LEAVES OF ABSENCE

Family and Medical Leave Act
California Family Rights Act
Pregnancy Disability

FMLA/CFRA/PDL

Welcome

The goal for this training is to equip you with a better understanding of the leave laws as they pertain to the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), and Pregnancy Disability Leave (PDL).

This training will provide you with information on how these leaves run concurrently, how employees get paid while on leave, as well as benefits coverage while on leave, and why an employer should even bother administering these leaves at all.

The format of this presentation provides general information, and where pertinent, includes "Key Points" at the end of each section. The "Key Points" offers a more detailed explanation about the general content of the particular section.

FMLA/CFRA/PDL

Welcome (cont.)

Before you begin you will answer twelve True/False questions to test your knowledge of FMLA/CFRA/PDL. Additionally, two thought-provoking case studies are included in the presentation for you to review and analyze. Answers will be provided at the end of the presentation. So grab a piece paper to jot down your answers, and let's begin!

FMLA/CFRA/PDL

Pre-Test

True or False

1. Under FMLA and CFRA an eligible employee is entitled to 12 work weeks of family and medical leave during a 12-month period.
2. Employees who have been with their employer for at least one year and who have worked at least 1,350 hours are eligible.
3. FMLA and CFRA are paid leaves.
4. If the employee doesn't ask for FMLA leave you don't have to give it.
5. Under FMLA an employer may dock an exempt employee’s leave bank for partial day absences.
6. An employer’s decision about leave is final and there is no recourse for the employee under this law.

7. The 1,250 hours eligibility requirement means 1,250 hours on pay status.
8. Employers must maintain group health insurance benefits for employees.
9. An employer may request medical certification regarding a family member even if that individual isn’t an employee.
10. UC Davis uses a calendar year to track FMLA leave.
11. The serious health condition standard is the same whether applied to the employee or covered family members.
12. The supervisor should find out exactly what the employee’s serious illness is before they grant the FMLA leave.

FMLA/CFRA/PDL

Pre-Test

True or False

Acronyms used throughout this training:

- ADA: Americans with Disabilities Act
- CFRA: California Family Rights Act
- FMLA: Family and Medical Leave Act
- FSA: Flexible Spending Account
- FTE: Full-time Equivalent
- HCP: Health Care Provider
- HR: Human Resources
- MCL: Military Caregiver Leave
- PDL: Pregnancy Disability Leave
- PIF: Period of Initial Eligibility
- PPS: Payroll Personnel System
- PPSM: Personnel Policies for Staff Members
- SHC: Serious Health Condition
- STD: Short-Term Disability
- TES: Temporary Employment Services
- UC: University of California
FMLA/CFRA/PDL

Roles and Responsibilities

EMPLOYEE

• Must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer’s normal call-in procedures.

• Must provide sufficient and timely documentation for the employer to determine if the leave qualifies for FMLA protection and the anticipated timing and duration of the leave.

• Informs supervisor when absence is due to FMLA-related condition.

• Upon return from leave, must provide Return to Work Certification.

EMPLOYER

• Provides FMLA paperwork to employee within 5 business days of leave request or acquiring knowledge of leave.

• Must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employee’s rights and responsibilities. If not eligible, the employer must provide a reason for the ineligibility.

• Must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee’s leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

• Maintains FMLA and PDL records for three years.

What is the difference?

• FMLA – Federal entitlement

• CFRA – State entitlement

• PDL – State entitlement (pregnancy only)

• FMLA and CFRA run concurrently

• FMLA and PDL run concurrently

• CFRA and PDL do not run concurrently

Key Points:

Family and Medical Leave Act and California Family Rights Act (FMLA/CFRA)

Eligibility Requirements

An employee must have at least 12 months of University service to qualify for FMLA. The service does not need to be 12 consecutive months and it includes all time worked at UC, including student, limited, TES and time worked at other UC campuses. Additionally, the employee must have worked 1250 hours in the consecutive 12 months immediately preceding the leave.

Count actual hours worked (regular and overtime hours). Do NOT count vacation, sick leave, or holiday hours.

An employee can take leave for a FMLA-qualifying reason when not yet eligible for FMLA, but may become eligible during the leave. The portion of the leave that occurs after the employee becomes eligible is counted as FMLA.
Family and Medical Leave Act and California Family Rights Act (FMLA/CFRA)

Key Points:  

Eligibility Requirements (cont.)

