



FMLA Leave Rights Expanded

Employment, Labor & Benefits Practice Group

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PRACTICE AREAS

Employee Benefits

Health Care

On October 28, 2009, President Obama signed into law the Fiscal Year 2010 National Defense Authorization Act (2010 NDAA). This new law is effective upon enactment and includes an expansion of the recently-enacted exigency and caregiver leave provisions for military families under the Family and Medical Leave Act of 1993 (FMLA).

The two major changes under the 2010 NDAA expand:

1. who is eligible for exigency leave; and
2. the scope and time period for caregiver leave.

EXIGENCY LEAVE

The 2008 FMLA Amendments granted up to 12 weeks of leave for urgent needs related to a reservist family member's (spouse, son, daughter, or parent) call to active service. The 2010 NDAA now expands the exigency leave benefits to include family members of active duty service members. Under current law, only family members of National Guard and Reservists are eligible for "exigency leave."

CAREGIVER LEAVE

The 2008 FMLA Amendments allowed up to 26 weeks of unpaid leave to an employee to care for a family member (spouse, son, daughter, parent, or next of kin) who is injured while serving on active military duty. The 2010 NDAA now expands the caregiver leave provision to include veterans who are undergoing medical treatment, recuperation or therapy for serious injury or illness that occurred any time during the five years preceding the date of treatment.

An employee must work for an organization of 50 or more employees and work at least 1,250 hours in a 12-month period to be eligible for the leave under the FMLA. Given the expansion, employers subject to FMLA must review and revise their internal policies, posters and train staff as to this expansion. Please contact our office if you have any



questions regarding implementation of NDAA.
