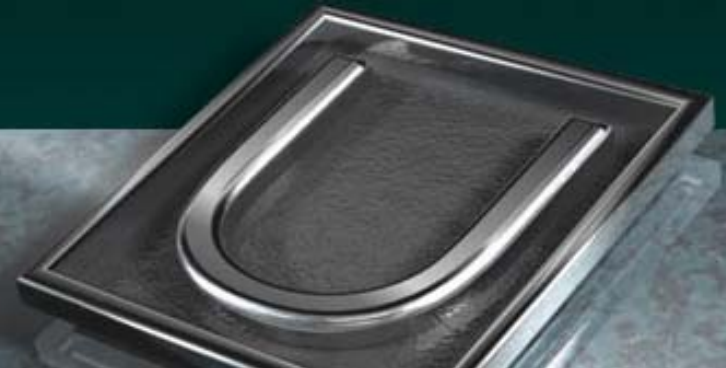


# A Look At The Family and Medical Leave Act (FMLA)

**Presented By:**  
Ranae Warren, Co-President  
Group Services



# Today's Presenter



**Ranae Warren**

- Co-President of Group Services.
- 27 years of employee benefits experience.
- Areas of concentration include client services, claims administration, human resources and technology.

# Expert Q & A



**Don Phin, Esq.**

- President of the Employer Advisors Network, Inc.
- Practiced law for 14 years and never lost a case.
- *HR That Works* author and founder.

# Today's Agenda

- What is FMLA?
- Eligibility
- Basis for Leave
- Serious Health Condition's Under FMLA
- Employee Rights and Obligations
- Employer Rights and Obligations
- Benefit Continuation
- Job Reinstatement

# What Is FMLA?

A Federal labor law that allows an employee to take job protected unpaid leave for up to 12 weeks to care for their self, parent or child with a serious health condition.

# Eligibility

- Employers

- 50 or more employees within 75 miles
- Joint employers, integrated employers, etc.

- Employees

- worked at least 12 months
- worked at least 1,250 hours during the previous 12 month period

# Basis For Leave

1. Birth of a child
2. Placement of a child with the employee for adoption or foster care
3. Care for the employee's spouse, son, daughter or parent, who has a serious health condition
4. A serious health condition that makes the employee unable to perform the functions of their job
5. Military Caregiver Leave
6. Qualifying military exigencies

# Exigency Leave

1. Short notice deployment
2. Military events and related activities
3. Childcare and school activities
4. Financial and legal arrangements
5. Counseling
6. Rest and recuperation
7. Post deployment activities
8. Additional activities

# Serious Health Conditions Under FMLA

- Inpatient care
- Continuing treatment
- Pregnancy care
- Child care
- Chronic conditions
- Multiple treatments

# Serious Health Conditions Under FMLA

- Inability to perform the job according to the Americans with Disabilities Act (ADA)
- “Care” for family member very broad
  - Basic medical
  - Hygienic
  - Nutritional needs
  - Safety
  - Transportation

# Non-Serious Health Conditions Under FMLA

- Common cold
- Flu
- Earaches
- Upset stomach
- Minor ulcers
- Headaches

# Employee Rights And Obligations

- 12 weeks leave/26 military unpaid leave
- Intermittent leave unless physically impossible
  - leave not to unduly disrupt operations
- 30 days advance notice where foreseeable

# Employee Rights And Obligations

- Give unforeseeable notice ASAP
  - follow up with company notice procedures
- Provide completed Medical Certifications or other documentation
- Cure deficiencies within one week
- Provide notice of changes circumstances

# Employer Rights And Obligations

- Set the 12 month period
- Respond to request within 5 business days
- Provide “Eligibility Rights and Responsibilities Notice” with “Medical Certification Form”
- Healthcare providers
  - Physicians
  - Dentist
  - Psychologists
  - Optometrists
  - Chiropractors
  - Nurse practitioners
  - Clinical social workers
  - Christian Science practitioners

# Employer Rights And Obligations

- Provide “Designation Notice” within 5 business days after receiving employee response
- Delay or deny leave where appropriate
- Monitor medical condition
- Obtain a fitness for duty certification

# Benefits Continuation

- Employer pays normal share for up to 12 weeks
- Employee pays their portion of costs
- Notification to employee if benefits plan changes
- Right to reimbursement if employee does not return
- May require or take accrued vacation, sick or PTO leave

# Job Reinstatement

- Required to give employee their job back
- Equivalent position, pay, and benefits
- Job elimination and Reduction in Forces
- Hired for specific term

# Job Reinstatement

- “Key Employee” exception
- Give notice at time of leave or ASAP

# FMLA Conclusion

- Comply with notice requirements.
- Are they qualified?
- Is there proper notice and response?
- Is it medically documented?
- Stay on top of it, stay in touch.
- Interplay ADA, Workers Comp, and state laws.
- Think beyond the law.
- Get professional help.

# Next Webinar

## Benefits Forecast 2010 and Beyond: Rain or Shine?

Thursday, November 5  
2:00 p.m. CST

Presenter: Brad Johnson, Senior Advisor  
Group Services

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# Questions

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