Medical Protected Leave from Work

You may find that it is difficult to maintain your work schedule when you or family members face a life-threatening illness. Fortunately, federal law provides workplace protections which may help you maintain employment and ultimately, your health insurance benefits.

The Family and Medical Leave Act (FMLA) allows you to take up to 12 weeks of unpaid leave and still be eligible to return to work. You must have a qualified and documented medical reason that applies to yourself or to a child, spouse or parent for whom you are a caregiver.

When you return to work, your employer must return you to your original position or an equivalent job with the same pay, benefits and other employment terms.

In addition to protecting your job, FMLA allows you to maintain your group health insurance coverage as though you are still actively at work.

You are eligible for FMLA leave from your job when:

- You have worked at least 1,250 hours in the past 12 months for your employer, even if the hours were not in consecutive months.
- The company employs 50 or more employees within a 75-mile radius.

FMLA may be taken when:

- You have been diagnosed with a serious illness making you unable to maintain your work schedule.
- There is an urgent family situation as a result of active military duty.
- You are the spouse, child, parent or next of kin of an Armed Forces member with a serious injury or illness. This scenario allows family members to take up to 26 work weeks to care for the service member.
- You need time off for the birth and care of a newborn child or placement of a child for adoption or foster care.

In every scenario, you must provide your employer with documentation from a physician that supports the request for leave. Once approved, leave can be taken in one block or a few hours at a time.

Employers do have the right to require that you use your paid vacation and sick time before you are allowed to take unpaid FMLA leave; this policy is usually documented in the company’s policy handbook.

After you have obtained your insurance, it is important to keep your plan active during your benefit period. If you become ill or injured and find that you are unable to work or pay for insurance premiums, you’ll need to know about these rules and programs.

Look inside for information on COBRA, Disability and Social Security.
I n order to be deemed disabled, you must have a medical condition that meets the Social Security Act definition of disability, which is “having an illness or injury that is expected to last at least 12 months or if your condition may be considered terminal.” A Social Security disability decision can provide income replacement and also open the door for you to receive other benefits.

To be eligible for SSDI, you must have worked five of the last 10 years if you are over age 31, and have contributed through a payroll FICA tax deduction in which 6% of the tax went to a Social Security program. If approved, SSDI will provide you monthly income based on your contributions.

Some basic medical questions you will need to answer include:
- Are you working?
- What are your job responsibilities?
- What is your salary?
- Do you earn more than $1,320 a month?
- Are you disabled now or have you been disabled for at least 12 months or is your condition likely to last at least 12 months?
- Have you been previously disabled?
- Are you self-employed?
- What is your income level?
- Will any other income replace your Social Security benefits?
- Have you received unemployment benefits?
- Will you receive benefits from workers’ compensation?
- Do you get Social Security or Medicare, or disability benefits from other countries?
- Do you have a disability that prevents you from maintaining food, clothing, shelter and other basic needs?
- Do you have a condition that could cause you to die?
- What are your medical condition and the severity?
- What type of work can you do?
- Have you been able to perform your usual work for the past 12 months?
- Have you been able to adjust to other work?
- Have you been able to engage in any work for the past 12 months?
- What are your job responsibilities?
- What kind of work can you do?
- Are you currently working?
- Have you been fired or laid off?
- Are you receiving other income?
- How long will your disability last?
- Have you been receiving workers’ compensation?
- Have you been able to adjust your work schedule to suit your condition?
- Have you ever been diagnosed with a disability?
- What is your date of birth?
- Are you married?
- How many credits do you have?
- Have you been in receipt of SSDI?
- What is your Social Security number?
- What is your family income?
- Is your health improving?
- Are you receiving any other benefits?
- Do you have a history of drug or alcohol abuse?
- Are you receiving any other income?
- Have you been paid in the last 12 months?
- Are you receiving benefits from other sources?
- Have you ever been in receipt of Social Security?
- Are you married?
- What is your date of birth?
- Have you been in receipt of Social Security?
- What is your Social Security number?
- Is your health improving?
- Are you receiving any other benefits?
- Have you ever been in receipt of SSDI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
- What is your Social Security number?
- Have you ever been in receipt of SSI?
Alternatives to COBRA

Special enrollment periods after losing insurance

Both the Affordable Care Act and the Health Insurance Portability and Accountability Act (HIPAA) contain provisions that may qualify you for a special enrollment period which lasts for up to 36 days after the loss of job-based coverage. These exceptions allow you the opportunity to explore other health insurance coverage options.

• You can enroll in a spouse's group health plan coverage.

• If you are under age 26, you can enroll in your parent's group health plan as a dependent. You do not have to reside with your parents to take advantage of this option.

• You can explore the Health Insurance Marketplace in your state to find and compare private health insurance options and calculate your eligibility for tax credits or cost-sharing reductions.

Premiums

Plus a 2% administrative fee.

However, you must pay the full cost of the premium for coverage, plus a 2% administrative fee.

How the ADA Law Protects Patients at Work

The Americans with Disabilities Act (ADA) requires employers with 15 or more employees to make reasonable accommodations that allow workers with disabilities to function properly on the job.

Under the ADA, a disability is defined as “a physical or mental impairment that substantially limits one or more major life activities.” Diagnosis of a serious medical condition would qualify you for disability benefits, even when future recovery is possible.

Individuals with a disability may inform the employer that an accommodation is necessary at any point during their employment. Reasonable accommodations must be intended to help the employee do his or her job, and cannot be refused unless the accommodation causes undue hardship, difficulty or burdening expense for the employer. Employers are not required to eliminate a fundamental duty of a position in order to avoid the need to make an accommodation, nor penalize an employee for requesting a modification.

