

Five Years of Success

Report on the Family and Medical Leave Act

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Note the updates at the end

U.S. Department of Labor
Alexis M. Herman, Secretary

**A Statement by Secretary of Labor Alexis M. Herman
August 5, 1998**

Five years ago today, the Family and Medical Leave Act – the first law signed by President Clinton – took effect. The landmark measure reaffirmed a basic American principle: No worker should have to choose between the job they need and the family they love. The Family and Medical Leave Act gives workers legal assurance that they can be there for their families in the difficult times without jeopardizing their jobs or health insurance.

The past five years have produced ample evidence that this new law has worked. It has protected millions of Americans as they took time off during family and medical emergencies or for the birth or adoption of a child. It also has helped the companies that employ them at the same time.

Employees who are treated fairly, and whose family commitments are honored at work, are more loyal and productive workers. By promoting job security and encouraging greater productivity, the FMLA enables American businesses to compete more effectively in the global economy.

The Department of Labor has made extraordinary efforts to educate Americans and their employers about the law. The extremely small number of complaints from those who have taken FMLA leave tells us this outreach effort has paid off. As it enters its sixth year, the Family and Medical Leave Act is being used by more and more working Americans and is now firmly in place within businesses' administrative structures.

In short, the FMLA has been a success for workers and businesses. The Act has gone a long way towards helping Americans balance work and family, a goal that will continue to be one of my top priorities.

Alexis M. Herman

Five Years of Success

Report on the Family and Medical Leave Act

The Family and Medical Leave Act (FMLA), which has now been in effect for five years, is a success for both America's workers and its businesses.

Until the passage of the FMLA, the United States was virtually the only advanced industrialized nation without a national family and medical leave policy. In the short time it has been in effect, the law has been good for America's workers and good for the country's employers.

In his radio address of August 5, 1995, President Clinton emphasized the significance of this law for American families when he stated:

“The Family and Medical Leave Act is good for our families, and it's good for our businesses because it allows our people to be both good parents, or good children, or good siblings and good workers. It supports family stability and family responsibility.”

Since the law became effective on August 5, 1993,¹ millions of working Americans have taken FMLA-protected time off to meet essential family and medical needs without risking their jobs. Employer benefits include reduced turnover, increased productivity, and greater uniformity and consistency in their family and medical policies.

The Department of Labor's five year experience in implementing and enforcing the FMLA, along with the findings of the bipartisan Commission on Family and Medical Leave, leads us to conclude that the law functions smoothly and has broad support from Americans who rely upon it to help them balance the demands of work and family.

¹ The FMLA allows employees up to 12 weeks unpaid leave a year to care for seriously ill family members, the birth or adoption of a child or their own serious health problems. Public agencies and private employers with 50 or more workers must offer eligible employees family and medical leave. The law covers about 70 percent of the American labor force – about 88 million workers.

Earlier this year, Secretary Herman underscored the successful implementation of the law in stating:

“Millions of American workers have gained precious time to be with their families during medical emergencies. At the same time, their employers have not realized the disruptions that many opponents of the law feared. The FMLA has made it possible for workers in this country to balance work and family responsibilities.”

Enforcement

The Department of Labor administers and enforces the FMLA. As of June 30, 1998, the Department's Wage and Hour Division completed action on 12,633 complaints – an extremely small number given the millions of workers who have taken time off under FMLA. Nearly 90 percent of the complaints of an apparent FMLA violation were successfully resolved, many with a simple phone call.

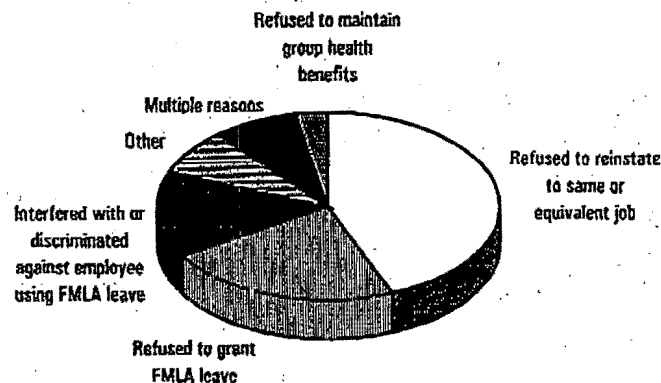
A review of the FMLA compliance actions completed through June 30, 1998, shows that by far the largest number of covered workers who filed complaints – 44 percent – did so because their employers refused to reinstate them to the same or equivalent positions after they returned from FMLA leave. In the rest of the cases, employees complained that their employers:

- refused to grant them FMLA leave – 22 percent;
- interfered with or discriminated against them for using FMLA leave – 15 percent; or
- refused to maintain their group health benefits during leave – 3 percent.

Eight percent of the complaints involved a combination of these issues, while most of the remaining complaints involved other issues, primarily administrative.

Nature of Complaints

Source: U.S. Department of Labor Statistics



Because emergency medical situations are often involved in FMLA leave cases, the Department has worked to resolve complaints quickly through a conciliation process. If necessary, a full investigation is conducted. Over 60 percent of the completed compliance actions have been resolved through conciliation.