- Time maintained on payroll, whether paid or unpaid, counts toward the 12-month requirement as long as other benefits or compensation are provided.
- For military leave, count the time that the employee would have worked, toward the 12-month period, 1250 hours.

 Reasons for Taking FMLA/CFRA

- Medical Leave
  - Employee’s own serious health condition
  - Employee’s pregnancy-related disability

- Family Care
  - Care for the employee’s parent, spouse, or child that has a serious health condition

- Baby Bonding
  - Birth, adoption or foster care placement

Reasons for Taking FMLA/CFRA

- Qualifying Exigency Leave
  - Because of a qualifying exigency arising out of the fact that employee’s spouse, domestic partner, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty in support of a contingency operation).

- Military Caregiver Leave
  - To care for covered service member with a serious injury or illness if service member is employee’s parent, spouse, domestic partner, son, daughter, or next of kin.

Family Care

- The term “parent” does not include “in-law.” It means biological or person responsible for care and financial support. It also includes adoptive, foster, stepparent or legal guardian.

- Spouse is a husband or wife as defined under state law for purposes of marriage.

- Domestic partners are covered under CFRA. Therefore, an employee could take up to 12 weeks for care of domestic partner, then an additional 12 weeks of FMLA for parent, child, self. They are two separate events.

Family Care (cont.)

- Child includes step-child, adopted, foster or legal ward. The care of a child over 18 is not covered unless the child is physically or mentally incapable of self-care because of a physical or mental disability as defined by the Americans with Disabilities Act (ADA).

- For purposes of Qualifying Exigency Leave or injured service member leave, a parent may seek leave to care for a child at any age.

Qualifying Exigency Leave

- Entitles an employee to take up to 12 weeks of leave.

- Exigency leave applies only to Ready Reserve, Select Reserve, Individual Ready Reserve, National Guard, retired military members of the Regular Armed Forces or retired Reserve. This provision does not apply to any retired member of a state Reserve or National Guard unit. Those serving in the regular Armed Forces do not qualify.
Key Points:

Military Caregiver Leave

Allows up to 26 weeks to care for injured service member.

Covered service member is a current member of the Armed Forces (including National Guard or Reserves) or a member of the aforementioned but on the temporary disability retired list, in outpatient status.

Serious injury or illness is defined as "an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank or rating.

Next of kin is defined as the service member’s nearest blood relative (aside from parent, spouse, or child).

What is a Serious Health Condition?

- An illness, injury, impairment or physical/mental condition that involves:
  1. Inpatient care;
  2. Continuing treatment by a health care provider (HCP) for a condition that causes more than 3 full consecutive calendar days of incapacity.

Inpatient care is defined as:

- An overnight stay at a hospital, hospice or residential care facility. It also includes any period of incapacity or subsequent treatment in connection with such inpatient care.

Continuing treatment is defined as:

- Absence plus treatment
  - Two or more treatments within 30 days of the first day of incapacity by HCP or
  - Treatment by HCP on one occasion that results in a regimen of continuing treatment under supervision of HCP.

Continuing treatment (cont.)

- Pregnancy (under Federal Law only)
  - Any period of incapacity due to pregnancy or prenatal care.
- Chronic conditions requiring treatment
  (i.e. asthma, diabetes, epilepsy)
- Permanent/long term conditions
  (i.e. Alzheimer’s, terminal stages of disease)
- Multiple treatments/non-chronic conditions
  (i.e. chemotherapy, radiation, dialysis)

The initial visit to the health care provider (HCP) must occur within seven days of incapacity. The HCP must be seen in person, although subsequent treatment can be a regimen of continuing treatment (i.e. prescription medication). Taking over-the-counter medication and bed-rest do not count as "treatment."

Treatment includes examinations to determine if a serious health condition exists and evaluation of the condition. (Does not include routine physical, eye, or dental examinations).

Treatment for allergies, stress or substance abuse may qualify as a serious health condition.

For substance abuse, FMLA may only be taken for treatment. Absence due to the use of the substance does not qualify.

Good News!

Not a Serious Health Condition

- Common cold
- Common flu
- Earaches
- Upset stomach
- Headaches (other than migraines)
- Routine dental treatment

(Unless complications arise from the above listed reasons)
Who is a Health Care Provider?

