

South Florida Sun-Sentinel.com

Caring for a sick parent or child? How changes in the law affect you

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January 22, 2009

If you're planning on having or adopting a child or you have an ill parent or child who may need your care, pay close attention. The rules on the Family and Medical Leave Act have been rewritten.

As a worker, you should be aware of the changes. As an employer, you have to comply with the changes.

The new regulations, which went into effect Friday, put a slightly greater burden on the employee to inform an employer you need time off and if there's a medical claim to get the doctor to complete paperwork.

First, if you're six months pregnant and planning to take the 12 weeks unpaid leave allowed under the 1993 law, relax. If you're eligible, you can take the time off and your job is protected.

"Many of the basics have not changed," said Eric Gabrielle, a lawyer with Stearns Weaver Miller in Fort Lauderdale. Family leave still applies to any worker at a business or public agency with 50 or more employees. Employees are eligible if they've worked at least 12 months and 1,250 hours in the year preceding the leave.

So, what is different and why? The U.S. Department of Labor asked for feedback on family and medical leave and feedback it got more than 15,000 comments from people nationwide.

The Labor Department changes how an employee's work time is counted for eligibility, adds flexibility for those serving in the military, gives new employee and employer notice requirements and revises rules on medical certification.

For example, an employee now may be eligible for family leave when he or she works for six months, leaves the job (or perhaps is laid off) and returns to work six years later. The 12 months' work requirement for family leave doesn't need to be consecutive, but needs to be within seven years.

An exception to the seven-year rule is an employee who leaves work for military service.

Employees are required to give 30 days' notice of expected family leave, such as the anticipated birth of their child or planned surgery. If there's an unforeseeable situation, the employee needs to give as much notice as "practicable," Gabrielle says.

Probably the least resolved problem involves medical certification for a seriously ill employee.

Employers have five days after an employee provides a notice of leave to request medical certification. Employees must provide supporting certification within 15 days; that means getting a doctor or other healthcare provider to fill out the required paperwork.

Employers may deny family leave, if the certification is incomplete or insufficient.

"This is going to be the single biggest problem, getting the forms completed," Gabrielle says. "The forms got longer and more complicated. Employers are likely to get back incomplete or difficult to understand forms."

If the form is not accepted, employees have seven days to get it corrected or completed. An employer may then deny leave and job protections until the certification is provided. The exception is leave for military issues, such as travel orders, which an employer must accept as sufficient, Gabrielle says.

The new regulations also specify leave for caregivers of armed-service members. A spouse, son, daughter, parent or next of kin of a covered service member can take up to 26 work weeks of leave during a 12-month period to care for an injured service member.

Up to 12 weeks of job-protected leave is available to employees when their spouse, child or parent is suddenly called into active duty.

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