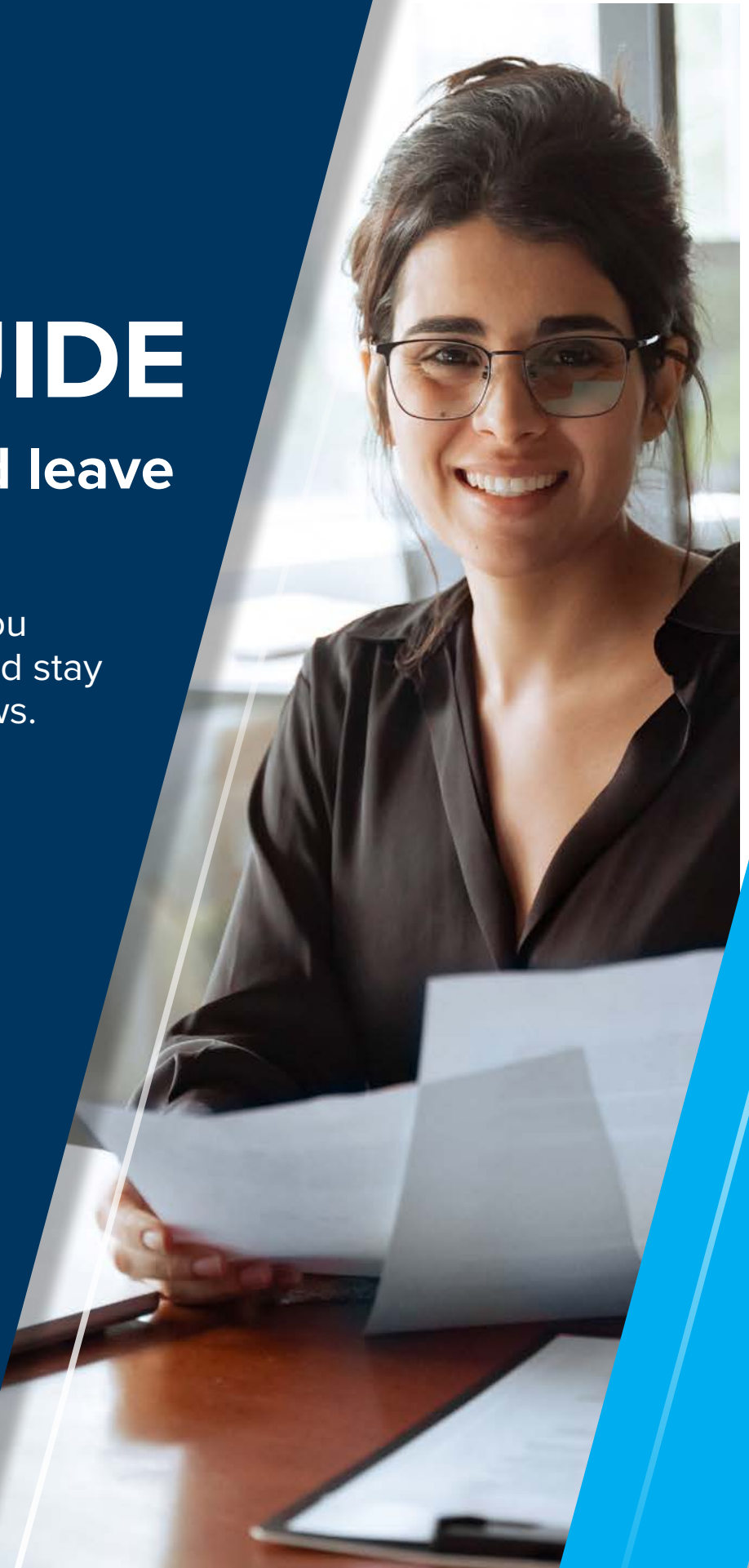




HR'S GUIDE

Paid and unpaid leave requirements

Clear guidance to help you manage leave policies and stay aligned with changing laws.



Overview of leave types and governing authorities

Type of leave	Paid/unpaid	Governing law(s)	Typical uses	Employer obligations
Family and medical leave (FMLA)	Unpaid	Federal Family and Medical Leave Act of 1993 (29 U.S.C. §§ 2601 – 2654)	Up to 12 workweeks of leave during any 12-month period for the birth of a child and to care for a newborn child; placement of a child with an employee for adoption or foster care; care for employee's family member with a serious health condition; employee's own serious health condition; qualifying exigency; and up to 26 workweeks of leave during any 12-month period for care for a servicemember (who is a covered family member of the employee) with a serious injury or illness	Job protection, benefits and pay continuation, discrimination and retaliation protections
Paid family leave	Paid	State laws	Bonding with newborn, adoptive, or foster child; caregiving to an employee's covered family member; psychological comfort; or employee's own serious health condition	Vary by governing state laws
Military leave (USERRA)	Unpaid (with limited exceptions)	Federal Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. §§ 4301 – 4335)	Deployment, training, or other service under the uniformed services	Reemployment (job protection), retention protection, promotion protection, benefits continuation, discrimination and retaliation protections

