

FEDERAL LEAVE LAWS

"The Bermuda Triangle"

REGULATION	Coverage	Leave/ Payments	Medical Certification	Health Care Benefits	Reinstatement
Workers Compensation	All employers. Administered at the state level. Employee covered at date of hire.	Workplace injury. Paid leave while out of work until permanent and stationary or light duty available.	Employer generally controls first 30 days of treatment.	Varies by state. Consistent with FMLA and employer policies.	Light duty, modified duty, full-time once P&S, unless job legitimately eliminated.
ADA	15 or more employees. Covered at date of hire.	Leave as a reasonable accommodation for disability. No pay for leave.	No set process. Follow FMLA approach. Second opinion only if for lack of accommodation info or to assess direct threat.	Employer pays consistent with existing non-disability leave policies.	Suggested but not absolute. Extended leave not required. Light duty or new position not required. Undue hardship defense.
FMLA	50 or more employees within a 75 mile radius. Employee must work at least 1,250 hours in preceding year.	12 weeks intermittent leave to care for self, parent or child with a serious health condition. Also for military caregivers and exigency leave. No pay for leave.	Use FMLA designated forms. May get second opinion at employer expense.	Employer pays for up to 12 weeks. 26 weeks for military caregivers. Employees pay their share.	Absolute right unless job legitimately eliminated or accommodation. Key employee exception. Light duty can be refused.

Note: This is only a snapshot overview of a very complex legal area. Federal information can be found at www.eeoc.gov and www.dol.gov. Family leave laws have been passed in 12 states (California, Connecticut, Hawaii, Maine, Maryland, Minnesota, New Jersey, Oregon, Rhode Island, Vermont, Washington, and Wisconsin) and the District of Columbia. See www.dol.gov/whd/state/fmla/index.htm. For additional information please see the HR That Works Training Modules on the ADA, FMLA, and Managing the Injured Worker. Also take a look at the BNA State Law Summary materials on HR That Works. Remember, these laws are often vague and confusing at best. When dealing with any of them treat the employee as you would want to be treated and get professional, insurance, medical and legal advice. If you ever have a question, contact the HR That Works Hotline.