

WORKING WHILE CARING FOR YOURSELF OR A LOVED ONE IN MISSISSIPPI?

A Know Your Rights Guide

A Better Balance is a nonprofit advocacy organization that uses the power of the law to advance justice for workers, so they can care for themselves and their loved ones and stay on the job.

TAKING TIME OFF FROM WORK

When you, a child, or a family member is sick or injured, you may need to take time off from work to care for them. Federal law may give you time off from work that allows you to keep your job, but this time may not be paid.

You may be FMLA eligible if you have...

- 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.

Family and Medical Leave Act (FMLA) provides up to **12 weeks of unpaid** time off of work per year on a reduced schedule, all at once, 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).

- **Covered family members** include a worker's son or daughter under the age of 18 (or an adult child unable to care for him or herself due to a physical or mental disability), spouse, and parent.
 - **"Son or Daughter"** includes a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis.
- A serious health condition can include a mental health condition.
- You should notify your employer 30 days in advance, unless it is an emergency.

Under the FMLA, your employer is **prohibited** from interfering with, restraining, retaliating, discriminating, or denying the exercise of, or the attempt to exercise, any FMLA right.

- When you return to work, you have the right to return to the same or a very similar job, unless you fall into a narrow exception.
- If your employer has a "no fault" attendance policy, you cannot be penalized for using FMLA leave.

If you are not FMLA eligible, you may still be eligible for unpaid time off as a reasonable accommodation under the Americans with Disabilities Act (ADA).

VETERANS AND MILITARY FAMILIES

The FMLA provides special protections for service-connected injuries or illnesses. If you are the spouse, parent, son, daughter, or next-of-kin of a veteran or a member of the Armed Services, including the National Guard and Reserves, you may be able to take military caregiver leave.

- You can take up to a total of **26 weeks of unpaid** leave a year to take care of your military relative if he or she has a serious injury or illness stemming from his or her military service.
- If you have a parent, child, or spouse on or called to active duty service in a foreign country, you may be eligible for what is called "qualifying exigency" leave under the Family and Medical Leave Act to address certain needs arising out of that active duty service. This leave allows you to take up to a total of **12 weeks of unpaid** leave a year.

REASONABLE ACCOMMODATIONS

Your right to job changes at work to keep you or a loved one healthy.

The Americans with Disabilities Act (ADA) requires employers with 15 or more employees to provide reasonable accommodations (or minor job changes) to employees with qualifying medical conditions unless it would impose an “undue hardship” on the business, 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 which can include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
- This law does not give relatives of a person with a disability the right to accommodations, such as a schedule change, to help them provide care.

Examples of reasonable accommodations: 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.

The ADA also makes it **illegal** for covered employers to discriminate against workers with a disability or their relationship with a person with a disability.

- This means your boss cannot fire you, cut your hours, or harass you because you or a family member have 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.
- If your employer has a “no fault” attendance policy, lawful absences protected by the ADA cannot be counted against you.

Mississippi law also bans employment discrimination on the basis of an employee’s disability for public employers.

Want to ask for an accommodation?

1. Take a look at the policies your job has in place for requesting accommodations.
2. Let your boss know that you have a medical condition and a need for a reasonable accommodation.
3. Be clear about what kind of accommodation you need and come prepared with a plan.

*If your boss requires a note from your doctor to confirm your medical need, make sure that the doctor’s note is as specific as possible and outlines exactly what you can and cannot do at work.

***Always double check with your employer about their specific leave policies, including PTO, vacation, or sick leave.**

OTHER LAWS THAT MAY PROVIDE PAID BENEFITS

- 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**. For more information about how to apply, consult the Mississippi Department of Employment Security or visit <https://mdes.ms.gov/unemployment-claims/>

Please note that this fact sheet is not intended to provide a complete overview of any of the laws described.