
Legal Rights for Pregnant, Parenting, Caregiving, and Seriously Ill Workers

First Shift Justice Project

firstshift.org



ABOUT FIRST SHIFT

First Shift Justice Project empowers workers to exercise their employment rights related to illness, caregiving, domestic violence, pregnancy, and parenting.

We provide free services to workers in DC, Maryland, and Virginia (DMV), ranging from one-time consultations to full legal representation.



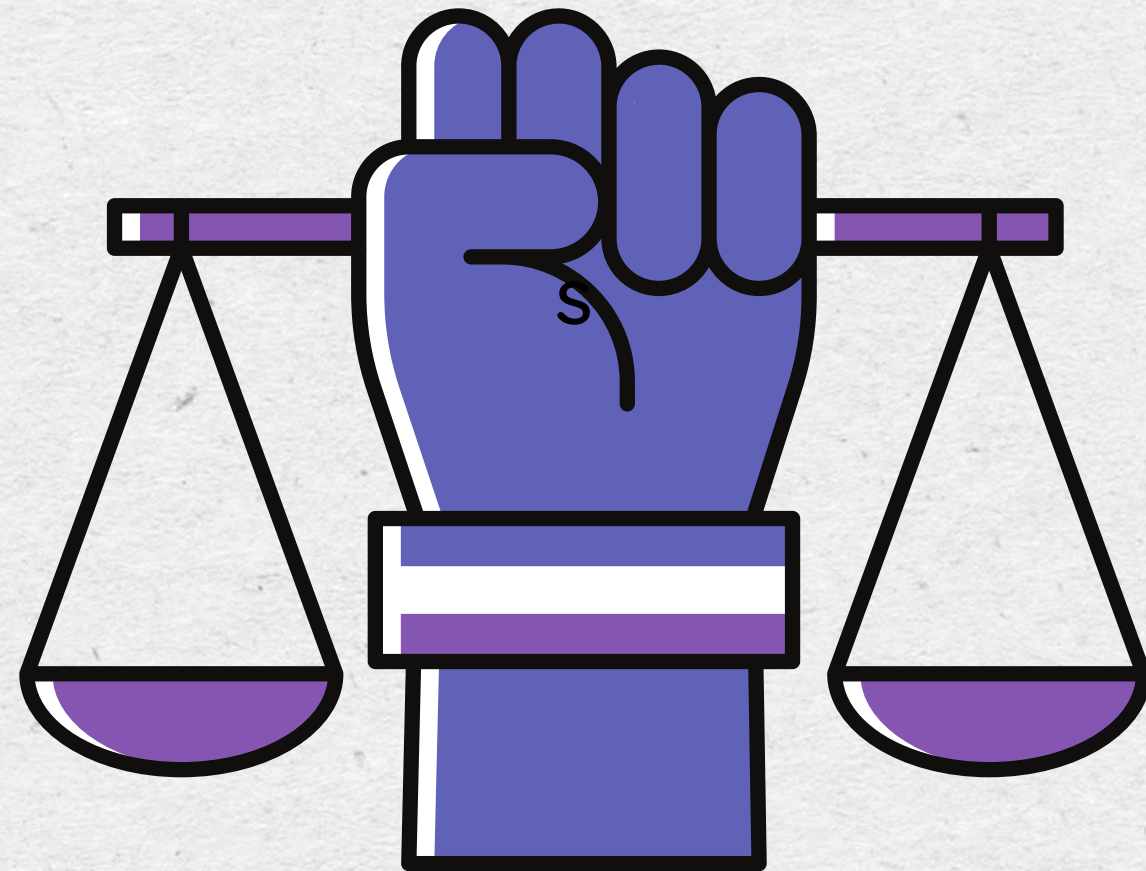
Discussing Employment with Clients

- We don't expect you to be employment experts but we hope you will
 - Talk to patients about their employment and how it affects their health
 - Raise awareness that many people have access to job-protected leave, paid family leave benefits, and pregnancy/breastfeeding accommodations
 - Understand that there will likely be multiple forms of documentation needed at different points
- One thing for you to advise: Talk with First Shift as early as possible!