- Physician
- Physician Assistant
- Surgeon
- Nurse Practitioner
- Nurse Midwife
- Clinical Social Worker
- Podiatrist
- Dentist
- Optometrist
- Clinical Psychologist
- Chiropractor

Who is a Health Care Provider?

- Other health care professionals licensed to practice in their state and who are performing within the scope of their practice as defined by that state’s law.
- A health care provider who practices in a country other than the U.S., is authorized to practice in accordance with the law of that country, and is performing within the scope of their practice as defined under that country’s law.

Duration and Timing of the Leave (FMLA/CFRA Only)

- Leaves may be taken:
  - Intermittently
  - On a reduced schedule
  - In blocks of time
- Up to 12 weeks in a 12-month period
- 12-week entitlement renews every calendar year
- Military Caregiver Leave up to 26 weeks

Duration and Timing of the Leave (FMLA/CFRA Only)

- Calculate: 15-minute increments, hours, days, weeks, months
- Prorated based on appointment percentage
- 30-days advanced notice when foreseeable
- If a holiday falls within a week that employee is on leave, the week is counted against their FMLA entitlement.
- If UC closes or does not expect employees to report to work for one or more weeks, those closed days do not count against an employees FMLA leave.

Key Points: Duration and Timing of the Leave (FMLA/CFRA Only)

**Prorated based on appointment percentage**

- 100% FTE = 480 hours (40 hr/week x 12 weeks x 100%)
- 75% FTE = 360 hours (40 hr/week x 12 weeks x 75%)
- 50% FTE = 240 hours (40 hr/week x 12 weeks x 50%)

For varied weekly schedules, calculation is based on weekly average of 12 weeks prior to beginning of leave.

**30-days advanced notice when foreseeable**

If employee doesn’t provide 30-days notice when the leave is foreseeable, the leave may be delayed until 30 days after the date the notice is provided (i.e. birth, adoption, foster care placement, planned medical treatment, etc.).

Intermittent Leave / Reduced Leave

- FMLA definition
  - “Intermittent” is leave taken in separate blocks of time due to a single qualifying event.
  - “Reduced leave” is a schedule that reduces an employee’s usual number of working hours per work week or hours per work day.
- Only the intermittent leave time taken is counted towards 12 week entitlement.

Example: If employee needs physical therapy that requires a 2-hour absence from work each week, only those two hours are charged against their leave entitlement.
Intermittent Leave / Reduced Leave

- Established on the occasion of the first absence through medical certification.
- Cannot require employee to establish eligibility on each occasion of intermittent leave usage.
- Must be “medically necessary” for employee’s own SHC or SHC of family member.

Intermittent Leave / Reduced Leave

- Track all minutes/hours used for intermittent leave and subtract from entitlement.
- An employer may properly dock an exempt employee for hours missed as a result of intermittent leave.
- Inform employee of their responsibility to notify supervisor when absence is due to FMLA/CFRA.

Key Points: Intermittent Leave / Reduced Leave

Intermittent leave is an agreement between the employer and employee. The leave must be the least disruptive to employer. The employer can temporarily transfer the employee to another job if:
- The employee is qualified to do other job
- Other job better accommodates recurring periods of leave
- Equivalent pay and benefits
- Placed in same or equivalent job as previously held once need for leave ends

Commuting time, distance and cost for employee has to be about the same.

Cannot transfer employee to discourage employee from taking leave or otherwise impose a hardship on employee.

Key Points: Intermittent Leave / Reduced Leave

When leave isn’t medically related (i.e. birth or placement of child) the employer must first agree to a reduced schedule. Intermittent leave in these situations is not otherwise guaranteed under the Act.

Where employee is requesting intermittent leave or reduced schedule due to planned medical treatment (for employee or family member), employee should consult with department and make a “reasonable effort” to schedule treatment so that it minimizes the disruption to department operations. Any scheduling, however, shall be subject to the approval of the health care provider.

Key Points: Intermittent Leave and Baby Bonding

Intermittent Leave and Baby Bonding

- Under CFRA employees can request on two separate occasions to take baby bonding time in less than two-week increments.
- Collective Bargaining Agreements give the University discretion to require that additional baby bonding time be in two-week increments.

