

Exercise 2: Can I Take FMLA Leave To Care For My Family Member?

1. My five-year old granddaughter lives with me because my daughter is an unwed mother in prison. My granddaughter recently had a tonsillectomy that required an overnight hospital stay. Can I take FMLA leave to care for her at home while she recovers?

Yes. Because you stand in loco parentis due to your day-to-day care and financial support of your granddaughter, you should be able to take FMLA leave to care for her.

2. My 24-year old son suffers from severe mental retardation and requires constant care. My mother has been living with me and caring for him but recently she needed some time off to visit family out of state. Can I take five days of FMLA leave to care for my son?

Yes. Though your son is older than 17 because he suffers from a permanent or long lasting disability and is incapable of self-care you should be able to take FMLA leave to care for him.

3. My five-year old son has the flu so I can't leave him at daycare this week. Can I take FMLA leave to stay at home this week to take care of him?

No. Because the flu generally does not qualify as a serious health condition you would not be able to charge this to FMLA.

4. My husband's 90-year old father suffers from Alzheimer's. We're in the process of moving him to an assisted-living facility. Can I charge two days of FMLA leave to assist my husband in moving him to the home?

No. The definition of family under FMLA does not include in-laws, so though your husband may be able to charge this time to FMLA you cannot.

5. My same-sex partner and I are raising my partner's five-year old son who suffers from epilepsy. My partner recently changed employers and therefore must wait a year to take FMLA to care for her son when he suffers from seizures. Would I be able to take FMLA leave to act in her place if he should suffer a seizure?

Yes. Under Federal Administrator's Interpretation NO. 2010-3 (June 22, 2010) a same-sex partner who shares responsibility for the day-to-day care of his/her partner's child would qualify as a parent under FMLA.

6. My wife and I work for the same employer. We recently adopted a child. Can each of us take turns taking 12 weeks of FMLA leave following the placement?

No. Employers may restrict husband-and-wife employees a total of 12 weeks for the care of new children.

7. My wife and I work for the same employer. We recently adopted a child. Can each of us take turns taking 2 weeks of FMLA leave at a time for a total of 12 weeks?

No. Though the total for both of you is 12 weeks, FMLA does not permit intermittent leave for new children.

8. My union contract provides for 16 weeks of maternity leave. Does FMLA reduce this to 12 weeks?

Absolutely not. Leave provisions that exceed the provisions of FMLA are not affected by the law.

9. After my father recently suffered a heart attack I was able to arrange part-time care for him. Can I take a reduced schedule from my full-time shift to part-time to care for him?

Yes, for a maximum of 24 weeks.

10. My girlfriend is expecting my child. Would we have to get married in order for me to charge FMLA leave for new-born care when the baby arrives?

No. As the father, you don't have to be married to the mother to take new-born care leave.