A Note on Jurisdiction

- People are covered by the laws of where they work, not where they live
 - Ex: Regardless of where they live, if they work in DC, then they are covered by the laws in DC
- This can be complicated by remote work.
- All workers across the USA are protected by federal laws, but some states have more protective laws in place that add additional protections.
 - Creates a patchwork of protections-- which is why it's important for you to raise awareness + for workers to talk with a lawyer!

Federal Laws



JOB PROTECTION

A return to the same or an equivalent position after taking leave.

Benefits are maintained while on leave.

Summary of Federal Laws

Family and Medical Leave Act (FMLA): Workers employed for at least one year for an employer with 50 or more employees in a 75-mile radius, and have worked 1,250 hours during the 12 months prior to the start of leave are entitled to 12 weeks of unpaid leave per year for their own serious medical need, caring for a family member, or bonding with a new child.

PWFA for workplaces of 15+ can provide job-protected leave for medical needs related to pregnancy, as well as extend breastfeeding accommodations beyond one year when it is needed and reasonable.

JOB PROTECTION



When medically necessary, the weeks of leave through FMLA can be taken all at once, intermittently (ex: a few hours during the workday), or used to create a reduced work schedule (ex: working only 3 days/week).

Bonding leave must be taken within 1 year of the birth/adoption/placement

Summary of Federal Laws

Workers in workplaces of 15+ are protected from pregnancy discrimination.

Pregnant Workers Fairness Act (PWFA): Workers in workplaces of 15+ are entitled to reasonable workplace accommodations related to pregnancy, including unpaid medical leave related to pregnancy. This can include time off for perinatal appointments, as an accommodation for perinatal health needs, and recovery from childbirth.

PUMP Act: All workers are entitled to breastfeeding accommodations for one year after birth.

PREGNANCY ACCOMMODATIONS

- Can be used during and after pregnancy
 - Includes cases of pregnancy loss
- Employee is not entitled to their preferred accommodation BUT
- Employer must engage in an “interactive process”
 - MUST provide a temporary accommodation during this process
 - Temporary accommodation cannot be unpaid leave
- Employer cannot require the employee to take leave if there is a suitable on-the-job accommodation

