

An Example of the Interplay Between State and Federal FMLA

Working Together

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Any Connecticut employer with more than 75 employees is subject to both the state and federal Family and Medical Leave Acts. The key provisions of the two laws are nearly identical, with one significant exception: the Connecticut FMLA leave entitlement is 16 weeks within a 24-month period, whereas the federal FMLA entitlement is 12 weeks within a 12-month period. If the timing is right, the interplay of these two leave allotments can be quite beneficial for an eligible employee.

In a (slightly altered) real-life example in which the employer used the method of calculation of counting forward from the first day of leave, an employee's first FMLA leave started on April 1, 2013 for a period of 5 weeks. As of April 1, 2014, she would be able to start a new 12-month period of leave entitlement under federal FMLA, and in fact she began another leave of absence on August 1, 2014 for 10 weeks. This second leave of absence was also covered under state FMLA, since the two leaves used a total of only 15 weeks of her 16-week allotment in the 24-month period which began on April 1, 2013.

The employee wanted to take a third leave of absence starting on May 1, 2015. Since she was still within the federal 12-month that began on August 1, 2014 and continued for 10 weeks, she had only 2 weeks left in her federal FMLA allotment. But the 24-month period of state FMLA, which began on April 1, 2013 (in which 15 weeks of leave were used) renewed on April 1, 2015. So when the time came for her third leave of absence to begin on May 1, 2015, she was entitled to 16 weeks under the state FMLA.

Moreover, if the leave which started on May 1, 2015 continued to August 1, 2015 (using 12 of her 16 weeks of the state FMLA allotment), she would enter a new federal 12-month period while in protected status, and could apply for a new 12 weeks of federal FMLA. Thus the leave of absence which she began on May 1, 2015 could continue until November 1, 2015, for a total of 6 months of protected absence.

This example assumes that the employee experienced 3 FMLA events within 2 years, and remained eligible for FMLA leave by working at least 1,250 hours in the 12-month period preceding each leave. But though unlikely, the scenario is by no means impossible. The take-away is that until (if ever) the state of Connecticut completely aligns the state FMLA with the federal law, employers must take great care in calculating an employee's leave allotment.

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