



FMLA Communication – Employer/Employee

Ongoing communication between you and your supervisor will make the FMLA process run much more smoothly. You will need to inform your employer if your need for FMLA leave changes while you are out (for example, if your doctor determines that you can return to work earlier than expected). Your employer may also require you to provide periodic updates on your status and your intent to return to work.

Your employer will notify you if you are eligible for FMLA leave and provide notice of your rights and responsibilities. The notice(s) will include all of the following:

- Definition of the 12-month period the employer uses to keep track of FMLA usage. It can be a calendar year, 12 months from the first time you take leave, a fixed year such as your anniversary date, or a rolling 12-month period measured backward from the date you use FMLA leave. You need to know which way your employer measure the 12-mnth window so that you can be sure of how much FMLA leave you have available when you need it
- Whether you will be required to provide medical certification from a health care provider
- Your right to use paid leave
- Whether your employer will require you to use your paid leave
- Your right to maintain your health benefits and whether you will be required to make premium payments
- Your right to return to your job at the end of your FMLA leave

Employer Termination of Employee Rights under FMLA

FMLA does not provide employees with any greater rights to reinstatement or other benefits and condition of employment, including continued employment. An employer may terminate an employee regardless of FMLA leave status providing that there is a legitimate, nondiscriminatory reason for termination. Examples of such reasons from relevant case law include the following:

- If an employee would have been terminated regarding of FMLA leave because of poor performance, then the employee may be terminated before, during or after FMLA leave. *Richmond v. Oneok (1997)*
- If, prior to the leave, an employee fails to meet the goals of a corrective action program designed to improve performance, then the employee may be terminated upon return from FMLA leave. *Hubbard v. Blue Cross Blue Shield Assoc. (1998)*

Other reasons an employer may terminate employees who are on FMLA leave include:

- Infractions or poor performance that come to the employer's attention during the leave
- Insubordination, fraud, or other prohibited conduct while out on leave.

Also, an employee who is on FMLA leave may be considered for layoff during a reduction in workforce so long as the employee is not chosen for layoff on the basis of FMLA leave.

Employee Assistance Program (EAP)

Enclosed is an EAP brochure. EAP is a work-based program that helps employees identify and resolve personal concerns that affect job performance and satisfaction. The services are provided at no additional cost to you, and are completely confidential.

Employee Acknowledgement:

I have familiarized myself with the contents of the FMLA Employee Guide and this letter. By my signature below, I acknowledge, understand, accept and agree to comply with the FMLA information provided to me by Wadena County.

Signature

Date