

Questions & Answers on FMLA – Part 2
May 2011

Background on CareWorks USA

1. Can you provide some background on CareWorks USA as an organization?

Answer: CareWorks began with the Ohio Bureau of Workers' Compensation's as a managed care organization in 1997. Located in Dublin, Ohio, The CareWorks Family of Companies employs approximately 900 associates through its distinct companies: CareWorks USA, VocWorks, CareWorks of Ohio, RiskControl360, CareWorks Technologies and CareWorks Consultants.

2. Why did the FMLA administration change?

Answer: The University had partnered with a third party since 2006. After careful review of the program and a Request for Proposal (RFP) process, we decided to transition to CareWorks USA effective April 4, 2011.

3. What is CareWorks contact address and phone number?

Answer:

CareWorks USA
Customer Service: 1-888-436-9530
Fax: 1-888-436-9535
Address: 5555 Glendon Court
Dublin, Ohio 43016

4. Since the University changed vendors, has all the information from the previous vendor been sent to CareWorks USA?

Answer: Yes, as part of the transition and implementation process, the previous vendor's FMLA documentation through April 3, 2011 was transferred to CareWorks USA. CareWorks USA assumed administration on April 4, 2011.

Policy

5. Were there any significant changes to the University's FMLA policy that was updated March 2011?

Answer: No. The University updated the FMLA policy to reflect contact information and process changes due to the transition to the new FMLA administrator, CareWorks USA. No other changes were made.

6. I have heard that some employees do not want to file for FMLA because it may result in unpaid leave time. Is someone able to do this?

Answer: No. FMLA is a federal law. Employees are not able to waive their right to FMLA. Employees are also required to use their paid leave time as available under the University's Sick Leave Policy while on FMLA. If FMLA is not requested, absences may be counted as occurrences and the University's correction action process would be followed.

7. If an absence is more than 3 days do I apply for FMLA?

Answer: Yes, this is a situation that may be a qualifying reason for FMLA. Employees should call CareWorks USA and they will make a determination.

8. If I was off 4-6 weeks for surgery, would time come out of my sick bank, not vacation? What about family illness?

Answer: University policy requires that employees first use sick leave then vacation leave available for their own serious health condition. Employees may use five sick days, as available, for serious illness of a family member and must then use vacation time. Should sick and vacation be exhausted, the remaining time-off would be unpaid.

9. Is it new to have Workers' Compensation coming out of FMLA time?

Answer: No. Time off for Workers' Compensation and FMLA have run concurrently for several years.

10. If I am out 3 weeks for surgery, am I required to use FMLA or can I just use sick time?

Answer: FMLA regulations require FMLA usage for a qualifying condition and surgery is generally a qualifying condition. The University's time off policies must be followed for paying an employee while on FMLA. FMLA and sick leave run concurrently.

11. Does my employer have the right to information regarding my personal medical condition?

Answer: The University has a right to information regarding an employee's ability to perform the essential functions of your job.

12. Are on-call employees eligible for FMLA?

Answer: An on-call employee per University policy should work less than 1,000 hours per year and would not meet the eligibility requirement of 1,250 hours worked in the 12-month period prior to an FMLA leave. If a situation arose in which an on-call employee worked more than 1,250 hours and met the other eligibility requirements, they would be eligible for FMLA.

13. Can an employee out on FMLA take vacation when they return?

Answer: Any request for vacation time must be submitted to the employee's supervisor for consideration.

14. What changed with the sick leave policy?

Answer: A sentence referencing FMLA was inserted into the University's sick leave policy. The language in the Family Illness section was changed to make it clear that an employee may utilize up to five sick days per calendar year for a child or stepchild under the age of 18 or a child 18 or older who has a permanent or temporary health condition that requires assistance with activities of daily living.

15. Is intermittent time paid time off? Is this changing?

Answer: Employees have always been required to use their available sick and vacation leave hours to be paid for intermittent FMLA time off for their own serious health condition. Employees can use a maximum of five sick days for the illness of a family member and must then use vacation time.

16. What if an employee is refusing to request an FMLA?

Answer: FMLA is a federal law which is a benefit to the employee. There is no reason an employee should refuse to request an FMLA leave as it provides job protection. FMLA regulations permit the supervisor or HR to file an FMLA claim on behalf of an employee.

17. If someone is out for five days (non-FMLA), do they still need a doctor's note?

Answer: Yes. The University's Sick Leave Policy requires medical documentation after three days' absence. This is different than the official CareWorks USA *Return-to-Work/Work Release* form.

