

Snapshot Survey: FMLA Proposed Rules

April 2012

Introduction and Methodology

The U.S. Department of Labor (DOL) recently released proposed rules for implementing the Family and Medical Leave Act of 1993 (FMLA) regulations that were passed in 2009 and 2010, as well as to consider a variety of other changes. The proposed rules focus on the expansion of who is eligible for qualifying exigency leave and military caregiver leave and how airlines calculate FMLA eligibility for flight crews.

This report summarizes a snapshot survey conducted by WorldatWork to update some data gathered in the 2008 “FMLA Practices and Perspective Survey” and gather new information relating to the 2012 proposed rules.

Invitations to participate in this survey were included in *workspan Weekly* e-newsletters and posted in a variety of locations on the WorldatWork website and through social media outlets. The survey was open for participation from March 20, 2012, to April 2, 2012, and received a total of 94 responses.

Although respondents self-select in snapshot surveys and nonmembers were allowed to participate, respondents were electronically prohibited from participating more than once. The typical WorldatWork member is at or above the manager level in compensation, benefits or human resources, working in the headquarters of a large company in North America. Ninety-five percent of Fortune 500 companies have at least one employee who is a WorldatWork member.

About WorldatWork®

The Total Rewards Association

WorldatWork (www.worldatwork.org) is a not-for-profit organization providing education, conferences and research focused on global human resources issues including compensation, benefits, work-life and integrated total rewards to attract, motivate and retain a talented workforce. Founded in 1955, WorldatWork has nearly 30,000 members in more than 100 countries. Its affiliate organization, WorldatWork Society of Certified Professionals®, is the certifying body for the prestigious Certified Compensation Professional® (CCP®), Certified Benefits Professional® (CBP), Global Remuneration Professional (GRP®), Work-Life Certified Professional™ (WLCP®), Certified Sales Compensation Professional™ (CSCP™), and Certified Executive Compensation Professional™ (CECP™). WorldatWork has offices in Scottsdale, Arizona, and Washington, D.C.

The WorldatWork group of registered marks includes: Alliance for Work-Life Progress® or AWLP®, workspan®, WorldatWork® Journal, and Compensation Conundrum®.

Detailed Survey Results

Figure 1: In your organization, what percentage of FMLA absences taken on an intermittent basis are scheduled versus unscheduled?¹

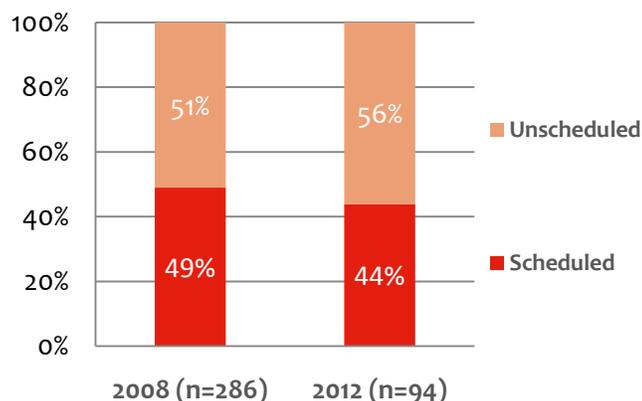


Figure 2: What is the most common notice period given for intermittent FMLA leave?¹

	2008 (n=384)	2012 (n=94)
Day of absence but before shift begins	38%	41%
One day before absence	26%	18%
2 or more days before absence	n/a	16%
2 or more days following absence	n/a	11%
During work shift	7%	9%
One day following absence	10%	5%
Other	19%	n/a

Figure 3: Please indicate the degree of difficulty your organization faces when administering intermittent FMLA leave. (n=94)

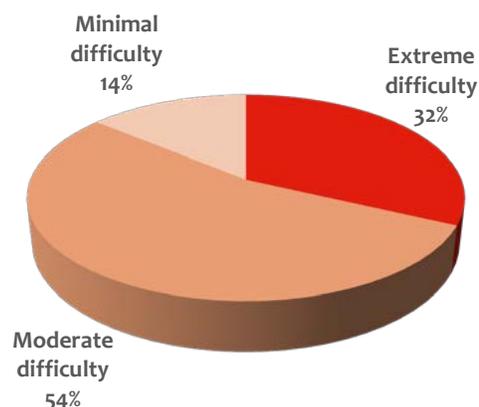


Figure 4: Please rank the top three challenges in administering intermittent FMLA leave.

Percent of respondents who ranked this as a "top three" challenge (n=75)	
Potential for or suspicion of employee abuse (e.g., "condition" presents itself when convenient for the employee or is given as an excuse for tardiness)	69%
Little/no notification prior to absence	59%
Tracking absences	55%
Determining whether the absence qualifies for FMLA protection	36%
Coordination with other laws, such as the Americans with Disabilities Act, workers' compensation and state laws	35%
The ability to take leave in less than one-hour increments	23%
Determining validity of medical certification	16%
Because of workforce scheduling or other issues, the need to require that the employee take more leave than required by his/her intermittent, FMLA-qualifying event	11%

¹ The 2008 survey invitation was delivered through targeted email communication, which likely contributed to the difference in response numbers between 2008 and 2012. The 2012 survey invitation was included in general messaging.

Figure 5: Please indicate the degree of difficulty your organization faces when administering qualifying exigency leave. (n=89)

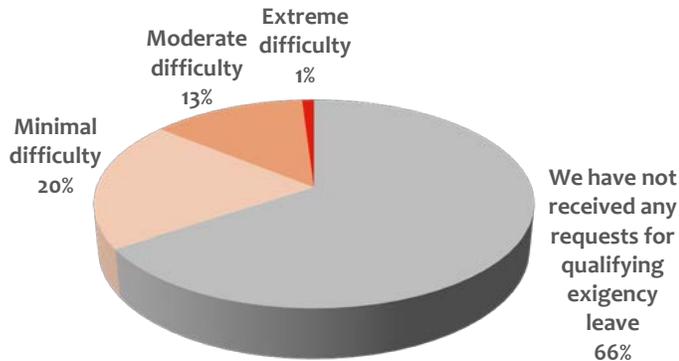


Figure 6: Please rank the top three challenges in administering qualifying exigency leave.

Number of respondents who ranked this as a “top three” challenge (n=29) ²	
Making third-party verifications of qualifying exigency leave (e.g., contacting child-care providers, ceremony organizers, counselors, teachers or others involved in events surrounding the qualifying exigency, as outlined by the DOL)	18
Definition of qualifying exigency leave is so vague that it’s hard to determine what doesn’t qualify	17
Little/no notification	15
Determining employee eligibility	12
Coordination with state laws and other regulations	12
Concern about privacy issues surrounding third-party verification of qualifying exigency leave	9

² Due to low response on this question, only frequency values — the number of respondents who selected each answer — are reported; caution should be used when interpreting these data. Data representing larger sample sizes are reported in percentages and will have greater reliability.

Figure 7: Has your organization had employees request “short-notice deployment leave” beyond the seven-day allotment? (n=31)²

Yes	4
No	22
Not sure	5

Figure 8: Has your organization had employees request “rest & recuperation (RR) leave” beyond the five-day allotment? (n=30)²

Yes	4
No	21
Not sure	5

Figure 9: The FMLA includes a “physical impossibility” provision that lifts the requirement that employers must allow an employee to leave his/her shift early or restore an employee to the same or equivalent position after leave if it is physically impossible to do so. Has your organization had to use this provision? (n=85)

Yes	7%
No	68%
Not sure	25%