**FMLA and Care for a Family Member**

**Q.  An FMLA eligible employee is requesting FMLA to drive her elderly mother to doctor appointments.  Is this an FMLA qualifying event?**

It can be. Providing care for a qualifying family member who, because of a serious health condition, unable to transport himself or herself to the doctor would typically be covered.  Routine doctor visits however, such as annual physicals or regular check-ups are not covered.

**Q.  Is an FMLA eligible employee covered under FMLA to care for a covered family member when there is someone else available to do so (ie., spouse or adult child is available and lives in the home)?**

Yes. Provided the qualifying family member has a serious health condition as defined by FMLA, the employee would be qualified and should be given FMLA leave even though others are able to provide such care.

**Q.  An employee is needed to care for a seriously ill family member.  The employee is working from home some while caring for the family member.  If s/he works intermittently from home, how do we pay the employee?  And how do we count the time worked while out on approved FMLA leave?**

The employer would need to have the employee record time and pay her/him for that time worked. The time worked would not count towards her/his FMLA; the remaining time spent caring for the family member and not working during working hours would count as FMLA.  Consider if the employee can perform her/his work from home.  If an exempt employee, under FMLA regulations, the employer may make deductions from the employee’s salary for any hours taken as intermittent or reduced FMLA leave within a workweek, without affecting the exempt status of the employee.

**Q.  An employee is stating she is needed to care a family member with a serious health condition, but the family member is in the hospital and has other available siblings; is this still covered under FMLA?**

Yes - if the medical certification states the employee is needed to care for the covered family member as such, it does not matter if s/he is in the hospital or has other family member who may be able to assist.  “Needed to care for" encompasses both physical and psychological care.

**Q.  An employee is missing work taking his mother to doctor appointments as well as being the translator for his mother; Is this covered under FMLA?**

Assuming both the employee and the mother meet the necessary requirements, it would be FMLA need to care for if the mother has a serious health condition and the son is needed to transport (needed to care for) etc.; FMLA would not cover translation in and of itself.

**Q.  An employee requests to take care of her brother under FMLA.  Is this an FMLA covered request?**

The sister (employee) would not be covered under FMLA to take care of her brother unless she meets in [loco parentis](https://www.capital.org/s/detail/a4R41000000D2pDEAS/c001523) as defined by the regulations.

**Q.  An employee is resigning to take care of his parents. Can we have him sign a statement that FMLA was offered and he refused FMLA coverage?**

Yes.  We recommend you provide the Notice of Rights and Responsibilities to the employee and if s/he still chooses to resign, you can have the employee write a statement on the notice and sign it. If for any reason the employee elects not to sign the document or make a note on the document that it was presented to the employee but s/he refused to sign, we recommend the employer make such a note on the form to document the situation.  This can be very useful in the event the employee later claims that the employer did not provide them with their Rights and Responsibilities under FMLA and they were forced to resign.

**Note**: Review state laws for state-specific provisions.

Written by a Catapult Advisor