



## **The Family and Medical Leave Act (FMLA)**

### **Background**

Enacted in 1993, the FMLA allows an employee who has worked at least 1,250 hours during a 12-month period in an organization of 50 or more employees to take up to 12 weeks of unpaid leave for the birth or adoption of a child (family leave); the care of a child, spouse, or parent who has a serious health condition; or a serious health condition that prevents the employee from performing the functions of his or her position (medical leave).

The National Coalition to Protect Family Leave supports the spirit and intent of the FMLA. Coalition members recognize the challenges employees face in balancing work and family demands and their desire to feel secure in their jobs, should they need to be absent for family or medical issues. We also understand the concerns of employers when administering the FMLA on a daily basis.

### **Issue Summary**

The Family and Medical Leave Act has been the subject of contradictory U.S. Department of Labor (DOL) opinion letters that have been in conflict with the original intent of the statute, resulting in confusion and problems for employers and employees alike. As a result, employers have struggled both to understand what constitutes a “serious health condition” as well as with the implications of unscheduled intermittent leave.

While the family leave portions of the FMLA have caused few challenges for employers, the leave for an employee's own serious health condition has been problematic. The "intermittent leave" regulations, coupled with the vague "serious health conditions" regulations, allow employees to characterize chronic, non-serious health conditions as FMLA leave. This misuse of FMLA leave threatens the integrity of this important law for those employees who truly have serious health conditions.

The greatest cost of the FMLA is the cost to employees themselves. The Report of the Commission on Leave, which was mandated by the Act, found that the most prevalent method that employers use to cover work is to assign it temporarily to other coworkers. This means that employees who are not taking leave under the FMLA are being forced to absorb the extra workload from those who are. As a result of the permissive and confusing FMLA regulations, increasingly, leave is being taken with little or no notice, often requiring unscheduled overtime by coworkers.

### **Position**

The National Coalition to Protect Family Leave has repeatedly urged the DOL and Congress to strengthen the FMLA by clarifying the medical leave interpretations and other FMLA administrative complexities which are causing problems in the workplace. The Act's implementing regulations should be clarified so that it works to the benefit of those employees who need it most. Furthermore, the Coalition believes that these issues need to be addressed before expansion of the Act or other leave mandates are considered.