Overview of leave types and governing authorities

Type of leave	Paid/unpaid	Governing law(s)	Typical uses	Employer obligations
Paid sick leave	Paid	State laws/local and municipal requirements/ individual company policies	Short-term salary continuation program because of employee's non-job-related illnesses, injuries, or doctor visits	Vary by governing state laws/local and municipal requirements
Vacation and paid time off (PTO)	Paid	Growing body of state laws/individual company policies	Vacation leave and other personal time off (can include vacation, sick time, personal days, and holidays)	Payment of accrued but unused vacation/PTO upon termination of employment
Bereavement leave	Paid or unpaid	State laws and individual company policies	Attend funeral or alternative to funeral of covered family member; make arrangements necessitated by death of covered family member; to grieve the death of covered family member	Vary by governing state laws/individual company policies
Jury duty and witness leave	Nonexempt: unpaid Exempt: paid (with limited exceptions)	Federal Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. § 201, et seq.), Jury System Improvement Act of 1978 (JSIA) (H.R. 12389), and state laws	Jury duty service or mandated court appearance	Job protection, benefits and pay continuation, discrimination and retaliation protections
Disability leave (ADA)	Paid or unpaid	Federal Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.), state laws, short-term disability and long-term disability laws	Reasonable accommodations	Interactive process required, discrimination and retaliation protections

Leave FAQs: Your top questions answered

Q: Does FMLA cover leave for a child's orthodontist visits?

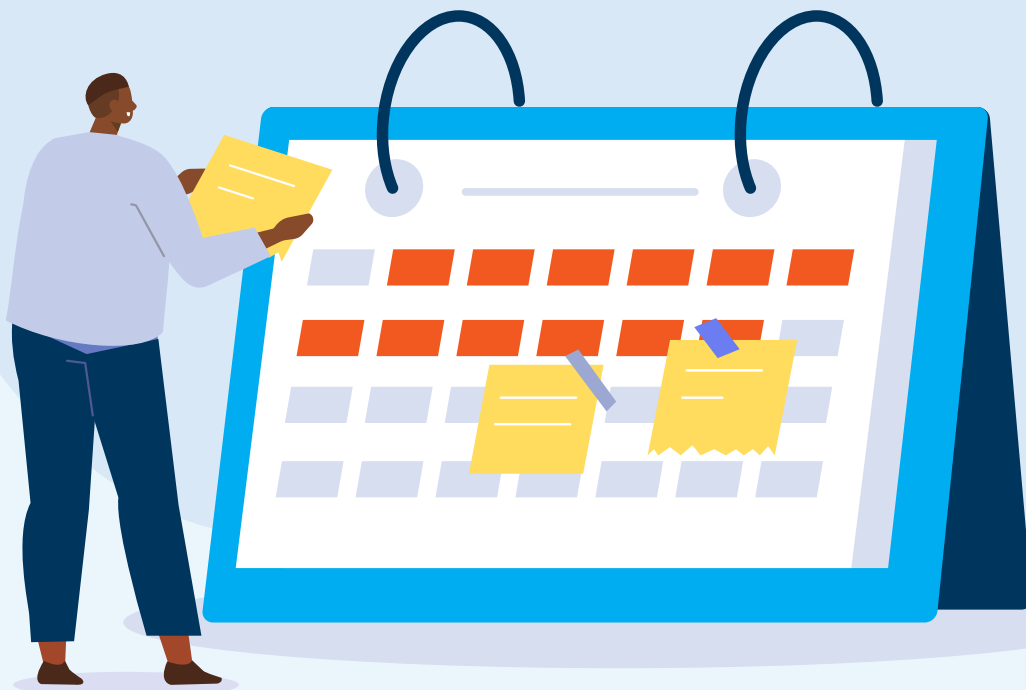
A: FMLA leave can be taken to care for a family member with a serious health condition, which includes conditions requiring inpatient care or continuing treatment by a healthcare provider. Routine dental or orthodontic appointments, like monthly orthodontist visits, generally do not qualify as FMLA-covered leave unless they are connected to a serious health condition. Employers should follow normal procedures to request medical certification using form WH-380F and keep all medical information confidential. Training managers to recognize legitimate FMLA requests and to document the certification process helps ensure compliance.