Key Points: Intermittent Leave and Baby Bonding

The minimum duration is two weeks. However an employer must grant a request for CFRA leave for at least one day, but less than two weeks on any two occasions.

Baby bonding must be initiated and concluded within 12 months following the birth or placement.

Reduced schedules are not required by the statute but may be agreed to.

Refer to the specific Collective Bargaining Agreement or Policy to determine how an employee gets paid while on baby bonding (parental) leave.
Case Study #1  
Jones v. Denver Public Schools, 10th Cir., No. 04-1447, Nov. 2, 2005

• In May 1999, Mark Jones accepted a full-time position as a telecommunications technician with the Denver Public Schools. Although Jones held the position for more than two years, his work performance was marred by absenteeism. As an example, Jones only worked 1566 hours from October 2000 to October 2001.

• In October 2001, Jones claimed he fell at his home and injured his back, causing him to miss work. He did not see a doctor at that time. After he missed three days of work, Jones was told that he needed a doctor’s note to return to work.

Case Study #1 (cont.)  
Jones v. Denver Public Schools, 10th Cir., No. 04-1447, Nov. 2, 2005

• On his fourth day of absence, Jones went to his doctor, received a cortisone shot for his back pain and obtained a return-to-work note. At that time, the doctor also scheduled Jones for a follow-up visit in three weeks.

• Jones planned to return to work the following day, but he became ill with the flu and missed an additional two days of work. He was fired based on his “unreliable attendance record.”

• Jones sued the school district and certain individual school officials under the FMLA.

1. Did Jones’ absence qualify as FMLA? Why or why not?

UC’s Notice Obligation

UC must provide the following notices:

• Eligibility Notice
• Rights and Responsibilities Notice
• Designation Notice

Eligibility Notice

• When an employee requests FMLA leave or UC acquires knowledge that the employee’s leave may be for a FMLA-qualifying reason, UC must notify the employee within 5 business days, absent extenuating circumstances, of his/her eligibility to take FMLA leave.

• If employee is not eligible, must explain why and when employee will become eligible.

• Eligibility is determined (and this notice must be provided) when the first instance of leave for each FMLA-qualifying condition begins.

Eligibility Notice

• If an employee gives notice of a need for another FMLA leave during the same 12-month period (calendar year) due to a different FMLA-qualifying reason, UC must notify the employee within 5 business days, absent extenuating circumstances, if employee’s eligibility status has changed.

• All FMLA absences for the same qualifying reason are considered a single leave and the employee does not need to re-establish eligibility during that applicable (calendar) year.
UC’s Notice Obligation

Rights & Responsibilities Notice
• Provided to employee each time the Eligibility Notice is provided.
• Details the expectations and obligations the employee must meet and the consequences of failing to meet them.
• If leave has already begun, this notice should be mailed to employee.

UC’s Notice Obligation

Designation Notice
• Provided to employee within 5 business days of having sufficient information to make determination.
• Advises employee of whether the leave will be designated and counted as FMLA.
• If paid leave substitution or return to work release will be required, must notify employee at this time.
• Only one Designation Notice is required for each FMLA-qualifying reason per applicable 12-month period (calendar year) even if leave is to be taken intermittently or on a reduced schedule.

Designation Notice
• Advises employee of the amount of leave (hours, days, or weeks) that will be counted against employee’s FMLA entitlement.
• If the specific information provided in the Designation Notice changes (i.e. employee exhausts the FMLA leave entitlement), UC must provide employee with written notice of the change(s) within 5 business days if the employee subsequently asks for additional leave or another leave.

UC’s Notice Obligation

In ALL circumstances, UC is responsible for designating the leave as FMLA.
• Notify employee:
  – when changes occur to original notice
  – if leave time or anything else exhausts
  – before leave is to end
• Keep accurate records.

Retroactive Designation
• UC may retroactively designate a leave as FMLA with appropriate notice to employee but only if UC’s failure to timely designate the leave does not cause harm or injury to employee.
• UC and employee can mutually agree on a retroactive designation.

Employee’s Notice Obligation

What notice must the employee provide?
• Verbal or written
• If leave is to be taken intermittently, on a reduced schedule, or a block of time
• 30-day notice if foreseeable, or as soon as practicable
• Sufficient medical certification to determine whether leave would be FMLA-qualifying
Employee’s Notice Obligation

**What notice must the employee provide?**

- Employee must comply with employer’s usual and customary notice requirements, absent unusual circumstances.
- An employee’s failure to comply with employer’s leave procedures can be grounds for delaying or denying employee’s request for FMLA coverage.

