The ABC’s of FMLA (Family Medical Leave Act) and ACA (Affordable Care Act)

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Family and Medical Leave Act (FMLA)
TYPES OF LEAVE CAN OVERLAP

FMLA

SHORT TERM DISABILITY

WORKERS’ COMP.

UNIVERSITY ULOA

PAID SICK, VAC, PER
PURPOSE OF FMLA

- Balance the demands of the workplace with the needs of family.
- Promote the goal of equal employment opportunities for women and men.
- Provide job and benefit protection during eligible leave periods.
QUALIFYING EVENTS

- Qualifying military related reasons.
  - Wounded or deployed relative
- Employee’s own “Serious Health Condition” that renders the employee unable to perform the essential functions of his/her job.
- To care for a “Serious Health Condition” of a spouse, child, registered domestic partner, or parent (not necessarily limited to the “traditional family”).
WHO IS COVERED?

The employee must have:

- One year of service (within the past 7 years)
- Worked 1,250 hours over the previous 12 months
- Approximately 25 hours/week
- 7.5 Months (40 hrs/wk)
HOW CAN FMLA BE USED?

- CONTINUOUSLY (REGULAR FMLA)
  May be used as a straight block of time.

- INTERMITTENT FMLA
  Separate blocks of time used throughout an illness or recovery (usually less than 3 days), or on a reduced schedule basis. Generally used for flare-up and appointments.
ELEMENTS OF FMLA

- Up to 12 weeks of unpaid, job-protected annual leave for non-military reasons and up to 26 weeks for military related injuries.
- Protection from discipline or retaliation for absence related issues.
- Health care benefit continuation on the same terms as active employees.
- Employees may have separate approvals for various reasons – limited to a total of 12 weeks (26 wks Military)
- Employers may require employees to use paid time first
A one-time 26 week leave can be used to care for relative wounded in the military.

Holidays
- Holiday is counted as FMLA during continuous leaves unless there is a facility shutdown greater than 5 days.
- Holiday is not counted as FMLA if it falls during an intermittent leave

Only time off counts as FMLA – time worked on modified duty does not count
Maternity

- Natural birth – may use up to 6 wks sick time – then vacation, personal, no pay
- C–Section – may use up to 8 wks sick time – then vacation, personal, no pay

Paternity

- Bargaining units – vacation, personal, no pay
- Non–bargaining – current sick, vacation, personal, no pay
For employee’s own illness, all sick time must be used first, then vacation, then personal time
  • Exception is 1199C – (Clerical employees are eligible to freeze time)
  • Exception – vacation days will be lost due to use–it or lose–it rule.

For dependent care, adoption, etc. -- sick, vacation and personal time may be used
  ◦ Non–Bargaining unit employees may use current accrued sick time to care for family members – may not use banked time.
  ◦ Bargaining unit employees may not use sick days for family members.
Recording FMLA Time in Kronos

- HR will notify supervisors that FMLA has been approved for a designated time period.
- Employee’s own illness/maternity
  - Use sick time first with code FMLA-sick
    - Maternity – only use sick days for the medically designated time, i.e. usually 6–8 weeks
  - Next record any vacation and personal time using the codes FMLA-vacation or FMLA-personal
  - If paid time is exhausted, record in Kronos as FMLA – unpaid
- Important to code all FMLA leave accurately in Kronos for tracking and discipline purposes
HR will notify supervisors that ULOA has been approved for a designated time period.

Employee’s own illness
- Use sick time first with code AMP–Approved Univ Leave PD SCK
- Next record any vacation and personal time using the codes AMP–Approved Univ Leave VAC or PER
- If paid time is exhausted, record in Kronos as AMN–Univ Leave NP

Important to code all ULOA leave accurately in Kronos for tracking and discipline purposes
REASONS TO NOTIFY HR

- Absence of more than 3 consecutive days to care for self or family member or admission to a medical facility.
- When employees specifically reference either a qualifying reason for leave or the need for FMLA leave.

