

# A Toolkit for Managing the FMLA

8:00 am: **Registration**

8:30 am

## **Deciphering Who Is a Covered Employer and Employee Under the FMLA Requirements**

- Who is a covered employer for purposes of the FMLA?
  - Calculating the 50 employee test
  - Understanding joint employment
  - What is an integrated enterprise?
  - Are public entities covered employers?
- Employees who are covered under the FMLA
  - Calculating the 12-month employment requirement
  - Determining whether an employee has worked 1,250 hours
  - Understanding the 50 employee in a 75-mile-radius test
  - Knowing the proper time to determine employee eligibility
- Determining under what circumstances an employee can take FMLA leave
  - Birth, adoption or foster care
  - To care for a parent, child or spouse with a serious health condition
  - Who is a parent, child or spouse under the FMLA?
  - What is meant by the term “needed to care for” a parent, child or spouse with a SHC?
  - The employee’s own serious health condition

**Interactive Case Studies:** [Apply the FMLA legalese to real-life situations and get clarification on the employer’s obligations](#)

9:15 am

## **Determining Whether the Employee has a Serious Health Condition as Defined Under the FMLA**

### ***Part 1: Practical Tips on How to Establish What Constitutes a Serious Health Condition***

- Understanding the definition of a serious health condition
- Inpatient care
- Incapacity of more than 3 consecutive days
- Incapacity due to pregnancy
- Chronic serious health condition
- Permanent or long-term medical condition
- Multiple treatments for restorative surgery or other potentially serious condition
- Substance abuse treatment
- Are there any conditions that are never serious health conditions?
- Circumstances where an employee with a SHC will be deemed unable to perform his/her job functions under the FMLA

**Interactive Case Studies:** [Practice interpreting the DOL regulation defining a “serious health condition” as you work through several realistic factual scenarios which you may face](#)

### ***Part 2: Using the Medical Certification Process to Help You Determine Whether an Employee has a Serious Health Condition***

- When can and should you request a medical certificate from an employee needing FMLA leave?
- Who is an appropriate health care provider under the FMLA?
- How much time does an employee have to provide the medical certificate?
- Dealing with the incomplete or inconsistent medical certificate

- Communicating with the health care provider: When is that allowed?
- Handling the employee who refuses or fails to return the medical certificate
- Utilizing the option of requiring a second and/or third medical opinion
- Implementing an effective and legal medical recertification process into your system

10:15 am: **Break**

10:30 am

### **Minimizing the Abuse and Misuse of Intermittent or Reduced-Hour Leave Issues**

- Understanding the concepts of intermittent- versus reduced-hour leave
- Circumstances where an employee can take FMLA leave on an intermittent or reduced-schedule basis
- Calculating the amount of leave used by an employee on an intermittent- or reduced-schedule basis: Does an employee's exempt status change this calculation?
- Learning when and how to legally transfer an employee on intermittent- or reduced-schedule leave to a temporary, alternate position
- Making good use of the medical recertification process when dealing with ongoing intermittent- or reduced-hour leave

**Interactive Case Studies:** [Analyze actual workplace situations involving tracking intermittent leave, administering comp and benefits, and strategies for handling other day-to-day FMLA challenges](#)

11:15 am

### **Your Employee Is on FMLA Leave: Figuring out How to Handle Benefits and Other Policy Issues**

- Determining whether the FMLA leave is paid or unpaid
- Maintaining health benefits while an employee is on FMLA leave
- Who is responsible for maintaining other employee benefits while the employee is on FMLA leave?
- Dealing with the employee who fails to pay his/her share to maintain his/her benefits while on FMLA leave
- Understanding how workers' comp or disability benefits may impact an employee on FMLA leave
- Offering light-duty work to an employee on FMLA leave
- Is an employee on FMLA leave entitled to holiday pay?
- Do you provide salary increases to an employee who is on FMLA leave?
- Implementing changes in your benefit plans while an employee is on FMLA leave
- Learning to effectively utilize the right to ask for periodic reports about an employee's intent to return to work while he/she is on FMLA leave
- How does the termination of an employee's employment relationship while he/she is on leave affect their right to FMLA leave?
- Coordinating COBRA notices with the expiration of an employee's FMLA leave

12:00 pm: **Lunch**

1:00 pm

### **Your Employee Returns from FMLA Leave—Now What? Managing Return-to-Work Issues**

- Knowing when to request fitness-for-duty medical certificates for returning employees
- Understanding the restoration rights of returning employees, including what constitutes an equivalent position
- Why time is of the essence in returning an employee to work at the completion of leave
- Determining whether reinstatement can be denied to any employees: Understanding the "key employee" concept
- Dealing with the employee who is unable to return to his/her job at the completion of the FMLA leave period

**Interactive Case Studies:** How best to handle situations where the employee can return to work but no longer perform his/her previous job

**Interactive Case Studies:** Practice your FMLA administration skills by analyzing scenarios involving employees who are unable to return at the end of their FMLA leave

2:15 pm

### **Debunking Five Common FMLA Myths that Get Employers in Hot Water**

- Employees must “request” FMLA leave: Identifying the key words or patterns that may put you on notice of an employee’s leave for FMLA
- Employees can choose whether they want to have leave designated as FMLA leave or not
- A husband/wife working for the same employer can never have more than 12 weeks of FMLA leave between the two of them in a 12-month period
- An employer can never terminate an employee on FMLA leave or who has recently returned from FMLA leave
- An employer can never retroactively designate an absence as FMLA leave

3:15 pm: **Break**

3:30 pm

### **Question & Answer: Sharing Your FMLA Challenges**

Share your biggest FMLA challenges and get feedback from the facilitator as well as your HR colleagues. Find out what other organizations are doing to address issues similar to those you are confronting.

4:30 pm: **Moderator’s concluding remarks**