PERINATAL MENTAL HEALTH



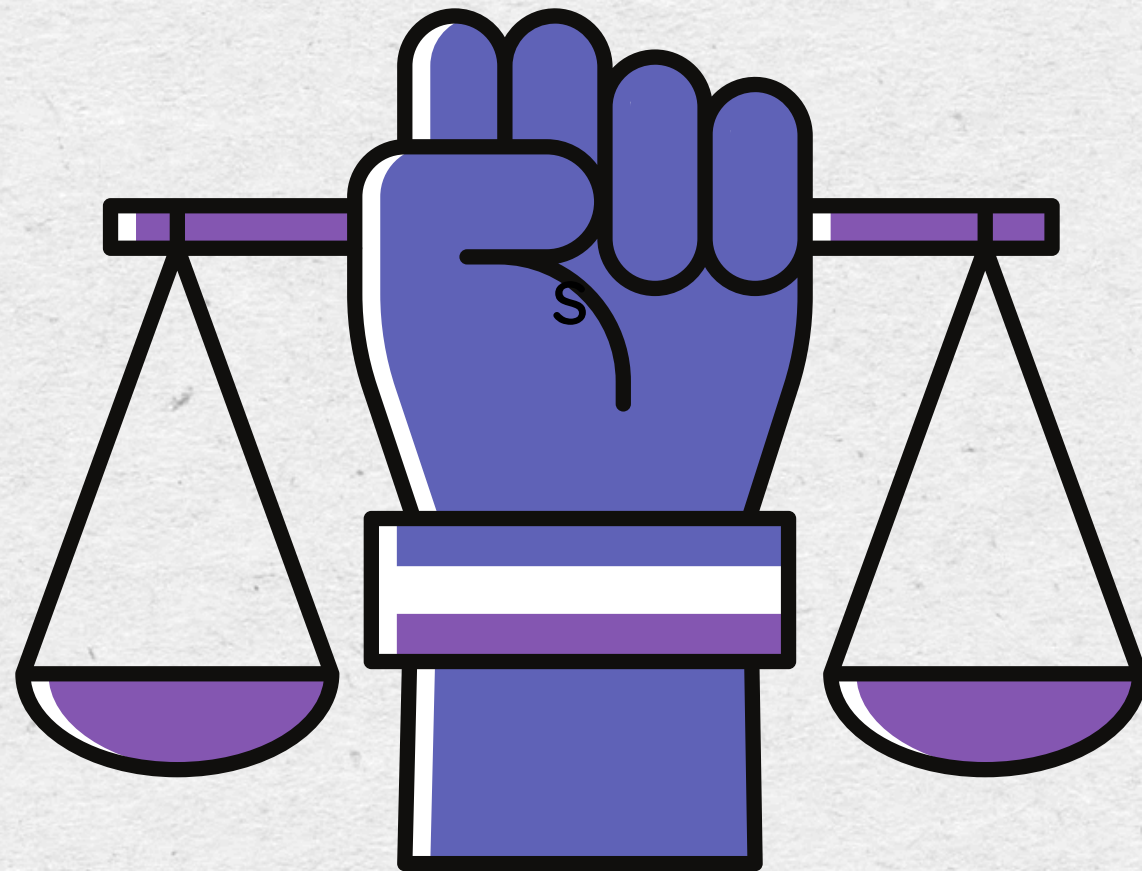
Pregnant and post-partum people are eligible for on-the-job accommodations and leave from work due to perinatal mood and anxiety disorders.

A challenge is determining what to ask for and requesting before there is a negative impact on employment-- help spread awareness before there is a negative impact on health or at work

BREASTFEEDING ACCOMMODATIONS

- Lactation is a medical condition.
- The amount of time depends on the individual's needs.
- The time can be unpaid.
 - But the employer cannot discriminate in providing the accommodation.
- The space must be sanitary and free from intrusion.
 - Cannot be a bathroom
- An outlet and table may be requested.
- Employer does not have to provide refrigeration, but cannot prevent employee from providing their own.

The Rights of MD Workers



Summary of Maryland Laws

Job-Protected Leave

Federal laws: FMLA, PWFA

Maryland Parental Leave Act (“baby FMLA”) provides 6 weeks of bonding leave to people who work for employers with 15-49 employees in Maryland and who have worked for the employer for at least a year and at least 1,250 hours within the 12 months prior to leave.

