

FMLA TOP 10 TIP SHEET

WHAT EMPLOYERS NEED TO KNOW

Going beyond FMLA requirements is important for many businesses to mitigate the loss of employee productivity. A 2018 Department of Labor study reports that **74% of employers who implemented return-to-work accommodations said they were very or extremely effective.**¹

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While FMLA occurrences may not seem common, leaving many employers unprepared, approximately **60% of the entire U.S. workforce (approximately 90 million workers) are eligible to take FMLA at any moment.**²

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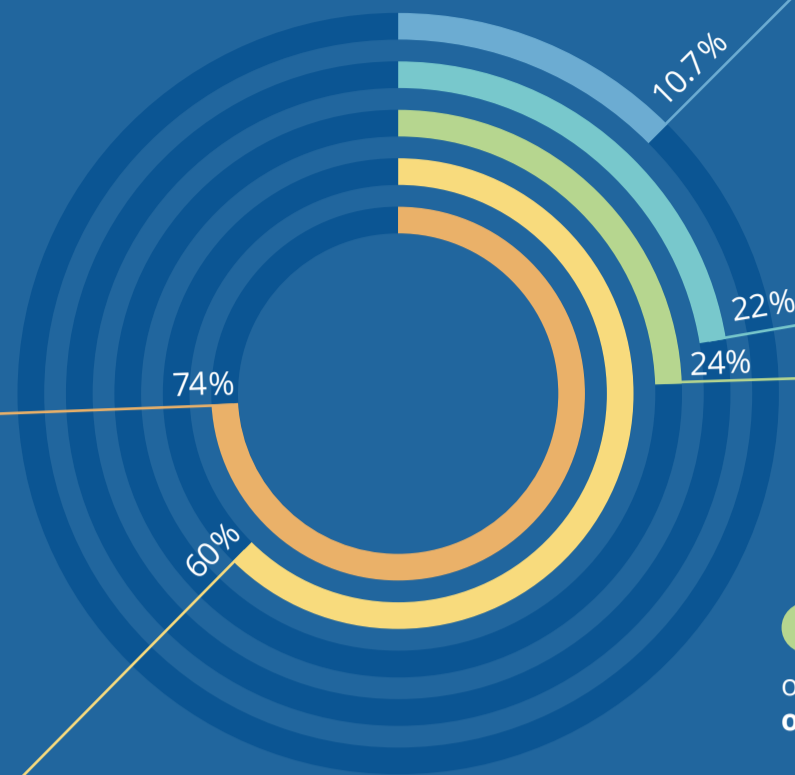
Employers need to be aware of FMLA laws and regulations because leave occurrences are more common than one might think. At any given moment, **10.7% of the U.S. workforce is out of work on FMLA,**³ and since it was enacted in 1993 **FMLA has been used over 100 million times.**⁴

Many employers feel prepared for FMLA maternity leave, but in 2012 **only 22% of the total FMLA cases were related to childbirth.**⁵

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Intermittent leave is difficult to track without the right system or procedures and **accounts for 24% of all FMLA absences taken.**⁶

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CASE STUDY Stay Informed:

SkyWest Airlines was found in 2017 to have violated both the ADA and FMLA when it fired an employee who suffered kidney failure.

A jury awarded the employee

\$450,000
in actual damages

&

\$2 MILLION
in punitive damages.

The total financial repercussions for FMLA non-compliance can be much more than the FMLA fines themselves.⁹

Professional FMLA experts are important to companies with 50+ employees, because mistakes can be costly.

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In 2015 there were
1,419
reported complaints
against employers.⁷

Any given complaint can result like the 2014 Brody and Associates case where an employee was wrongly replaced by a consultant while out on leave and won nearly **\$103,000 plus 100% liquidation damages, attorney's fees and prejudgment interest for FMLA violations.**⁸

Due to FMLA non-compliance, in 2014 employers at fault **paid a cumulative**

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\$2,120,300 in back wages alone.

That is excluding the fees and additional penalties that employers face.¹⁰



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Having strong legal knowledge about FMLA laws and regulations is crucial to staying compliant, as **all states except Delaware, South Dakota, Utah and Idaho** have additional requirements above the federal mandate.



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Some of the **most complex FMLA issues come into play when an employer has site locations in multiple states**, since most states have unique leave laws that build upon federal standards. This complicated effect has been referred to as the **"Bermuda Triangle,"** a term which highlights conflicting FMLA laws. Impacts and strategies to surmount this effect can be researched [here](#).¹¹

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¹ U.S. Department of Labor, *Office of Disability Employment Policy, Return-to-Work Toolkit: Background for Employers*, 2018. ^{2,5} National Partnership for Women & Families, *A Look at the U.S. Department of Labor's 2012 Family and Medical Leave Act Employee and Worksite Surveys*, Feb, 2013. ³ HR Morning, *Wait ... there are how many people on FMLA leave?*, Sep. 30, 2015. ⁴ United States Department of Labor, *Family and Medical Leave Act Employer Guide*, 2018. ⁶ United States Department of Labor, *Wage and Hour Division FMLA Surveys*, 2015. ⁷ Brady and Associates, *Family and Medical Leave Act Violation Costs Employer \$536,000*, May 23, 2014. ^{8,10} United States Department of Labor, *Wage and Hour Division Fiscal Year Statistics for WHD*, 2015. ⁹ U.S. District Court, *District of Massachusetts, Boadi v. Center for Human Development*, Sept. 21, 2017. ¹¹ Society for Human Resource Management, *The New Bermuda Triangle*, August 1, 2010.