THE FMLA

- Purpose:
  - Balance work and family life
  - Promote economic security of families and serve national interest in preserving family integrity
- Shared Responsibilities:
  - Communication is key



# FMLA RESPONSIBILITIES

## EMPLOYEE RESPONSIBILITIES

- Provide sufficient and timely notice of the need for leave
- If requested by the employer:
  - Provide certification to support the need for leave
  - Provide periodic status reports
  - Provide fitness-for-duty certification

## EMPLOYER RESPONSIBILITIES

- Provide notice
  - General Notice
  - Notice of Eligibility
  - Notice of Determination
  - Notice of Rights and Responsibilities
- Maintain group health insurance
- Restore the employee to same or equivalent job and benefits
- Maintain records



# FAMILY MEDICAL LEAVE ACT

## EMPLOYER COVERAGE

- Private sector employers with 50 or more employees
- Public Agencies
- Public and private elementary and secondary schools



# FMLA CONT'D

## EMPLOYEE ELIGIBILITY

- Employed by covered employer
  - Worked at least 12 months
  - Have at least 1,250 hours of service during the 12 months before leave begins
  - Employed at a work site with 50 employees within 75 miles
- ❖ **ENTITLEMENT: Up to 12 weeks of unpaid leave**



# FMLA CONT'D

## QUALIFYING LEAVE REASONS

- For the birth or placement of a child for adoption or foster care;
- For their own serious health condition
- To care for a spouse, son, daughter, or parent with a serious health condition;





# FMLA CONT'D

## QUALIFYING FAMILY MEMBERS

- **Parent** - A biological, adoptive, step or foster father or mother, or someone who stood *in loco parentis* to the employee when the employee was a son or daughter. Parent for FMLA purposes does not include in-laws.
- **Spouse** - A husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriage and same-sex marriage.
- **Son or Daughter** - *For leave other than military family leave*, a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either under 18 years of age, or 18 or older and incapable of self-care because of a mental or physical disability.



# FMLA CONT'D

## SERIOUS HEALTH CONDITION

Illness  
Injury  
Impairment  
Physical or mental condition

*Involving:*

- **Inpatient Care**, or
- Continuing Treatment by a Health Care Provider



# FMLA CONT'D

## INPATIENT CARE

- An overnight stay in a hospital, hospice, or residential medical facility;
- Includes any related incapacity or subsequent treatment



# FMLA CONT'D

## SERIOUS HEALTH CONDITION

Illness,  
Injury,  
Impairment  
Physical or mental condition

*Involving:*

- Inpatient Care, or
- Continuing Treatment by a Health Care Provider



U.S. Department of Labor  
Wage and Hour Division



# FMLA CONT'D

## CONTINUING TREATMENT

- Pregnancy
- Chronic Conditions
- Permanent/Long-term Conditions
- Absence to Receive Multiple Treatments
- Incapacity Plus Treatment



# FMLA CONT'D

## INCAPACITY PLUS TREATMENT

- **Incapacity** of more than three consecutive, full calendar days that involves either:
  - **Treatment** two times by HCP (first in-person visit within seven days, both visits within 30 days of first day of incapacity)
  - **Treatment** one time by HCP (in-person visit within seven days of first day of incapacity), followed by a regimen of continuing treatment (e.g., prescription medication)

*(DOL-WHD Fact Sheet #28)*



# LEAVE FOR MENTAL HEALTH CONDITIONS UNDER THE FMLA

- 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

## INPATIENT CARE

- A serious mental health condition that requires inpatient care includes an overnight stay in a hospital or other medical care facility, such as, for example, a treatment center for addiction or eating disorders.

*(DOL-WHD Fact Sheet #280)*



U.S. Department of Labor  
Wage and Hour Division



# LEAVE FOR MENTAL HEALTH CONDITIONS UNDER THE FMLA

## CONTINUING TREATMENT

- A serious mental health condition that requires continuing treatment by a health care provider includes—
  - Conditions that **incapacitate an individual for more than three consecutive days** and require ongoing medical treatment, either multiple appointments with a health care provider, including a psychiatrist, clinical psychologist, or clinical social worker, or a single appointment and follow-up care (e.g., prescription medication, outpatient rehabilitation counseling, or behavioral therapy); and
  - **Chronic conditions** (e.g., anxiety, depression, or dissociative disorders) that cause occasional periods when an individual is incapacitated and require treatment by a health care provider at least twice a year.





# Compliance Assistance Materials - FLSA

- The Law
- The Regulations ( 29 C.F.R. Part 500-899)
- Interpretive Guidance (opinion letters, field operations handbook, and field bulletins)
- FLSA Poster
- Handy Reference Guide
- Fact Sheets
- Information for New Businesses
- Department of Labor Home Page



# FMLA CONT'D

## SUBSTITUTION OF PAID LEAVE

- Employees may choose, or employers may require, the substitution of accrued paid leave for unpaid FMLA leave
- Substitution” means paid leave provided by the employer runs **concurrently** with unpaid FMLA leave and normal terms and conditions of paid leave policy apply
- Employee remains entitled to unpaid **FMLA** if **procedural requirements for employer’s paid leave are not met**

*(DOL-WHD Fact Sheet #28)*



# Additional Information

- Visit the WHD homepage at: [www.wagehour.dol.gov](http://www.wagehour.dol.gov)
- Call the WHD toll-free information and helpline at 1-866-4US-WAGE (1-866-487-9243)
- Use the DOL interactive advisor system - *ELAWS* (Employment Laws Assistance for Workers and Small Businesses) at: [www.dol.gov/elaws](http://www.dol.gov/elaws)
- Call or visit the nearest Wage and Hour Division Office



# Disclaimer

This presentation is intended as general information only and does not carry the force of legal opinion.

The Department of Labor is providing this information as a public service. This information and related materials are presented to give the public access to information on Department of Labor programs. You should be aware that, while we try to keep the information timely and accurate, there will often be a delay between official publications of the materials and the modification of these pages. Therefore, we make no express or implied guarantees. The *Federal Register* and the *Code of Federal Regulations* remain the official source for regulatory information published by the Department of Labor. We will make every effort to keep this information current and to correct errors brought to our attention.

