FMLA Process for Employees on a Disability Benefit Absence

FMLA runs concurrently with approved Short-Term Disabilities as long as the employee is eligible for FMLA and has not exhausted 12 weeks in a 12-month period under federal FMLA or any applicable leave period under state law.

The supervisor/attendance manger is responsible for reporting the absence to FMLA Operations and is also required to submit subsequent notifications if the status of the request for disability benefits changes.

Note: Different procedures exist for employees in the West Region if the disability is related to a Pregnancy Disability Leave (PDL) or if the Short-term Disability benefits claim is denied. Please visit the Corporate Attendance Management Site via HROneStop to access those job aids or for additional assistance, contact your Employee Relations Manager (ERM).

General facts regarding FMLA and Short Term Disability:

- FMLA Operations must be notified of the request for disability benefits. The supervisor is required to submit an Employee Eligibility Form (FMLA1) to report the first day of absence.
  - EXCEPTION: SOUTHWEST REGION – Managers are not required to submit an FMLA1 to report the initial claim for total disability for SW employees.
  - EXCEPTION: WEST REGION – Disabilities that are associated with a Pregnancy Disability Leave (PDL) should not be reported on an FMLA1. Time approved under PDL *does not* run concurrent with FMLA.
- Upon receiving notification of the request for disability benefits, FMLA Operations will send a letter to the employee and supervisor notify that FMLA will run concurrent with dates approved for disability benefits as long as they are FMLA eligible/entitled.
- If the request for disability benefits is approved, and the employee is FMLA eligible/entitled, the waiting days leading to the disability claim will automatically be FMLA protected.
- If all or a portion of the request for disability benefits is denied, employees must be offered FMLA consideration to protect the absence.
- The employee is only required to submit a Certification of Health Care Provider Form (FMLA4) in association with dates that have been denied disability benefits.

The scenarios below describe situations involving short term disability and outline the action required by the supervisor:

Scenario 1 : Employee incurs an absence that will result in a Claim for Short-Term Disability Benefits or a Short-term Disability Relapse

The supervisor is required to submit an FMLA1 to report the first day of the absence to FMLA Operations. If the request for disability benefits is approved, no further action is required. The approved benefit time (including the waiting days) will automatically reflect a Disability/FMLA absence code.

> **Example:** John calls his supervisor on Monday May 5th advising that he will not be reporting to work due to illness. Throughout the week, John continues to call out daily, eventually leading into the next week . On the next Monday May 12th , John still has not returned to work.
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> John's supervisor is now aware that the absence is going to result in a disability because of the length of absence. At that time, the supervisor would submit an FMLA1 reporting the absence as a disability with May 5th as the first date of absence.

Scenario 2: Employee's Claim for Short-Term Disability Benefits *is immediately preceded by a partial day absence*

The supervisor is required to submit an FMLA1 to report the request for disability benefits to FMLA Operations.

When submitting the FMLA1, the submitter should indicate in the "notes" section that the first day listed is a *partial* day for x hours. If the disability is approved, the partial day that immediately preceded the absence will be FMLA protected. The supervisor will be required to manually code the partial day that immediately preceded the disability as FMLA protected. For details regarding the appropriate absence codes to use, the supervisor may access the Time Reporting Manual located in eLink Online Documentation.

EXCEPTION: If the partial day is included under the disability plan available to the employee, manual coding of the partial day is not required.

> **Example:** Mary reports for her scheduled tour on Tuesday June 3rd. After working a few hours, Mary goes home ill. This leads to consecutive days of absence, and Mary continues to call out daily, eventually leading into the next week . On the next Wednesday June 11th , Mary still has not returned to work.
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> Mary's supervisor is now aware that the absence is going to result in a disability because of the length of absence. At that time, the supervisor would submit an FMLA1 reporting the absence as a disability and indicate June 3rd as the first date of absence.

Scenario 3 : The employee's claim for Short-Term Disability has been denied and the employee has returned to work – If the employee's request is denied, the supervisor is required to submit an FMLA1 to request FMLA consideration for the denied dates. The FMLA1 must detail the absence period and the supervisor should confirm in the "notes" section that the request is due to a denied disability claim.

NOTE: The above action is required regardless of whether the entire claim, or only a portion has been denied. Any dates not approved under the disability plan should be submitted for FMLA consideration.

If FMLA approval is issued for the denied disability dates, the supervisor is required to manually code the approved dates as FMLA protected. For details regarding the appropriate absence codes to use, the supervisor may access the Time Reporting Manual located in eLink Online Documentation.

> **Example:** Jack returns to work today after a 10 day absence. His supervisor has already reported the disability absence to the FMLA Processing Unit (scenario 1). Upon returning, Jack and his supervisor are notified that the 10 day absence is not approved for disability benefits.
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> Jack's supervisor is now required to update the FMLA1 originally submitted to report the request for disability benefits and amend the form to now request FMLA consideration for the denied dates. His supervisor must indicate on the notes that the request is for denied disability dates and make certain to give Jack an FMLA4 since his is now required to have his Health Care Provider submit a completed form to support his request for FMLA.

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Scenario 4 : The employee's claim for Short-Term Disability has been denied and the employee has NOT returned to work If the employee is denied disability but has not returned to work, the supervisor/attendance manager is required to initiate a request for FMLA consideration for any available FMLA time the eligible employee may have remaining. Since the employee has not returned to work, their remaining entitlement is utilized to determine an end date for the absence.

If FMLA approval is issued for the denied disability dates, the supervisor is required to manually code the approved dates as FMLA protected. For details regarding the appropriate absence codes to use, the supervisor may access the Time Reporting Manual located in eLink Online Documentation.

> **Example:** Jill's first date of absence was June 2nd. On June 11th, June's supervisor is notified that the request for disability benefits has been denied. At this time, Jill has not returned to work. When the disability began on June 2nd , Jill had 20 days of FMLA remaining for the year.
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> Jill's supervisor is now required to update the FMLA1 originally submitted to report the request for disability benefits (Scenario 1) and amend the form to now request FMLA consideration for the denied dates *plus* the dates that her remaining entitlement could potentially cover. Since the absence began on June 2nd, and Jill had 20 days remaining at that time, this FMLA1 request should reflect June 2nd as the begin date and June 27th as the end date (June 2nd + 20 business days--you should only request FMLA consideration for dates the employee is scheduled to work).
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> NOTE: If the employee's remaining time does not represent full work days, you would still exhaust the remaining hours accordingly. For instance, if an employee works an 8 hour schedule and has 100 hours remaining, you would request FMLA for 12 full business days and one business day at 4 hours (100hrs/8hrs = 12.5 days)
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> Jill's supervisor must indicate on the notes that the request is for denied disability dates and make certain to provide Jill with an FMLA4 (this may be sent via US Mail) since she is now required to have her Health Care Provider submit a completed form to support her request for FMLA.
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> Once Jill does return, if the return to work date is prior to the exhaustion of her remaining entitlement (June 27th), the supervisor must then make a final edit to the FMLA1 and correct the FMLA1 to reflect her actual return to work date.

Note: Employees in the West Region will follow an alternate process when the disability is related to a Pregnancy Disability Leave (PDL) or Family Care Leave (FCL). Please visit the corresponding job aids located in the Corporate Attendance Management Site.

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