Medically-Related Job Discrimination

Disability based on disability is illegal in the workplace. If you think you have been discriminated against at work because of a disability or as a result of a medical condition, consider filing a Charge of Discrimination with the Equal Employment Opportunity Commission (EEOC). Charges and complaints must be filed within 180 days from the day the discrimination took place.

The EEOC will investigate the charge by contacting both you and the employer.

• If they find a violation, they may try to reach a voluntary settlement with the employer, or they may refer the case to the EEOC legal staff to explore options.

• If they find no violation of law, you may be given a Notice of Right to Sue letter, which gives you the right to file a lawsuit.

If a violation has occurred, mediation or a settlement may allow you to return to the same position you would have been in if the discrimination had never occurred. You may be reinstated, promoted, awarded back pay, have your legal fees paid and/or provided other reasonable accommodation.

For more information, call the EEOC at 1-800-669-4000 or visit www.eeoc.gov.

The Genetic Information Nondiscrimination Act (GINA) provides additional protection from genetic discrimination in both health insurance and employment. The law ensures a patient’s right to participate in the research and development of new tests and therapies that could potentially lead to a cure of previously untreatable conditions, without fear of losing insurance or employment.

The law prohibits insurance companies from requiring individuals or their family members to undergo genetic testing as a requirement for obtaining insurance. GINA does not apply to employees with fewer than 15 employees. GINA's protections in employment do not extend to the U.S. military.

Protections and Laws that Impact Your Insurance

The Employee Retirement Income Security Act (ERISA) provides protection for those enrolled in health insurance plans sponsored by private-sector employers (the law does not apply to federal, state, local or church health plans). ERISA sets specific time periods for when you must be notified about any claim decision made by your insurer.

If a claim is denied, ERISA ensures your right to a detailed explanation of why your claim was denied and a description of the appeal process. In addition, the insurer must cite the rules, guidelines or plan exclusions used in its decision, and provide you with instructions on how you can request a copy of the specific plan language.

If you have an insurance issue relating to these ERISA protections, you should seek help from the Department of Labor at www.dol.gov/dol/contact.

Security and Privacy of Your Medical Info

The Health Insurance Portability and Accountability Act (HIPAA) contains provisions that protect your health information and limits who has access to your records.

In order to be compliant with these rules, medical providers and healthcare professionals must:

• Seek your written permission before releasing identifiable health information to other providers, insurance companies and billing personnel, including any information that is spoken, printed or transmitted electronically

• Limit disclosure of your medical information unless absolutely necessary for your care, including details surrounding office visits, tests, procedures and mental health information

• Provide you with the ability to see your records and have copies of them, as well as make corrections you feel need to be made on your chart

You must pay the full cost of the premium for coverage, plus a 2% administrative fee.
Compassionate Allowances for Faster Disability Review

The Compassionate Allowance program expedites the disability review process for applicants whose medical condition is so serious it immediately meets disability standards.

To be approved under Compassionate Allowance:

- Your diagnosis must be listed on the Compassionate Allowance list; and
- You must be able to submit medical records that support your advanced diagnosis when you are submitting your initial claim.

Unfortunately, you still have to wait five months after your disability onset date to begin receiving SSDI benefits and 24 months after your disability onset date before Medicare benefits begin, as in the traditional approval process. A complete list of diagnoses can be found online at [www.ssa.gov/compassionateallowances/conditions.htm](http://www.ssa.gov/compassionateallowances/conditions.htm).

Social Security Benefits that Provide Financial Support

Depending on your situation, you may qualify for other Social Security programs if you match specific criteria. For example, Survivor's Benefits and Social Security Retirement benefits can also provide monthly income.

---

**Supplemental Security Income (SSI)**
- Monthly income begins one month after disability onset date
- Long-term or permanent total disability
- Income and resource-based benefits for those with insufficient wages or work history for SSDI
- Qualifier for Medicaid health coverage
- No dependent benefits
- No partial or short-term benefits

**Social Security Disability Insurance (SSDI)**
- Monthly income begins six months after disability onset date
- Long-term or permanent total disability
- Benefit amount based on wage withholdings
- Medicare eligible 24 months after first disability payments
- Must have worked at least five of the 10 years preceding disability
- No resource limits
- May provide benefits for eligible dependents
- No partial, temporary or short-term benefits

**Social Security Survivor Benefits**
- Survivor benefits based on earnings of deceased spouse
- Recipient earnings or disability benefits affect eligibility and benefit amount
- Dependent benefits available
- Medicare eligibility at age 65
- Income based on deceased person's withholdings, and the eligibility and disability category of the recipient(s)

**Social Security Retirement**
- Retire as early as age 62 with reduced benefits
- Age-based full retirement between ages 65 and 67
- Retire at age 70 with maximum benefits
- Medicare eligibility at age 65
- Income based on earnings withholdings
- No resource limits

---

Pathways to Medicare and Medicaid Insurance

If you are deemed disabled and receive Social Security income, you may also be eligible to receive other benefits which can include health insurance through Medicare and/or Medicaid.

Medicare is traditionally for people age 65 or older who are citizens or permanent residents of the United States. However, expanded eligibility also provides Medicare coverage to disabled people who have been collecting SSDI payments for 24 months, regardless of age.

Medicaid is a federally mandated, but state-run health insurance option for blind, elderly or disabled people and minor children who also have a low income and minimal assets.

People who qualify for Medicaid due to disability can sometimes meet eligibility requirements at somewhat higher incomes which are established by each state. Medicaid is administered by each state, so eligibility and income requirements will vary.