

BRAIN TEASER

Leaves

Managing leaves can be complex, especially when multiple leave laws may apply to a situation.

You have an employee that twists her ankle on the job:

Your employee has worked for you for two years as a server. She has worked a total of 1,485 hours in the last year. You have 35 employees at one location and 25 miles away you have 40 employees at another location. She is pregnant and is planning to take time off to bond with her baby. She just slipped in the kitchen and twisted her ankle. She needs to be off of her feet for 6 weeks for her ankle to heal.

How do you handle this time off?

- A. Family Medical Leave Act – She has a serious medical condition that prevents her from working.
- B. State Pregnancy Disability Leave – She's pregnant and disabled so this leave must apply.
- C. Workers' Compensation Leave – She was hurt on the job, so it has to be designated as workers' comp.
- D. Americans with Disabilities Act – Since she is disabled, she would have protections under this law.

See below for answer



The answer is A.

Because she has worked for 12 months and at least 1,250 hours in the past year and you employ over 50 employees within a 75 mile radius, she would qualify for 12 weeks of leave under the Family Medical Leave Act (FMLA). It is important to inform employees of their rights and responsibilities and to designate this time properly. Employees are provided not only job protected leave under FMLA, but continuation of benefits as well.

Pregnancy Disability Leave would not apply at this time since her injury had nothing to do with pregnancy. In addition, not all states provide leave for pregnancy. Employers must check their state and local laws to see if these laws exist. If so, she may qualify for this type of leave if later she has pregnancy related disabilities. At that time, you could run pregnancy disability leave concurrently with any remaining time under FMLA that had not been used for the work-related injury.

There is no such thing as Workers' Compensation Leave. Workers' Compensation Insurance provides replacement for lost wages and medical benefits for injuries that occur on the job, however there is no leave that is provided. Leave is usually provided by FMLA, ADA or other state and local laws.

Americans with Disabilities Act (ADA) could apply if the employee did not qualify for FMLA and may apply later if the employee exhausts all of her leave granted under FMLA and becomes disabled due to pregnancy. Since she does qualify for FMLA, there would be no need to apply ADA at this time. In addition, there is no continuation of benefits under ADA, so this leave should not be offered before FMLA.