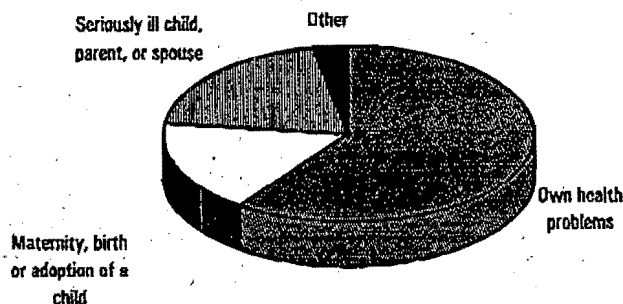
Since FMLA's enactment, the Department has initiated legal action in only 28 cases, most of which involve the issues of job restoration and leave denial. Seventeen cases were ultimately resolved before a court decision was issued. Of the remaining 11 cases, the courts issued a favorable decision in one case, unfavorable decisions in two, and eight cases are pending in district court.

Reasons for FMLA Leave

According to the bipartisan Commission on Family and Medical Leave's (Commission) report to Congress in April 1996, entitled "*A Workable Balance*," during an 18-month period in 1994-1995, about 60 percent of FMLA-protected leave was taken for the employee's own health problems. Seventeen percent of FMLA-protected leave was taken for maternity reasons and the birth or adoption of a child, and approximately 20 percent was to care for an ill child, spouse or parent. The median length of leave was ten days.

Reasons for FMLA Leave

Source: Commission on Family and Medical Leave "*A Workable Balance*," April 1996



The Commission also found that about 58 percent of FMLA-protected leave was used by women, about 42 percent by men.

Employees most likely to take leave were those between the ages of 25 and 34, those with children, employees paid by the hour, and workers with family incomes between \$20,000 and \$30,000 a year.

Compliance Experience

Employers in general have not had serious problems complying with the law. In a national survey that covered 18 months in 1994-95, the Commission on Family and Medical Leave found that more than nine in ten covered employers said it was "very easy" or "somewhat easy" to administer the FMLA.

According to the Commission's report to Congress, nearly 90 percent of all employers surveyed reported that complying with the FMLA entailed "no" or only "small" administrative costs, and roughly nine of ten employers reported no noticeable effect on productivity, profitability or growth.

User-Friendly Law

The Department has gone to great lengths to inform the business community and the public about the law by establishing a toll-free information number (1-800-959-FMLA), distributing radio and television public service announcements to all major markets, giving over 3,700 speeches, seminars and media interviews on the law and providing information on the Internet (<http://www.dol.gov/dol/esa/fmla.htm>). In addition, Departmental staff have responded to more than 621,000 telephone inquiries to offices throughout the country and to the toll-free number.²

In a continuing effort to provide easy-to-understand information on the FMLA, the Department has developed an FMLA advisor as part of the Employment Laws Assistance for Workers and Small Business (*elaws*) on the Internet. The FMLA *elaws* Advisor is an interactive program designed to help employees and employers learn more about the FMLA, and determine their rights and responsibilities under the law. This system can be accessed at <http://www.dol.gov/elaws>. Since its inception in November of 1997, more than 13,000 individuals have accessed the FMLA *elaws* advisor.

From the outset, the Department has provided user-friendly informational materials by issuing compliance guides and fact sheets written in non-technical language and preparing a prototype employee notification form for employers.

This concentrated outreach has paid off. Most of the evidence from the Commission's report and the Department's experience suggests there have not been widespread problems or abuses under the FMLA. While there have been some concerns about the definition of a serious health condition and whether employees qualify for intermittent FMLA leave, most issues arose primarily when employers tried to blend pre-existing leave and attendance policies with new FMLA requirements.

² Data on speeches, seminars, and media interviews and the information on telephone inquiries includes assistance provided by both the Wage and Hour Division and the Women's Bureau.

**THE FAMILY AND MEDICAL LEAVE ACT (FMLA)
62 MONTHS OF ENFORCEMENT AND OUTREACH ACTIVITY
UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
(August 5, 1993 - September 30, 1998)**

SCOPE

The FMLA covers all public agencies and private employers with 50 or more employees, or about five percent of US businesses and approximately 70 percent of US workers.

TOTAL NUMBER OF EMPLOYEE COMPLAINTS

The Wage and Hour Division has completed compliance actions on a total of **13,597** complaints against employers for alleged failure to comply with FMLA.

- **59%** of complaints were valid where apparent violations of FMLA existed.
- **41%** of complaints were situations that were not covered by or did not violate FMLA.

A breakdown of the nature of complaints is as follows:

- | | |
|--|------------|
| • Employer refusal to reinstate employee to same or equivalent position | 44% |
| • Employer refusal to grant FMLA leave | 22% |
| • Employer interfered with or discriminated against an employee using FMLA leave | 15% |
| • Employer refusal to maintain employee's group health benefits | 3% |
| • Other | 8% |
| • Multiple reasons | 8% |

RESOLUTION OF COMPLAINTS WITH FMLA VIOLATIONS

- **Successfully resolved** **87%**

The Department's Office of the Solicitor has filed suit in **29** cases, of which **seven (7)** are pending, and has filed a friend-of-the-court brief in **six (6)** cases, of which **one (1)** is pending.

