

# Caring for *Your Health* While Working: FAQs for Tennessee Workers

*When you are recovering from a serious illness or injury, you may need time off from work to rest and heal or temporary job changes to continue working. 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 of a 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 **your own serious health needs**, or **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. You may also have additional rights under the **Americans with Disabilities Act (ADA)** as explained below.

## Can I use FMLA if I have 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.

## 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 were hurt while working or became sick as a result of your job, you may also be entitled to paid benefits and other protections through **Workers' Compensation**. If you lose your job due to your own medical needs or family caregiving responsibilities and are able to continue working, you may still be able to get **Unemployment Insurance**.

## I'm ready to go back to work, but I need to change some of my job conditions because of my illness or injury. What laws can protect me?

The **Americans with Disabilities Act (ADA)** requires employers with 15 or more employees to provide reasonable accommodations (or minor job changes) to employees with disabilities, unless it would cause an undue hardship, meaning it would be too difficult or expensive. Under the ADA, a **disability** is a physical or mental impairment that largely impacts one or more major life activities

### What types of accommodations can I request?

Some accommodations under the ADA include unpaid time off for appointments, a stool or chair, access to food or drink, a modified or reduced schedule, limiting heavy lifting, frequent bathroom or rest breaks, and many others.

### How do I ask for accommodations?

First, take a look at the policies your job may have for requesting accommodations. You should let your boss know that you are requesting an accommodation for your medical condition **as soon as possible**, either verbally or ideally in writing, so you can keep a record of your request. Be clear about what kind of accommodation you need and come prepared with a plan. Your employer must then work with you in an **interactive process** to determine a reasonable accommodation that addresses your medical needs. An employer may ask you for a **doctor's note** when you request accommodations, so make sure that the doctor's note is as specific as possible and outlines exactly what you can and cannot do at work.

### What if my boss says my accommodation request is too expensive or unreasonable?

Employers do not have to provide an accommodation that would cause the business an "undue hardship." However, employers must work with you in an interactive process to find a different accommodation that would not be an undue hardship. You can present your boss with a few different ways to accommodate your needs and they should work with you to find the best solution for both of you. Contact A Better Balance for more information.

### My job has an attendance policy that gives me "points" if I miss work or call out early. Can I get points if I miss work or call out early due to my medical needs?

These policies may violate the law if they punish you for lawful absences that are protected under the **FMLA** or **ADA**. Your employer cannot punish you for requesting FMLA leave or ADA accommodations. 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.

### What if I feel discriminated against because of my disability?

The **Americans with Disabilities Act (ADA)** makes it illegal for employers with 15 or more employees to discriminate against workers with a disability. Tennessee also has its own law protecting workers from discrimination, the **Tennessee Human Rights Act**, which covers employers with 8 or more workers, meaning some workers not covered under the ADA may be protected by the TN Human Rights Act. These laws mean that your boss cannot fire you, cut your hours, or harass you because you have a disability.

**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.*