**Note: Maryland Paid Leave Benefits will become available in 2027/2028
(pushed back from 2026)**

Summary of Maryland Laws

Breastfeeding/Pumping Accommodations

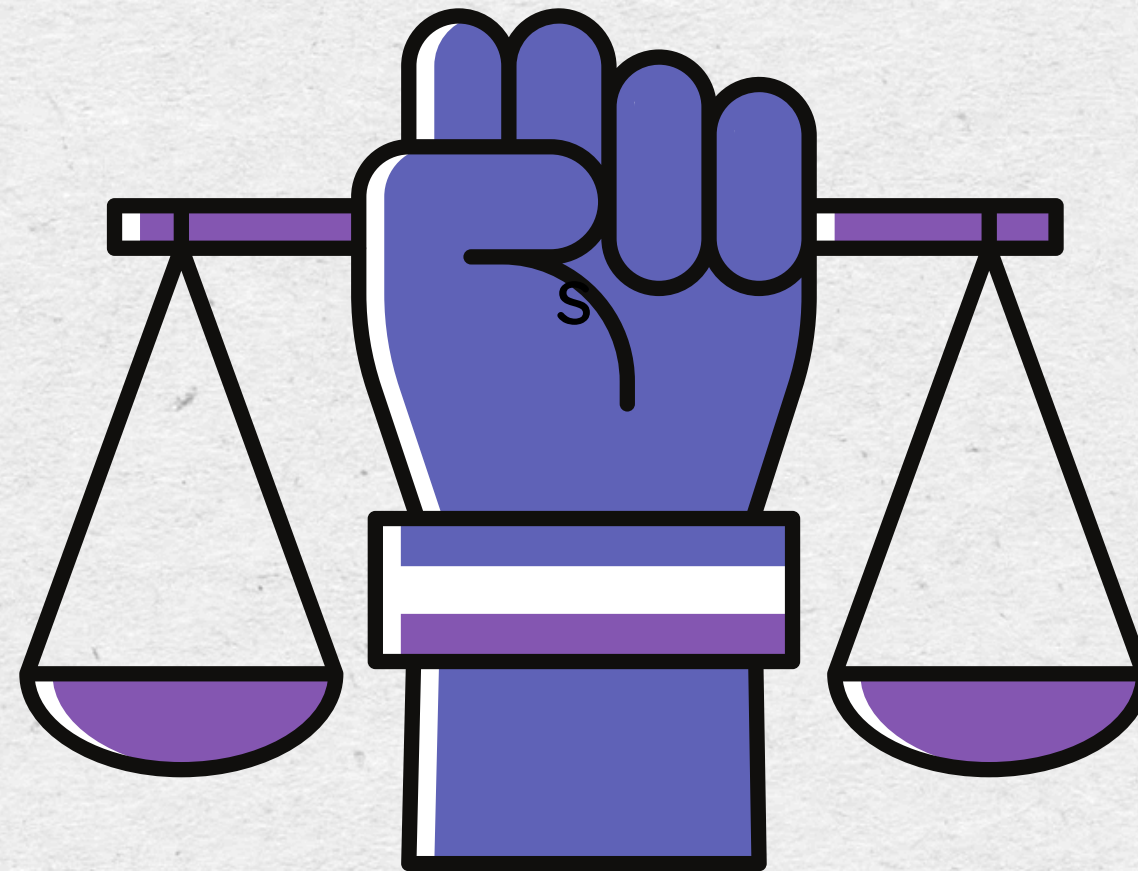
Federal law: Breastfeeding accommodations are provided through the PUMP Act and PWFA.

Pregnancy Accommodations

Federal law: PWFA provides pregnancy accommodations to workers in workplaces of 15+.

MD law: In workplaces of <15, pregnancy accommodations are available only to workers with a pregnancy-related disability.

The Rights of VA Workers



Summary of Virginia Laws

Federal laws: FMLA, PWFA

The Virginia Human Rights Act provides job-protected, unpaid leave as an accommodation for pregnant workers in workplaces of 5+.

