Your Rights & Responsibilities
Under the Family & Medical Leave Act

FMLA requires covered employers to provide unpaid, job protected leave to “eligible” employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year and for 1,250 hours over the previous 12 months, work at a site with at least 50 employees within 75 miles, and have leave time available.

Reasons for taking leave:
FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave:
- To care for the employee’s child after birth, placement for adoption or foster care, or to care for an ill family member.
- To care for the employee’s own serious health condition.
- To address certain exigencies arising from an employee’s military service.

Qualifying exigencies may include attending certain military events, arranging for alternative child-care or parental care, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment integration briefings.

FMLA requires covered employers to provide a special leave entitlement of up to 26 weeks of unpaid, job-protected leave during a single, 12-month period to care for a child, parent, spouse or next of kin who is a covered servicemember. A covered servicemember is a current member of the Armed Forces (including Guard and Reserves), or a veteran who has been honorably discharged within the past five years, who has a serious injury or illness incurred or aggravated in the line of active duty that may render the servicemember medially unfit to perform his/her duties for which the servicemember is undergoing medical treatment, recuporation, or therapy; or is on outpatient status; or is on the temporary disability retired list.

Use of Leave
An employee does not need to use this leave entitlement in one block. When medically necessary, leave may be taken on an intermittent or reduced-schedule basis. Employees must make reasonable efforts to schedule leave for planned medical treatment so as to not unduly disrupt the employer’s operations.

Definition of a Serious Health Condition
A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Benefits and Protections:
While on FMLA leave, the employer must maintain the employee’s health coverage under any “group health plan” on the same terms as if the employee had continued to work.

Use of FMLA cannot result in the loss of any employment benefit that accrued prior to the start of the employee’s leave.

Substitution of paid leave for unpaid leave: Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer’s normal paid leave policies.

Employee 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 procedure.

Employer Responsibilities
Covered employers must inform employees requesting leave whether they are eligible under FMLA. If the employee is eligible, the notice must specify any additional information required as to not unduly disrupt the employer’s operations.

Unlawful Acts by Employers
FMLA makes it unlawful for any employer to:
- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or related to FMLA.

Enforcement
An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any Federal or State law prohibiting discrimination, or supersedes any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

For Additional Information
Please contact the nearest office of the Wage and Hour Division, listed in most telephone directories under US Government – Department of Labor, or contact your human resource department.