



Holiday Pay And The Family Medical Leave Act

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As we enter into the holiday season, questions often arise regarding an employer's obligation to pay an employee on FMLA leave for holidays. Surprisingly, the answer is relatively straightforward: treat that employee in the same manner you would treat an employee on a non-FMLA leave. According to the [FMLA Regulations](#): [a]n employee's entitlement to benefits other than group health benefits during a period of FMLA leave (e.g., holiday pay) is determined by the employer's policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

In other words, the employee on FMLA leave should be treated the same way the company treats an employee on non-FMLA leave. If the FMLA leave is taken in conjunction with paid leave (e.g., PTO or vacation or sick time), then the employer will want to treat the employee in the same manner as it treats an employee on a paid leave. The key is to examine the company's policy and process. For example, an employee takes vacation for the week of Thanksgiving and the company provides for paid holiday days on Thanksgiving day and the day after Thanksgiving. The company's policy also provides that holidays will be paid only to those employees on a paid absence (e.g., vacation). In this instance, the vacationing employee will be paid for those two days. Similarly, if an employee who is on FMLA leave and that leave is taken concurrently with a paid leave (e.g., vacation leave), the company must pay the employee for those two holiday days. In contrast, if the employee is on an unpaid FMLA leave because the individual has exhausted his or her PTO, the company is not required to pay for those two holiday days.

The bottom line is that employers will want to look to their policy and make sure employees on FMLA are treated consistently with employees taking non-FMLA leave. If the policy is silent, employers should consider clarifying when an employee is or is not eligible for holiday pay.