18. Do employees receive one 12 week bank of FMLA even if they have multiple FMLAs?

Answer: Yes, regardless of the number of FMLA leaves an employee may have, the FMLA regulations afford employees a maximum of 12 weeks of leave over a 12-month period from which all leave time will be deducted.

Eligibility

19. Are part-time employees eligible for FMLA?

Answer: Any employee may be eligible for FMLA if they meet the eligibility requirements (1,250 actual hours worked preceding the date of requested leave; employed for 12 months; available FMLA hours; certified qualifying condition) under the FMLA regulations. For an approved FMLA, the available FMLA hours are based on the employee's scheduled hours as a percentage of full-time. For example, someone who is scheduled to work 30 hours per week and otherwise eligible, would be allotted up to a maximum of 360 hours (30 hrs./40 hrs. = 75%; 480 x 75% = 360).

20. Does FMLA cover mothers-in-law or fathers-in-law?

Answer: No. FMLA regulations define immediate family as spouse, child or parent.

21. What is the age limit for an eligible dependent child?

Answer: A dependent is under the age of 18, or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Process

22. What is the benefit of filing for FMLA?

Answer: If an employee has a condition that qualifies for FMLA, whether continuous or intermittent leave, application for FMLA is required under federal regulations. FMLA provides a benefit to the employee of up to 12 weeks of job-protected leave.

23. Will CareWorks USA forms be available to employees in electronic format?

Answer: Yes. CareWorks USA can send employees forms electronically or via regular mail or fax. The CareWorks USA *Return-To-Work/Work Release* form is also available on the University's HR website.

24. What questions does the CareWorks USA intake specialist ask the employee when they call?

Answer: The intake specialist will verify demographic data such as UND ID #, mailing address, date of birth, supervisor's name, work schedule and so forth. CareWorks USA will also ask what the illness or injury is, how long the employee expects to be off work and the name of their Health Care Provider.

25. Can someone other than the employee call CareWorks USA?

Answer: The employee is expected to call CareWorks USA unless the employee is hospitalized or otherwise medically unable to do so. CareWorks USA will request a call by the employee as soon as the employee is able.

26. Will FMLA leave effective dates be retroactive?

Answer: Generally no. CareWorks USA makes this determination based on the reason for the delay of the paperwork and the information included in the medical certification.

27. Is there an email address for employees to contact CareWorks USA?

Answer: No. A conversation via phone is CareWorks USA's preferred method of communication. This allows a thorough communication and an understanding of the situation.

28. Does CareWorks USA have interpreters?

Answer: Yes, CareWorks USA has access to AT&T language lines for a variety of languages.

29. Do you track patterns of absence?

Answer: CareWorks USA tracks patterns of absences and supervisors may also do the same. CareWorks USA relies on the supervisor to notify them of the employee's schedule if it is something other than 8:00 – 5:00.

30. Do I need to call my supervisor every time I am out for intermittent leave?

Answer: Yes. Employees need to contact their supervisor and CareWorks USA for any absence for an approved Intermittent FMLA.

31. If an employee is incapacitated, can a family member request FMLA paperwork?

Answer: Yes, an immediate family member, a supervisor, or Human Resources can initiate an FMLA request if the employee is unable to do so.

32. Will I be able to speak to the same disability specialist each time? What if that person is not available?

Answer: There are now two CareWorks USA specialists dedicated to University of Notre Dame employees. If both specialists are unavailable, please leave a message and your call will be returned within one business day.

33. What if something wasn't done correctly on the medical certification form and I have to go back to the doctor several times?

Answer: If an employee completes the CareWorks USA medical release card, CareWorks USA will be able to assist in obtaining the necessary information from the health care provider to make a quicker determination on a request.

34. Do I still need to let my supervisor know the reason that I am are out sick for an FMLA illness?

Answer: Employees are not required to disclose the medical diagnosis or condition. Employees do need to indicate to their supervisor the reason for the absence such as: due to an employee's own illness or the illness of an immediate family member and if the illness is related to an open FMLA leave.

35. Does CareWorks USA have access to the employee's work schedule?

Answer: An eligibility file sent by the University to CareWorks USA each week provides the employee's shift (1st, 2nd or 3rd) and their supervisor's name. During the intake call, the CareWorks USA specialist will ask the employee their work schedule and will confirm with either their supervisor or Human Resources if there are any questions.

36. Do I still need to submit tracking forms for intermittent leave?

Answer: No. FMLA hours are tracked by an employee's supervisor and by CareWorks USA when an employee calls in to report an absence.

