

## MODULE 7

# Family and Medical Leave Act (FMLA)

## Module Overview

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**Time:** 60 minutes plus Introductions

- Objectives:**
- to review the key points of the Family and Medical Leave Act (FMLA) and the Small Necessities Act
  - to practice applying the FMLA

- Preparation**
- read Schwartz *Your Rights on the Job*, Chapter 14
  - prepare flipcharts: *Objectives; Agenda; Am I Covered; If You are Denied FMLA Leave*
  - read and copy handouts: *Participant Outline; The Key Rules of FMLA; Am I Covered?; Small Necessities Act in Brief; The Family and Medical Leave Act “In Brief”*

**Materials** flipchart, markers, masking tape

## Module Outline

## Module Detail

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### Welcome and Introduction

**Time:** 5 minutes

**Flipcharts:** *Objectives* and *Agenda*

### What’s Our Experience?

**Time:** 10 minutes

### Welcome and Introduction

Welcome participants, introduce yourself and review workshop objectives and agenda. It is helpful to put the Objectives and Agenda on flipcharts to post.

### Icebreaker: What’s Our Experience?

Ask participants to introduce themselves, giving their name, and union or organizational affiliation, if any. Ask for a show of hands of all who have had experience with the FMLA – either personally or a member of their family. Ask some participants to briefly describe the experience.

**The Family and Medical Leave Act in Brief**

**Time:** 10 minutes

**Handout:** *The Key Rules of the FMLA*

**Activity 1: The Family and Medical Leave Act in Brief**

Ask participants to listen to the following Mini-rap on the FMLA:

**Mini-rap:**

“In 1993 Congress created the Family and Medical Leave Act after much pressure from unions, women’s groups and others. The purpose of the law is to protect your job if you are absent due to your own illness, a family member’s illness, or the birth or adoption of a child. You can take up to twelve work weeks of unpaid FMLA leave if you have worked at least 1,250 hours in the year before you need the leave. You may be able to use personal, sick or vacation time if this is in your union contract or if it is your employer’s policy. To be eligible, your employer must have at least fifty employees within a seventy-five mile radius of your workplace.

To use medical leave you must be sick for more than three calendar days in a row and use continuing care from a healthcare provider. You can take this leave all at once, intermittently or on a reduced schedule. All of your group health insurance must continue as if you were working. You cannot be disciplined or suffer any negative consequences for using FMLA leave. Injuries you may get on the job are not covered by the FMLA – they are covered by Workers Compensation.”

Distribute and review the handout *The Key Rules of the FMLA*. Ask participants “What are your questions?”

**Am I Covered?**

**Time:** 20 minutes

**Handout:** *Am I Covered?*

**Flipchart:** *Am I Covered?*

**Activity 2: Am I Covered?**

Distribute handout *Am I Covered?* Break participants into small groups and ask each group to discuss each example and determine if the situation described is covered by the FMLA. Bring the whole group back together and ask each group to report their answers, posting responses on flipchart: *Am I Covered?* Discuss any disagreements.

**Activity 3: The Small Necessities Act**

Ask participants to listen to the following mini-rap on the Small Necessities Act:

**The Small Necessities Act**

**Time:** 10 minutes

**Handout:** *Small Necessities Act in Brief*

**Remedies for Violation of the FMLA**

**Time:** 5 minutes

**Handout:** *The FMLA in Brief*

**Flipchart:** *If You Are Denied FMLA Leave*

**Note to facilitator:**

**Summary**

**Mini-rap:**

“In Massachusetts there is a law that provides for 24 hours a year of leave to attend a child’s school activity or to accompany a child or elderly relative to a medical appointment. The rules of eligibility are the same as the FMLA. This leave is in addition to the FMLA. Depending on your union contract or your employer’s policy, you may be able to use personal, sick or vacation time, or it may be unpaid. You must give seven days notice, if possible, before using the Small Necessities Act.”

Distribute & review handout *Small Necessities Act in a Nutshell*.

Ask participants “What questions to you have?”

**Remedies for Violation of the FMLA**

Distribute and review the remedies section of the handout *The FMLA in a Nutshell*. Use the flipchart *If You Are Denied FMLA Leave* for emphasis.

Ask participants “What questions to you have?”

*Depending on literacy levels you can read the remedy section aloud or ask a participant to read it.*

**Summary**

“It took years of education and lobbying by unions and other groups to pass the FMLA. The key provisions are that covered employees are allowed 12 weeks per year of **job protected, unpaid** leave. A union can bargain to allow employees to use sick, vacation or personal time to get paid for FMLA leave. There are efforts underway in Massachusetts to provide for paid leave.