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MANAGING INTERMITTENT LEAVE

EMPLOYEE RESPONSIBILITIES:

- As soon as the need for a leave is known – employees **must** notify their supervisor on the same day or next business day and submit a timely personal certification form.
- Employee should identify absence as intermittent FMLA time to supervisor verbally and by cert form.
- Should engage in cooperative scheduling.
  - Work with supervisor when scheduling appointments to minimize understaffing.
  - Doctor’s appointments are not whole day events.
  - When reasonable return to work after doctor’s appointment.
MANAGING INTERMITTENT LEAVE

EMPLOYER RESPONSIBILITIES:

- Supervisor/Timekeeper must track use of FMLA time in KRONOS.
- When asked—Supervisor/Timekeeper is required to inform employee of used and available FMLA time.
- FMLA time may be denied for doctor’s appointment when advance notice is not properly given or employee did not engage in cooperative scheduling.
CONFIDENTIALITY

- Medical information is confidential and restricted to the Benefits Department
  - SUPERVISORS MAY NOT CONTACT PHYSICIANS
- Benefits Department can share & discuss activity & work restrictions with supervisors
FLOW OF FMLA

- HR is notified by EE or Dept.
- Dept is notified of application
  - Opportunity to pass info to HR
  - Opportunity to consider 2\textsuperscript{nd} opinion
- HR sends out FMLA packet
- EE returns completed packet
- HR reviews then approves/denies
- HR notifies EE and Dept.
When Employee Returns

- **Continuous Leave**
  - Submit Fitness for Duty Certification Form
  - Give proper notice for restrictions
  - Notify Benefits of return to work date to ensure payroll is processed correctly

- **Intermittent Leave**
  - Foreseeable – Nothing (Submitted ahead of time)
    - Possible notice for next visit
  - Unforeseeable – an intermittent personal certification
TIPS

- Employees who call out should speak to a supervisor.
- **Remember to activate and de-activate payroll.**
- Call Absence Management if you suspect abuse or patterns of absence.
- **Contact HR if you can connect the dots.**
ITEMS TO REMEMBER

- FMLA is an entitlement; an employee cannot be turned down if qualifications are met.
- For questions regarding FMLA, please contact Melissa Carrasquillo or Marian Anderson at 7-2282 or loa@temple.edu.
Affordable Care Act (ACA)
ACA – What is it?

Goals of the legislation:
- Improve access to healthcare
- Improve quality and efficiency of health care
- Promote wellness
- Reform the insurance marketplace and public programs
Some significant provisions already implemented include:

- **2011**
  - Health coverage for adult children up to age 26
  - No co-pays on preventive care
  - No limits on pre-existing conditions

- **2012**
  - Employer health contributions reported on W-2’s

- **2013**
  - Flexible spending accounts limited to $2,500
  - Women's preventive health care coverage

- **2014**
  - Individual mandate to have insurance
  - Fees assessed on employers and insurers
Timeline from 2010–2018

2015
- Employer Mandate
- Federal reporting requirements
  - IRS
  - Employees

2018
- 40% excise taxes on the value of health benefits exceeding a set threshold
ACA requires that effective the first day of a plan year occurring after January 1, 2015, employers must provide health coverage to all full-time employees. Coverage must be affordable. For the University, this effective date is July 1, 2015.
Full-time employees

- Defined by ACA as employees working an average of 30 hours per week during a measurement period
- If someone receives a W-2, they are considered an employee
  - Regular employees
  - Faculty
  - Adjuncts
  - Graduate Assistants
  - Student workers
Period of time during which hours of work are monitored to determine benefit eligibility
- Standard Measurement Period (SMP) is April 15th – April 14th
- University’s first measurement period began this past April 15th and will run through April 14, 2015
- All new hires have their own Initial Measurement Period (IMP) that begins with the date of hire and runs for 12 months
Penalties Related to Employer Mandate

- If the University does not offer health insurance to at least 95% of all full-time employees and if 1 full-time employee obtains subsidized coverage from a public exchange, then the University will be assessed a penalty of $2,000 times the number of all full-time employees. This would exceed $14 million.
Penalties Related to Employer Mandate

- If the University offers coverage to all full-time employees, but the coverage is not affordable and an employee for whom the coverage is not affordable obtains subsidized coverage from a public exchange, the University will be assessed a penalty of $3,000 for each employee that enrolls and is subsidized.

- Affordable is defined as coverage for which employee contributions do not exceed 9.5% of the employee’s adjusted income.
Gathering data to measure hours
Engaged vendor to develop reports with dashboards that will be distributed to schools, colleges and departments
Departments will need to monitor their employee hours
If an employee averages over 30 hours for our SMP, they will be offered the opportunity to enroll in employee health insurance effective 7–1–15 and the department will be charged full-time fringe rate
Departments should review employee work schedules

Determine if “temporary” and “consultant” employees can be paid on the biweekly payroll – much easier to track and audit hours

It is a business decision to have an employee work more than 30 hours, but be aware that the 30 hour threshold will trigger ACA responsibilities
Questions?