Medical Certification is the Key!

**Medical Certification**

- Request for certification should be made:
  - When employee gives notice of need for leave or within 5 business days thereafter, or
  - Within 5 business days of commencement of leave if leave is unforeseeable.
- Must reasonably define duration of leave; whether intermittent or block of time, etc.
- Completed by a HCP

Medical Certification is the Key!

- Medical certification may be required for:
  - Employee’s own serious health condition
  - Care for employee’s seriously-ill parent, spouse or child
- HCP completes and employee returns within reasonable time (15 days).
- Employee is obligated to provide a complete and sufficient certification.
- Certification is NOT complete if applicable entries are blank or the provided information is vague.

Medical Certification is the Key!

- If certification is not complete and sufficient, advise employee in writing of what additional information is necessary.
  - Give employee at least 7 calendar days to cure the deficiency (allow extra time if employee is unable to obtain information, despite a good faith effort).
- UC may deny leave if deficiencies are not fixed in resubmitted certification.
- Medical certification must be maintained as a confidential medical record in a file separate from employee’s personnel file.

Medical Certification is the Key!

- Recertification may be required when the leave period the HCP originally estimated would be needed has expired and employee is requesting additional leave.

Key Points:

If the medical certification is unclear, get clarification through the employee. Do not go directly to physician.

Can ask for recertification every 30 days if there is an extension of the leave, a change in the medical condition, or there is doubt.

If the employee calls in sick, you can ask if it is FMLA-related.

If employee never produces medical certification, then the leave is not FMLA.
FMLA/CFRA: Why Bother?
My Employee Has Sick Leave Available

- It’s the law!
- Managers may be held personally liable for failing to provide legal entitlements.
- Protects employees from having absences counted against them.
- Must treat all employees the same.

FMLA/CFRA: Why Bother?
My Employee has Sick Leave Available

Other reasons for designating FMLA:
- To establish that the University has complied with its notice obligation.
- To ensure that the employee gets the benefits and protections of the law.
- To make sure the University is not obligated to give additional time in that leave year because it failed to properly designate original leave.

FMLA/CFRA/PDL: How Does an Employee Get Paid?

- FMLA/CFRA/PDL entitles an employee to take an UNPAID leave of absence.
- Collective Bargaining Agreements (Union Contracts) & PPSM (Policy) detail how an employee receives pay while on leave.

Pregnancy Disability Leave

What is it?
- State law, only applies to female employees
- Female employee is eligible to take PDL upon first day of employment with the University
- Up to four (4) months of unpaid leave due to pregnancy related disabling conditions
- Can take blocks of time or intermittent leave

What does it cover?
- Prenatal appointments
- Severe morning sickness
- Period of incapacity/disability both before birth and after delivery
- Typically: 2 weeks prior to delivery and 6-8 weeks after birth (This strictly depends on the female employee’s medical certification. In other words, it could be more, or it could be less).

Pregnancy Disability Leave

• PDL can also include:
  - Medical certification that employee have modified duty restrictions in current job, or be transferred to another position (lighter duty) during the duration of the pregnancy.
  
• Use of PDL:
  - Employee must notify supervisor if absence is due to PDL.
  - Ask employee to notify supervisor of conclusion of PDL for transition to CFRA for baby bonding.
### Key Points:

<table>
<thead>
<tr>
<th>Pregnancy Disability Leave</th>
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<tbody>
<tr>
<td>A female employee can be on PDL and not on FMLA (i.e. qualifies for PDL, but is not yet eligible for FMLA).</td>
</tr>
<tr>
<td>A female employee who is eligible for both PDL and FMLA could potentially be on leave for up to seven months (four months for PDL and 12 weeks for CFRA for baby bonding).</td>
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</table>

### FMLA/CFRA/PDL

...Remember the difference?