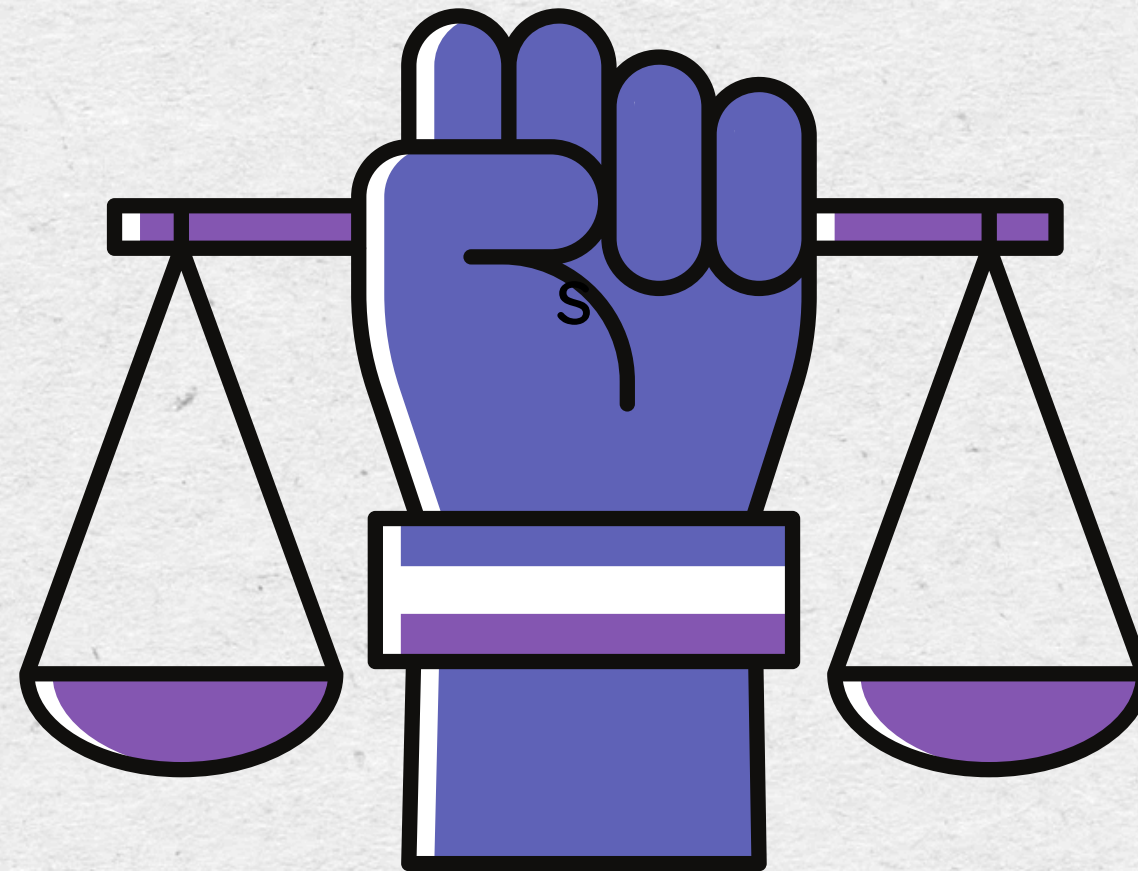
Workers in workplaces of 5+ and all domestic workers are protected from discrimination based on pregnancy.

Summary of Virginia Laws

Pregnancy accommodations are available to workers in workplaces of 5+ through the VA Human Rights Act.

All workers can receive breastfeeding accommodations for one year through the PUMP Act. Workers in workplaces of 5+ can receive breastfeeding accommodations for as long as needed and reasonable through the VA Human Rights Act.

The Rights of D.C. Workers



Summary of DC Laws

Federal laws: FMLA, PWFA

Protecting Pregnant Workers Fairness Act (PPWFA) provides job-protected, unpaid time off for pregnant workers in any size workplace.

DC FMLA provides 16 - 32 weeks of job-protected, unpaid leave over 2 years for those who have worked for at least 1 year, have worked 1,000 hours in the last 12 months, and work for an employer with 20+ employees in DC.

DC Paid Family Leave provides income replacement benefits while on leave from work (but no job protection).

DCPFL IS NOT JOB PROTECTION!



JOB PROTECTION

Federal FMLA

DC FMLA

DC PPWFA



MONETARY BENEFIT

DC Paid Family Leave Benefits

DC PAID FAMILY LEAVE BENEFITS



Up to 12 weeks of DCPFL benefits within a one year period for any combination of a patient's own serious medical need, caring for a family member, or bonding with a new child.

DC PAID FAMILY LEAVE BENEFITS



Pregnant workers are able to access 2 additional weeks of DCPFL benefits within a one year period for prenatal appointments or “bedrest” prescribed by a medical provider.

These 2 additional weeks can be stacked with the 12 weeks of bonding or caregiving leave for a total of 14 weeks of DCPFL benefits.

