



EMPLOYEE RIGHTS UNDER THE GUAM FAMILY AND MEDICAL LEAVE ACT

22 GCA. Chapter 3. Article 6.

LEAVE ENTITLEMENTS

Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care
- To care for a child (leave must be taken within one year of the child's birth or placement)
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition
- For the employee's own qualifying serious health condition
- Death of a family member of the employee
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

BEREAVEMENT LEAVE

Eligible employees are entitled up to a total of fourteen (14) calendar days of family leave upon the death of each family member.

- Employers may require a death certificate or obituary
- "Family member" means the spouse of an employee, parent of an employee, the child of an employee, the sibling of an employee, or a person within one degree of consanguinity or affinity

BENEFITS AND PROTECTIONS

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

ELIGIBILITY REQUIREMENTS

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for more than 12 months
- Have a minimum of 1,000 hours of service in the 12 months before taking leave
- Work for an employer who directly employs 20 or more employees in Guam

REQUESTING LEAVE

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

EMPLOYER RESPONSIBILITIES

Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify employees if leave will be designated as FMLA leave, and identify the amount of FMLA leave assigned.

For additional information or to file a complaint:
(671) 300-4601 / 2 or (671) 475-7024

Email: wage.questions@dol.guam.gov
Website: dol.guam.gov/compliance/whd

Guam Department of Labor
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