Immigrant workers, whether documented or undocumented, are covered by FMLA. It is not always safe, however, for undocumented workers to go to state and federal agencies with complaints, as those agencies might notify Immigration and Customs Enforcement (ICE). Therefore, undocumented workers should check first with an advocacy organization (see handout: *Partial List of Advocacy Organizations*). The handout *Safe and Unsafe Agencies for Immigrant Workers* is only a guideline. Policies change. **To be safe, always go to an advocacy organization first.**

## **Module 7**

### **Family Medical Leave Act (FMLA)**

#### **Participant Outline**

#### **Objectives:**

- To review the key points of the FMLA and the Small Necessities Act
- To practice applying the FMLA

#### **Welcome and introductions**

#### **Icebreaker: What's Our Experience?**

Discuss what participants are familiar with in the FMLA

#### **Activity 1: The Family and Medical Leave Act in Brief**

Listen to mini-rap about the law

#### **Activity 2: Am I Covered?**

Small group discussion practicing what's been learned about the FMLA

#### **Activity 3: The Small Necessities Act**

Listen to mini-rap about this Massachusetts legislation

#### **Remedies for Violation of the FMLA**

Learn what can be done if your rights are violated

#### **Summary**

Wrap up what we have learned about the FMLA and Small Necessities Act

## The Key Rules of FMLA

You can take up to 12 workweeks of unpaid FMLA leave in each 12 month period for the following reasons:

- 1) your own serious illness
  - 2) to care for a seriously ill child, spouse, or parent
  - 3) for childbirth or to care for a newborn child up to age one
  - 4) for the placement of a child with you for adoption or foster care
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- Depending on your union contract or your employer's policy, you may be able to use personal, sick, or vacation time or it may be unpaid
  - You must have worked 1,250 hours in the 12 months before your absence
  - Your employer must have 50 or more workers within a 75 mile radius
  - Medical leave can be taken all at once, intermittently, or on a reduced schedule
  - For your own illness you must be sick for three days in a row that requires care from a health care provider
  - You must give your employer "proper and timely notice"
  - During your leave, group health plan benefits must be maintained as if you had continued to work
  - When you return, you must be restored to your former position or to an equivalent one with no loss to your seniority or benefits
  - You cannot be given any discipline or suffer any negative consequences for time taken under the FMLA

## **Am I Covered? Participant Worksheet**

Read the following scenarios and answer the question posed in each. Each workplace meets the requirement for FMLA eligibility.

- 1) Elaine has worked full-time at S&S Manufacturing for two years. Her father has cancer and is not expected to live for more than two months. Is she covered to take time off to be with him at home?
- 2) Juan has a bad back. His doctor wants him to be able to come in to work late on days his back hurts, so that he can loosen it up at home. Under the FMLA, is this possible?
- 3) Sue finished high school last May and started a new job. She broke her leg in December. She needs to take two weeks off to get better. Is she covered?

## **Am I Covered? Facilitator's Answers**

Read the following scenarios and answer the question posed in each. Each workplace meets the requirement for FMLA eligibility.

- 1) Elaine has worked full-time at S&S Manufacturing for two years. Her father has cancer and is not expected to live for more than two months. Is she covered to take time off to be with him at home?

Yes, Elaine is covered. The FMLA covers time off to care for an ill parent.

- 2) Juan has a bad back. His doctor wants him to be able to come in to work late on days his back hurts, so that he can loosen it up at home. Under the FMLA, is this possible?

Yes, FMLA may be taken intermittently if Juan's back condition is a chronic, serious condition.

- 3) Sue finished high school last May started a new job. She broke her leg in December. She needs to take two weeks off to get better. Is she covered?

No, Sue is not covered. She had not worked for her employer for at least 12 months before breaking her leg.

## Flipcharts for Module 7: Family Medical Leave Act (FMLA)

### Flipchart for Introduction

#### Agenda

- Welcome and introductions
- Icebreaker
- Activity 1: The Family and Medical Leave Act in a Nutshell
- Activity 2: Am I Covered?
- Activity 3: The Small Necessities Act
- Remedies for Violation of the FMLA
- Summary

### Flipchart for Introduction

#### Objectives

- To review the key points of the FMLA and the Small Necessities Act
- To practice applying the FMLA

### **Flipchart for Activity 2**

#### Am I Covered?

- 1) Elaine
  
- 2) Juan
  
- 3) Sue

### **Flipchart for Activity 4**

If you are denied FMLA or Small Necessities Act Leave

Your employer may be ordered to:

- 1) Obey the law
- 2) reinstate an employee with double back pay (triple for Small Necessities Act!)
- 3) pay an employee's legal fee and litigation expenses
- 4) For Small Necessities Act – pay \$500 fine