DCFMLA and DCPFL Definitions

Serious Health Condition:

Physical or mental illness, injury, or impairment that involves either

- Inpatient care in a hospital, hospice, or residential health care facility

OR

- Continuing treatment or supervision at home by a health care provider or other competent individual

Typically involves a period of incapacity, but not required in some cases

DCFMLA and DCPFL Definitions

Family Member:

- Child
- Parent (includes in-laws)
- Grandparent
- Spouse (marriage or domestic partnership)
- Sibling (includes in-laws)

DIFFERENCE BETWEEN DCFMLA&DCPFL: DCFMLA includes partners who have lived together for min. 1 year

Summary of DC Laws

All workers in D.C. are protected from **discrimination based on pregnancy**

Pregnancy accommodations available to workers in any size workplace through the Protecting Pregnant Workers Fairness Act (PPWFA).

Breastfeeding/pumping accommodations can be used for at least one year through the PUMP Act, up to as long as needed and reasonable through the Protecting Pregnant Workers Fairness Act (PPWFA).

Medical Provider Medical Certification Forms and Notes for Pregnancy Accommodations

Medical Certifications

- Employers will often request a medical certification for FMLA, DCFMLA, the Maryland Parental Leave Act, PWFA, VA Human Rights Act, and PPWFA
- Medical certification is always required for DCPFL
- Patients will typically need multiple different kinds of medical certification at different points

Accommodation Examples?

- Discuss accommodation recommendations with your clients and tailor them to their situation and workplace
- Ask questions about your clients' workplace job duties, commute, and home responsibilities to determine possible accommodations
 - Listen and help facilitate your patients' needs in the workplace
 - Patients' employers will discuss and negotiate what is possible with their employee

Examples of accommodations by medical condition:

Pregnantatwork.org
<https://www.pregnantatwork.org/wp-content/uploads/virginia-work-note-guidelines.pdf>



Job Accommodation
Network (JAN)
<https://askjan.org/>



www.firstshift.org

Medical Certifications- DON'T

- DON'T recommend an accommodation without discussing possible accommodations with the patient.
- DON'T draft a note that provides a detailed medical diagnosis but does not clearly explain the resulting limitation(s) and specific accommodation(s) that would be appropriate.
- DON'T use vague expressions such as “light duty” or “until further notice.” These expressions are not specific enough and render the request more likely to be denied by the employer as unreasonable or not temporary.

Medical Certifications- DO

- Be specific about the patient's limitations and what accommodations are needed. When possible, suggest multiple alternatives.
- Check with the patient about what they want to disclose to their employer.
 - They may a) be comfortable sharing their condition and/or diagnosis, b) want to avoid stating their specific condition(s) related to pregnancy/childbirth, or c) not want to disclose that they're pregnant/have a pregnancy-related condition.

Medical Certifications- DO

- Identify an end-date for the accommodation(s)
 - If you aren't sure, use the date of the next appointment or the patient's due date.
- Use clear and legible handwriting. The form may be returned and need to be filled out again if the employer cannot read the handwriting.

Opportunities for Partnership with First Shift Justice Project

How First Shift Can Help You and Your Patients

- Trainings for staff on leave, accommodations, and medical certifications
- Assisting providers in writing medical accommodation notes
- Trainings for patients on their right to leave and accommodations
- Posters, handouts, and flyers with legal information for clients
- Direct referral of patients from providers
 - Help with understanding what rights they are entitled to
 - Help with DCPFL application
 - Legal advice and representation
 - Connections with other community groups

When to Refer to First Shift?

The earlier, the better! When in doubt, refer!

First Shift can

- Help your patient talk to their boss about an accommodation or leave request
- Troubleshoot a medical certification form that has been rejected
- Help your patient complain about discriminatory treatment
- Represent patients who have been fired or otherwise retaliated against for trying to exercise their rights to accommodations and/or leave

Note: We take cases regardless of immigration status or ability to pay!

Referral Process

- How to refer
 - Provide patients with our flier and/or contact information
 - Intake email address: intake@firstshift.org
 - Intake phone line: (202) 644-9043
 - Intake online form on our [website](https://www.firstshift.org)
 - Call our intake line with your patient for a warm hand-off
 - With your patient's consent, call or email with 1) their name, 2) their preferred contact information (phone or email), and 3) quick narrative of the issue. We will reach out to them.