- FMLA – Federal entitlement
- CFRA – State entitlement
- PDL – State entitlement (pregnancy only)

- FMLA and CFRA run concurrently
- FMLA and PDL run concurrently
- CFRA and PDL do not run concurrently

### What Did That Last Slide Say??

<table>
<thead>
<tr>
<th>Pregnancy Disability Leave</th>
<th>Cal. Family Rights Act</th>
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<tbody>
<tr>
<td>6-8 weeks (Max. 4 months)</td>
<td>12 work weeks</td>
</tr>
<tr>
<td>Family and Medical Leave</td>
<td>12 work weeks</td>
</tr>
</tbody>
</table>

- PDL and FMLA run concurrently.
- After PDL concludes, CFRA begins and can also run concurrently with FMLA.

### Return to Work

- Medical certification required upon return to work for employee’s own SHC.
- Return to work may be delayed until employee submits medical certification.
- Medical certification not required for each instance of intermittent leave.
- FMLA: Rights to return to same or equivalent position.
- PDL: Rights to return to same position.

### Case Study #2

**Acme Co.**

- Marie works for Acme Co., a company that creates visual effects for cartoons. Marie is one of 3 office assistants who provide administrative support to the management and artists. Marie has been working at Acme Co. for 18 months. Her first 8 months she was part time, working approximately 25 hours per week, and her last 10 months she has been working on a full-time basis.
- Marie has just announced to the company that she is 3 months pregnant. Everyone is absolutely thrilled for Marie. Around month 4, Marie develops gestational diabetes, but her doctor doesn’t think it is necessary for her to go on leave so long as she doesn’t work a lot of extra hours and controls her diet. Around 7½ months Marie develops preeclampsia (toxemia). Because of these two conditions, Marie’s doctor has decided that she needs to be put on bed-rest for the remainder of her pregnancy. She goes on bed-rest the first week of May 2005.

- If certification says “thru October 31” and employee returns November 1, don’t prevent employee from working, but department can request a return-to-work certification.
- However, if employee returns to work October 15, employee cannot be assigned to work until they provide certification from physician stating so.
**Case Study #2 (cont.)**

Acme Co.

1. After just 4 weeks on bed rest, Marie gives birth to her beautiful baby daughter, Kaela. Six weeks after Kaela was born Marie’s doctor released her to return to work. Marie decided that she wants to remain at home with her daughter for an additional 5 weeks. When her 5 weeks are up Marie returns to work full time.

2. What kind of leave(s) was Marie on before Kaela was born? How much did she use?

3. What kind of leave(s) was Marie on after Kaela was born? How much did she use?

4. How much CFRA leave does she have left, if any?

5. How much FMLA leave does she have left, if any?

**Benefit Coverage While on Leave**

- While on an approved leave without pay, an employee may be eligible to continue certain UC-sponsored benefits:
  - Medical, Dental, Vision, Legal, Supplemental Life, Dependent Life, Accidental Death & Dismemberment during entire leave
  - Health Flexible Spending Account (FSA) during FMLA
    - Must elect to continue or cancel coverage prior to leave
  - Basic Life automatically continues for up to four months
  - Short-Term and Supplemental Disability coverage ends

**UC’s Contribution to Premiums**

- UC’s contribution to medical, dental and vision premiums may continue:
  - FMLA
    - Provided employee pays the normal employee cost, the UC’s contribution towards medical, dental and vision are made for coverage through the end of the month in which FMLA ends
  - Short-Term Disability (STD)
    - Provided employee pays the normal employee cost, the UC’s contribution towards medical is made for coverage through the end of the following month, in which STD ends
    - Maximum STD period - 26 weeks
  - Military Caregiver Leave (MCL)
    - Provided employee pays the normal employee cost, the UC’s contribution towards medical, dental and vision are made for coverage through the end of the month in which MCL ends
    - For up to 26 workweeks in a single 12-month period

**Connecting It All Together**

Example of a Normal Pregnancy

- Delivery date
- Return to work
- 10-day waiting period for disability insurance, 176 hours of FMLA

**What the Benefits Office Needs**

- Employee must be on an approved leave of absence to continue coverage:
  - Complete and forward copy of approved Staff Leave Request (SLR) form
    - Outlines reason for leave, start of anticipated return from leave, and planned time on and off pay status (dates using VAC, SKL and/or CTO)
  - PPS entry of leave
    - Timely entry of leave per SLR Instructions
    - Consequences of not entering leave when required
    - Premiums may not be accepted
    - Coverage may be terminated
    - Department may be held responsible for cost of coverage/services
    - Other problems - potential overpayment of earnings
What the Benefits Office Does