OUTREACH-EDUCATION EFFORTS

To educate the public, the Wage and Hour Division has initiated and maintained an aggressive outreach program by delivering nearly **2,800** speeches, seminars, and media events, by responding to over **625,000** telephone inquiries to our offices and toll-free number (**1-800-959-FMLA**), by placing user-friendly information on the *Internet*, and by distributing public service announcements to all major markets. In addition, since November 1997, over **13,000** individuals have accessed the "Employment Laws Assistance for Workers and Small Business" (*e/laws*) system on the *Internet* for FMLA compliance assistance information.

FAMILY AND MEDICAL LEAVE ACT - SUMMARY OF OUTREACH/COMPLIANCE ACTIVITY

United States Department of Labor - Wage and Hour Division

(August 5, 1993 through September 30, 1998)

Aug 93/Sept 97 Oct 97/Sept 98 Grand Total

OUTREACH/TECHNICAL ASSISTANCE

SPEECH/SEMINAR/MEDIA	2,154	642	2,796
TELEPHONE CONTACTS 1	477,423	149,562	626,985

COMPLETED COMPLIANCE ACTIVITY

TOTAL NUMBER OF COMPLAINTS2	9,802	3,795	13,597
TYPE OF COMPLIANCE ACTION			
Conciliation	6,175	2,189	8,364
Investigation	3,627	1,606	5,233
NATURE OF EMPLOYEE COMPLAINTS			
Refusal to grant FMLA leave	2,298	716	3,014
Refusal to restore to same or equivalent position	4,191	1,841	6,032
Health benefits	345	91	436
Discrimination	1,199	849	2,048
Other	723	298	1,021
Multiple reasons	1,046	n/a	1,046
STATUS OF COMPLIANCE			
No Violations3 (Total)	4,106	1,424	5,530
Employer not covered	280	70	350
Employee not eligible	650	201	851
Complaint not valid	2,727	774	3,501
Other	449	379	828
Violations4			
Total number of employees	5,696	2,371	8,067
Total amount of monetary damages	\$8,685,704	\$4,520,649	\$13,206,353

1. Telephone contacts include 586,423 calls to staff for technical assistance and publications, and 40,562 calls to the toll-free telephone number for FMLA information. Approximately 345,000 publications have been distributed to the public. In addition, since November 1997, over 13,000 individuals have accessed the "Employment Laws Assistance for Workers and Small Business" (elaws) system on the Internet for FMLA compliance assistance information.
2. Most FMLA complaints involve a single employee and compliance action. In FY-98, several compliance cases involved multiple-employee complaints. Consequently, the number of employees/complainants (3,795) is nearly nine percent higher than the total number of compliance cases completed (3,484). For FMLA activity, we have traditionally reported only the number of employee complaints as opposed to the number of compliance cases completed.
3. Compliance actions resulting in a finding of no violation were situations that were not covered by or did not violate the FMLA.
4. Eighty-seven percent (87%) of the grand total of cases were successfully resolved. The Department of Labor reviewed the remaining cases for potential litigation. Since August 1994, the Department of Labor has filed 29 cases, of which seven are pending, and has filed a friend-of the court brief in six cases, of which one is pending.

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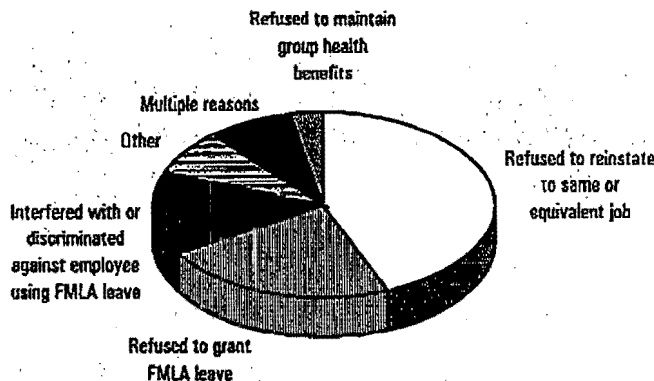
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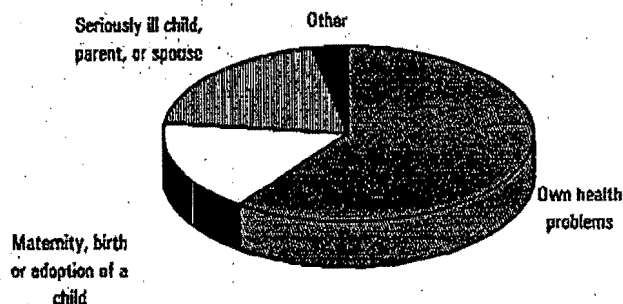
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