Intake Process

- Steps

- Contact First Shift with a quick narrative of the workplace issue(s)
 - Contact us by phone, email, or our online form.
- Expect to be contacted within two business days for a pre-screening call (~15 minutes)
- If the situation falls in our scope of work, can expect to be contacted within a week to schedule a full intake call (~2 hours)
- If the situation does not fall in our scope of work, we will do our best to provide a referral to another organization that can provide services

Discussion / Example

Meet Sara

- 28 year old woman
- Lives in Arlington, VA
- Has worked for years in West End in DC at a large grocery store chain because of the higher minimum wage
- Works 40 hr/ week making minimum wage (\$17.95)
- First pregnancy, 7.5 weeks pregnant based on last period





Sara's Rights

What jurisdiction does Sara fall under for her workplace rights?

What laws COULD Sara potential be entitled to?



Sara has a pre-existing mental health condition

Sara has Major Depressive Disorder. She is experiencing migraines because of increased stress and anxiety related to her pregnancy.

What are some potential accommodations that Sara could request?



Sara experiences morning sickness/nausea

Sara is experiencing morning sickness that is negatively impacting her ability to commute to work in the morning.

What are some potential accommodations that Sara could request?

Sara's and her husband live with Sara's mother



Sara and her husband live with Sara's mother, Pamela. Pamela will have an ongoing responsibility for raising her grandchild. Pamela works remotely for a Maryland-based company.

What jurisdiction does Pamela fall under for her workplace rights?

What laws COULD Pamela potential be entitled to?

Sara is diagnosed with postpartum anxiety



After giving birth, Sara is diagnosed with postpartum anxiety disorder. Her anxiety causes her to take longer to initiate milk flow during breastfeeding/pumping. She is also recommended to see a therapist weekly to help manage her stress and anxiety.

What are some potential accommodations that Sara could request?



Sara's prenatal leave

Including her first prenatal appointment, Sara will have 15 prenatal appointments through the end of her pregnancy. Sara only has access to 7 paid sick days each year, leaving her with 8 appointments that she will need to take unpaid leave for.

As a long-time employee at a large grocery store chain in DC, Sara is eligible for DCPFL and DCFMLA. She can use DCFMLA medical leave to protect her job while she attends these appointments. She can use DCPFL to receive income replacement for up to two weeks of prenatal leave.



Sara's bonding leave

As a long-time employee at a large grocery store chain in DC, Sara is eligible for DCFMLA and DCPFL.

Sara should alert her employer of her due date at least 30 days in advance. After she gives birth, she will complete her DCPFL application, as well as submit any requested medical certification to her employer for DCFMLA. She can take up to 16 weeks of unpaid, job-protected leave through DCFMLA and receive income replacement for 12 weeks through DCPFL for bonding leave.



Sara's therapy appointment for postpartum anxiety

Sara is recommended to see a therapist weekly to help manage it. She has used up her sick time for the year.

Sara can approach her supervisor and request to use unpaid, job-protected leave under DCFMLA (medical leave) to attend her weekly therapy appointments. She has used some of her DCFMLA medical benefits for her prenatal leave, but still has around 14 weeks remaining. She has used up her DCPFL benefits for the year, but her job is protected.

Sara's medical certification forms



Throughout her prenatal and postpartum care, Sara will have needed multiple kinds of medical certification forms.

Thinking back to what we have discussed, what medical certifications might Sara need?

- Prenatal
 - Accommodations
 - Leave:

Sara's medical certification forms



- Postpartum
 - Accommodations
 - Leave

QUESTIONS OR COMMENTS?

For Provider Questions:

C. Spencer Nickel- Community Health Outreach
Manager

snickel@firstshift.org

(202) 992-5473

For Client Referrals:

INTAKE: intake@firstshift.org

INTAKE phone line: (202) 644-9043



We greatly appreciate you taking a
minute to complete a short
presentation evaluation!