Leave FAQs: Your top questions answered

Q: Can an employee's short-term disability leave run concurrently with intermittent FMLA leave to care for a family member? Can two qualifying events count under one FMLA claim?

A: Yes, an employee's leave under short-term disability (STD) can be designated as FMLA leave if it qualifies as a serious health condition. However, FMLA provides a total of 12 weeks of unpaid leave per 12-month period, regardless of the number of qualifying events. So, if an employee takes intermittent FMLA leave to care for a family member and then uses continuous leave for their own medical condition under STD, both leaves count toward the same 12-week total. Each qualifying condition requires separate medical certification, but the combined leave entitlement cannot exceed 12 weeks within the rolling 12-month period. After FMLA leave is exhausted, additional leave might be available as a reasonable accommodation under the ADA, considering factors like undue hardship and the employee's expected return-to-work date.



Leave FAQs: Your top questions answered

Q: Two siblings both work for our company and want to take FMLA leave to care for their sick father. Are they each entitled to 12 weeks of leave, or do they have to share the 12 weeks?

A: Each sibling is entitled to their own 12 weeks of FMLA leave to care for their father. Unlike the rule for spouses working for the same employer—who must share a combined 12-week leave for certain events like caring for a parent—there is no such limit for siblings. Both employees must provide medical certification showing they are “needed to care for” their father, which includes physical and psychological care. If both siblings submit proper certification for the same period, they can take leave simultaneously.



Leave FAQs: Your top questions answered

Q: Can an employer cancel an employee's benefits once FMLA leave ends if the employee does not return to full-time active employment? If yes, does this apply only to medical benefits or also to all COBRA-eligible benefits (medical, dental, vision)?

A: Yes, an employer can discontinue health benefits if the employee informs the employer they do not intend to return to work after FMLA ends. This is an exception to the general FMLA rule requiring reinstatement of equivalent benefits upon return.

If the employee returns to work part-time and the employer's health plan allows for part-time coverage, benefits must continue.

Although FMLA regulations specifically address health benefits, it is generally understood that other COBRA-eligible benefits—such as dental and vision—would follow the same rules.

The employee is entitled to “equivalent” benefits upon return to the same or equivalent position, including medical, dental, vision, life insurance, disability, and other benefits, unless the employment relationship has ended or the employee states they will not return.



Leave compliance checklist: Avoid common risks

Documentation & tracking

- Maintain accurate records of all leave requests, approvals/denials, and correspondence
- Use a centralized system to track FMLA and other protected leave usage and eligibility
- Monitor intermittent leave usage for potential abuse and ensure proper tracking
- Roadmap to FMLA compliance

[Roadmap to FMLA compliance](#)

Family and medical leave (FMLA)

- The required FMLA General Notice posters are posted
- Confirm employee eligibility for FMLA (12 months worked, 1,250 hours, 50-employee threshold)
- Understand FMLA leave is limited to a maximum of 12 weeks and 26 weeks for certain family military leaves

Certification & recertification

- Request and manage medical certifications within the required timelines
- Know when and how to request recertification

Paid sick leave

- Policy addresses who is eligible for sick leave
- Policy has been reviewed for any adverse impact on protected groups
- Policy has been reviewed to ensure it's aligned with current federal, state, and local requirements, including any obligations for federal contractors

Leave compliance checklist: Avoid common risks

State-level paid family leave

- Identify which state and local leave laws apply to your locations
- Apply the most generous leave entitlements when laws overlap
- Stay updated on new or amended leave laws at the state and local level

HR compliance checklist

Military leave

- Policy is documented and communicated to employees with required USERRA notices
- Policy clearly outlines notice requirements, pay practices, and benefit accrual during leave

Manager & HR training

- Train managers on how to spot potential leave requests and escalate them properly
- Educate supervisors on retaliation risks and employee rights under FMLA and ADA
- Reinforce the importance of confidentiality and consistent handling of leave cases

How to develop a training plan for HR compliance

Coordination with other leave types

- Integrate FMLA with short-term disability, workers' comp, and company leave policies
- Avoid missteps when transitioning from FMLA to ADA accommodations or personal leave
- Ensure benefits continuation and job reinstatement are handled correctly

Leave compliance checklist: Avoid common risks

ADA & return-to-work considerations

- Engage in the interactive process when leave ends but restrictions remain
- Assess whether additional leave is a reasonable accommodation under the ADA
- Document decisions regarding accommodations and undue hardship analyses

Policy & process audits

- Review leave policies annually to reflect legal updates and best practices
- Ensure employee handbook language aligns with current laws
- Conduct internal audits of leave handling for consistency and compliance

[State-by-state compliance updates guide](#)

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blr.com | 800-597-6300 | sales@blr.com

