



MANAGER MINUTE

OCT 19, 2022

FMLA & ADA INTERSECTION

ISSUE 02

FMLA AND ADA INTERSECTION

For employees with disabilities or serious medical conditions, two key laws provide important protections in the workplace. Although the laws differ in both subject and scope, managers should be aware of both laws.

The Family and Medical Leave Act (FMLA)

Provides unpaid leave and job protection to certain employees to care for serious medical conditions; and

The Americans with Disabilities Act (ADA)

Requires employers to provide reasonable accommodations to employees with disabilities or a serious medical condition. The ADA also prohibits discrimination because of disability status.

FMLA AND ADA INTERSECTION

Family and medical leave may be granted for one or more of the following qualified reasons. **NOTE WHERE ADA MAY INTERSECT!**

• Birth of son/daughter and care after such birth
ADA leave may be appropriate for mother's own recovery if all other protected leave options have been exhausted.

• Serious health condition of employee that makes employee unable to perform the functions of his or her position

ADA may be appropriate if employee: is not eligible for FML, needs modified duty, requests job reassignment, needs leave beyond 480 hours allowed under FML.

- Qualifying exigency arising out of covered active duty or call to covered active duty of a military member who is the employee's spouse, son/daughter or parent;
- To care for the serious illness or injury of a covered servicemember if the employee is the spouse, son, daughter, parents, or next of kin of the covered servicemember
- Care of employee's spouse, child, or parent with serious health condition
- Placement with employee of son/daughter for adoption or foster care

ADA does not apply to family members the way FML does, rather ADA regulations only apply for the employee and their own disability or serious health condition.

CONSIDER THESE COMMON SCENARIOS

COORDINATION CONUNDRUM

Tahera is a long-term employee of the institution. She is pregnant with her first child and has just presented her manager with a doctor's note that she should be on bedrest for the last 60 days of her pregnancy.

What should Tahera's manager do?



Refer to FMLA Coordinator

Refer Tahera to the department's FMLA coordinator to confirm eligibility to take FML .



If eligible, when Tahera needs time off while on restrictions, her absences from work should be covered under intermittent FML.



Contact the ADA office

Tahera's manager should also contact the ADA office to determine if her job can reasonably be done remotely under ADA.

Not eligible for FML

Tahera is able to work remotely, but just missed being eligible for FML by 30 days due to a prior medical condition where she exhausted FML.



Work with the ADA office

Work with the ADA office to establish both ADA work and intermittent ADA leave accommodations for 30 days.

FMLA Eligibility

After the 30 days of intermittent leave under ADA have passed, Tahera will now become eligible for FML. Any time off related to her pregnancy after 30 days through the end of her pregnancy could be covered by FML.



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SAM'S SERIES OF SERIOUS SITUATIONS

Sam is a new hire who has been with the organization for 90 days. Sam was recently diagnosed with a serious health condition, and presented his manager a note from his physician that indicates he needs to be on leave for 30 days while he receives treatment for his illness.

What should Sam's manager do?

Refer to FMLA Coordinator

Refer Sam to the department's FMLA coordinator to confirm eligibility to take FML. However, Sam has not met the service or hours worked requirements to be eligible for FMLA.

Contact the ADA office

Work with the ADA office to confirm eligibility and establish ADA leave accommodations for 30 days.

Sam returns to work on day 31 as expected and presents an updated doctor's note that indicates work restrictions related to walking, bending, lifting, and pushing, but also needs time off to attend follow-up appointments with his providers.

Modified Duty

Sam's manager should work with the ADA office to determine if the department is able to provide modified duty for Sam in his current role.

Protected Time

Because Sam is still not eligible for FML, Sam may also be eligible for protected time under ADA to attend follow-up appointments related to his health condition.

Temporary Reassignment

If Sam's department is not able to provide modified duty to Sam in his current role, then he may be eligible under the ADA for modified duty in another area of the institution.



Sam's home department will be responsible for covering his salary, similar to the way workers compensation modified duty is handled.

Ultimately, Sam recovers and is back to work doing well. Shortly after his one-year anniversary, Sam unfortunately falls and breaks his hip. Sam's doctor wants him to take 6 weeks off work to heal and rehab.

Contact FMLA Coordinator

Sam's manager should refer Sam to FMLA coordinator and verify eligibility to cover his requested leave.

Contact the ADA office

If Sam returns to work at the end of his leave with work restrictions, the ADA office should be consulted to determine if modified duty or telework is appropriate.

HELPFUL LINKS

Family Medical Leave

[HOOP Policy 106 - Family and Medical Leave](#)

[Family & Medical Leave Coordinator List](#)

[Family & Medical Leave Resources](#)

Accommodations

[HOOP Policy 101 - Disability Accommodations](#)

WHERE SHOULD MANAGERS GO TO GET ASSISTANCE?

Family Medical Leave

Employee Relations

713-500-3180

hremployeerelations@uth

tmc.edu

Accommodations

Diversity & Equal Opportunity

713-500-CALL (2255)

CALL@uth.tmc.edu