

## Caring for *Your Loved One's Health While Working*: FAQs for Tennessee Workers

*When your loved one is recovering from a serious illness or injury, you may need time off from work to care for them. Federal and state laws may give you time off when you need it and protect you from employment discrimination. Below are some commonly asked questions that we hear from workers who contact our helpline.*

### What rights do I have if I'm not currently able to work because I'm caring for a loved one's serious illness or injury?

If you are covered, the **Family and Medical Leave Act (FMLA)** provides up to **12 weeks of unpaid** time off of work per year, which can be used either all at once, on a reduced schedule, or in small increments to **care for a seriously ill or injured family member**, without losing your job (or your health insurance, if you have it).

#### Am I eligible for the FMLA?

You may be FMLA eligible if you...

- Worked for an employer with 50+ employees within a 75-mile radius **AND**
- Worked at your employer for at least 12 months **AND**
- Worked at least 1,250 hours in the year prior to needing leave.

Even if you are not eligible for FMLA, you may be able to take a leave of absence or medical leave under your employer's own policies.

#### Who is a family member?

Under the **FMLA**, family members are your parents, spouse, and children. Children are those that are biologically related to you, legally-adopted, foster children, step-children, or any other child that you stand "*in loco parentis*" for, meaning that you have assumed the role as the child's parent and have intended to act as a parent.

#### Can I use FMLA if my loved one has frequent doctor's appointments or treatments?

You can also use your 12 weeks of FMLA leave on a reduced schedule, or in small increments, when medically necessary, which means you can use it in smaller amounts of time. However, you should make a reasonable effort to schedule treatment, so it does not unduly disrupt your employer's operation.

#### Do I have to notify my boss that I'm taking FMLA leave?

If you know in advance that you're going to take FMLA leave, you should notify your boss at least 30 days ahead of time. If it's an emergency, you need to let your boss know that you are taking FMLA leave as soon as possible. Your boss may have a formal procedure for requesting leave; otherwise, you can notify your boss verbally or ideally in writing so you can keep a record of your request.

## My job has an attendance policy that gives me “points” if I miss work or call out early in order to care for others. Can I get points if I miss work or call out early due to my loved ones’ medical needs?

Under abusive attendance policies, employees receive points (or “occurrences”), or are docked from a bank of time for virtually all absences, tardies, and early departures from work, regardless of the reason. Your employer cannot punish you for lawful absences that may be protected under federal laws such as the **FMLA**. If you think you have been unlawfully punished or terminated under your employer’s abusive attendance policy, please contact us at **1-833-NEED-ABB**.

## Can I lose my job because I’m taking FMLA leave?

Generally, no. The **FMLA** protects your job while you’re on leave with a few exceptions. After you return from FMLA leave, you must be restored to the same or very similar job (a position that is equivalent in pay, benefits, and other terms).

## What if I can’t afford to take unpaid leave?

If you have accrued paid leave from your employer, including paid vacation, personal, or sick days, you may choose to use that paid time off together with your FMLA time. Your employer may also require you to use your paid leave while you are taking FMLA leave. You may also have options to supplement your income if your employer provides **short term disability insurance**.

If you lose your job due to your family caregiving responsibilities and are able to continue working, you may still be able to get **Unemployment Insurance**.

## What if I feel discriminated against because of my loved one’s disability?

The **Americans with Disabilities Act (ADA)** makes it illegal for employers with 15 or more employees to discriminate against workers for their relationship with a person with a disability. This law means that your boss cannot fire you, cut your hours, or harass you because a loved one has a disability. For example, your boss can’t cut your hours because they think you can’t work as hard because you have a child with asthma.

**For more information, contact A Better Balance’s free legal helpline at 1-833-NEED-ABB or [visit us online.](#)**

*A Better Balance uses the power of the law to advance justice for workers, so they can care for themselves and their loved ones without jeopardizing their economic security.*

*The information contained in this document does not constitute legal advice. It is always advisable to consult with an attorney about your individual circumstances if you have questions or think your rights as a worker have been violated.*