37. When does the employee request recertification of their FMLA leave?

Answer: The employee will know the end date of their FMLA and should contact CareWorks USA to seek guidance on this process and timing.

38. If a full time employee is on FMLA for six weeks and returns half-time at a reduced schedule, does the employee have to call in every day?

Answer: No, if there is an agreed upon reduced schedule with the employee's supervisor, CareWorks USA can enter the hours each day as agreed upon. Please contact CareWorks USA to discuss if this situation if it occurs.

39. If a person is 5 minutes late related to their FMLA, should they call CareWorks USA if they have an approved Intermittent FMLA leave?

Answer: Yes. The employee must call CareWorks USA to report this time as FMLA. CareWorks USA will also verify with the employee's healthcare provider that late arrivals to work were intended to be included in the certification.

40. If an employee has multiple FMLA's, may the department ask which FMLA the employee is using?

Answer: Yes. The employee should clarify which FMLA leave is being utilized.

41. If intermittent hours are exhausted, will the employee know right away?

Answer: Yes, remaining FMLA hours is information available to the employee when they are speaking with the CareWorks USA disability specialist. CareWorks USA also notifies the supervisor and Human Resources in an email of the hours remaining as each intermittent absence is recorded. When the hours are exhausted, the claim will be closed. Employees must initiate a new claim request if they have an ongoing need for an FMLA.

42. If an employee has completed continuous leave and has an intermittent FMLA leave approved for a doctor's appointment every Monday, is the employee required to call in every Monday?

Answer: If an employee has an appointment every Monday the claim would be documented as a regular appointment. The employee is responsible for calling CareWorks USA and the supervisor every Monday and verifying the amount of time used to ensure accuracy of FMLA records.

43. Can the employee be notified by email?

Answer: Email is not part of CareWorks USA's business process flow with employees. CareWorks USA will be in regular contact with employees and prefers to have phone conversations instead of email.

44. Can the medical certification be faxed to CareWorks USA?

Answer: Yes. The fax number for CareWorks USA is 1-888-436-9535.

45. What happens to the insurance premiums for the University's medical insurance if an employee goes into an unpaid status?

Answer: The employee is responsible for their portion of the premium that is normally deducted from their pay. The employee should call askHR at (574) 631-5900 to make payment arrangements.

46. What happens if my FMLA request is denied?

Answer: CareWorks USA will notify the employee of the reason for the denial. Employees have a right to submit additional medical information and to ask CareWorks USA to review their request.

Return to Work

47. What is the process for using the *Return-To-Work/Work Release* form?

Answer: A CareWorks USA *Return-To-Work/Work Release* form is required prior to the employee's return to work if absent on an FMLA leave due to his/her own serious health condition. The CareWorks USA *Return-To-Work/Work Release* form will be included in the FMLA packet that CareWorks USA sends to employees when they request an FMLA leave. The employee asks their Health Care Provider to complete the form and, upon completion, the employee returns the form to CareWorks USA, typically by fax at 888-436-9535. CareWorks USA reviews and sends the form to the immediate supervisor and Human Resources.

48. Is the Return-to-Work form required after every absence for an “intermittent” FMLA?

Answer: No. The CareWorks USA *Return-To-Work/Work Release* form is required prior to the employee’s return to work if absent on a “continuous” FMLA leave due to his/her own serious health condition. A note from the employee’s Health Care Provider may be requested under the University’s regular Sick Leave Policy. Please refer to the Sick Leave Policy for additional information.

49. Is a signature required on the CareWorks USA medical release wallet card?

Answer: The CareWorks USA Medical Release card is voluntary. Signing it may expedite the FMLA request process as it allows CareWorks USA to speak with the employee’s health care provider directly if they need clarification of the medical documentation provided as it pertains to the leave request. The medical release only applies to that particular FMLA request. Once the FMLA claim is closed, the medical release form is void.

Extended Medical Leave/LTD

50. What happens if an employee needs more than 12 weeks for a medical leave and needs to go into Long Term Disability (LTD)?

Answer: For an employee’s own serious illness, the University’s policy on Extended Medical Leave and Long Term Disability may pertain. Employees in this situation should contact *askHR* at (574) 631-5900.

51. Does the University offer Short-Term Disability insurance?

Answer: Not at this time.

52. What if the illness goes beyond 12 weeks?

Answer: If the health care provider certifies that an employee is still medically unable to perform their job after the 12-week FMLA period, the employee would be on Extended Medical Leave. Please refer to the University’s Extended Medical Leave Policy for further information.