- Following receipt of SLR, Benefits works directly with employee regarding continuation of coverage:
  - Premium Letter
  - Mailer sent to employee’s home or email address outlining how to direct pay premiums while off pay status
  - Updated premium letter issued when eligibility for UC contribution changes
  - If premiums are not paid on time, coverage is terminated
  - Upon return to pay status, employee is given a new 31-day period of initial eligibility (PIE) to re-enroll into benefits terminated during leave
  - Employee submits UPAY 850 for medical, dental, vision, legal, Supplemental Life, Dependent Life, Supplemental Disability and AD&D
  - Employee submits UPAY 919 for FSA programs

Benefits Resources

- Benefits Office: (530) 752-1774
  - Always encourage your employee to contact the Benefits Office to discuss their coverage while on leave
- Benefits web pages:
  - General resources for leave processing
    - http://www.hr.ucdavis.edu/benefits/4dba/20checklist/040leaves
  - Benefits Checklists
    - http://atyourservice.ucop.edu/forms_pubs/categorical/checklists_facts.html

Additional Resources

- HR Website:
  - FMLA Kit:
    - http://www.hr.ucdavis.edu/employee/leave-time/HR/Fmla_booklet/new-fmla-kit
  - Guidelines, forms and sample letters:
    - http://atyourservice.ucop.edu/administrators/loa/fml.html
- Leave of Absence Article in Policy/Collective Bargaining Agreement
  - http://www.hr.ucdavis.edu/policies
- Employee & Labor Relations:
  - Davis Campus: (530) 754-8892
  - Office of the President: (510) 987-0879
- Disability Management Services: (530) 752-6019

FMLA/CFRA/PDL

Pre-Test and Case Study Answers

1. Under FMLA and CFRA an eligible employee is entitled to 12 weeks of family and medical leave during a 12-month period. **True.**
2. Employees who have been with their employer for at least one year and who have worked at least 1,250 hours are eligible. **False.**
3. FMLA and CFRA are paid leaves. **False.**
4. If the employee doesn’t ask for FMLA leave, you don’t have to give it. **False.**
5. Under FMLA an employer may dock an exempt employee’s leave bank for partial day absences. **True.**
6. An employer’s decision about leave is final and there is no recourse for the employee under this law. **False.**
7. The 1,250 hours eligibility requirement means 1,250 hours on pay status. **False.**
8. Employer must maintain group health insurance benefits for employees. **False.**
9. An employer may request medical certification regarding a family member even if that individual isn’t an employee. **True.**
10. UC Davis uses a calendar year to track FMLA leave. **True.**
11. The serious health condition standard is the same whether applied to the employee or covered family members. **True.**
12. The supervisor should find out exactly what the employee’s serious illness is before they grant the FMLA leave. **False.**

FMLA/CFRA/PDL Case Study #1 - Answer

Jones v. Denver Public Schools, 10th Cir., No. 04-1447, Nov. 2, 2005

Jones’ absence from work was not caused by a serious health condition and therefore, was not protected by the FMLA. The court’s decision was based solely on the language of the federal regulation that defines “continuing treatment.”

According to the appeals court, to qualify for FMLA protection, a health condition must be sufficiently serious to require an absence of more than three consecutive calendar days during which the employee obtained treatment by a healthcare provider at least twice (or once, followed by a regimen of continuing treatment).

The court stated that “if the employee is able to recover and return to work after only one treatment (a cortisone shot), it is doubtful that he satisfies the statutory requirement of ‘continuing treatment.’”
Case Study #2 - Answers
Acme Co.

1. What kind of leave(s) was Marie on before Kaela was born? How much did she use?
   PDL: 4 weeks
   FMLA: 4 weeks

2. What kind of leave(s) was Marie on after Kaela was born? How much did she use?
   PDL: 6 weeks
   CFRA: 3 weeks (for Baby Bonding)
   FMLA: 6 weeks
   FMLA: 2 weeks

3. How much CFRA leave does she have left, if any? 7 weeks
4. How much FMLA leave does she have left, if any? None
5. What kind of leave was Marie on? How much did she use? CFRA, 6 weeks
6. How much CFRA leave does she have left, if any? 1 week
   (7 weeks left after baby bonding, minus 6 weeks to care for domestic partner)
7. How much FMLA leave does she have left, if any? None

This concludes the training.