

New FMLA Rules

March 31, 2013

On February 5, 2013, the Department of Labor finalized new rules for the Federal Family and Medical Leave Act:

A. Leave for Military Exigency

- The new rules ensure that families of eligible veterans have the same right to job-protected FMLA leave as families of military service members.
- The new rules also ensure the rights of military families to take leave to attend to financial matters and other types of daily issues that may occur when a service member is deployed as well as caregiver leave to family members of current service members that suffer an injury or illness that pre-existed military service and was aggravated in the line of duty.
- Under the new rules, an eligible employee may now take qualifying exigency leave to care for the parent of a military member or someone who stood in loco parentis to the military member, when the parent is incapable of self care and the need for leave arises out of the military member's covered active duty or call to covered active duty status.

B. Intermittent Leave Calculations

- The new rules also clarify the provisions on the calculation of intermittent or reduced schedule FMLA leave. As revised, the FMLA prohibits an employer from requiring an employee to take more leave than necessary. Employers are now required to track FMLA leave using the smallest increment of time used for other forms of leave.
- The 'Physical Impossibility' Rule, mostly intended to benefit airline crews, was also included within the new FMLA regulations. It protects employees who may be subject to disciplinary action because they need to take leave beyond that required for their FMLA condition to account for time not worked due to the "physical impossibility", such as is the case of airline workers who previously would have been docked a whole day if, while out on leave for a few hours, they missed a flight on which they were scheduled to work.