

Paid leave/sick days FAQ

Who is eligible for paid leave or sick days?

Family Medical Leave Act (FMLA) Workers employed by companies with 50 or more employees in 20 or more workweeks in the current or preceding calendar year (see <https://www.dol.gov/whd/regs/compliance/whdfs77b.pdf>).

NJ Family Leave Insurance (FLI) Workers at businesses with 50 or more employees; this changes to include businesses with 30 or more employees on June 30, 2019 (see http://www.njtimetocare.org/sites/default/files/FLI%20TDI%20expansion%20fact%20sheet%20final_0.pdf).

NJ Earned Sick Leave (ESL) Full/part-time, temporary, and undocumented workers. Workers earn 1 hour of paid sick time for every 30 hours worked, up to a maximum of 40 hours (5 days) in a 12-month period (see <http://www.njtimetocare.com/ESL>).

How long does a worker have to be employed to be eligible?

FMLA Workers who work for a covered employer (see above) and who have:

- -Worked for the employer for at least 12 months
- -At least 1,250 hours of service for the employer during the 12 month period
- Worked at a location where the employer has at least 50 employees within 75 miles.

(see <https://www.dol.gov/whd/regs/compliance/whdfs28.pdf>).

FLI Eligible workers must have worked 20 weeks in NJ & earned at least \$172/week or \$8,600 in the past 12 months (see <http://www.njtimetocare.org/sites/default/files/FLI%20expansion%20flyer%20%287%29.pdf>).

ESL Workers start to accrue paid sick days as soon as they begin employment, and must wait 120 days before being able to use the days see <http://www.njtimetocare.com/ESL>).

Who can be a care recipient?

FMLA A newborn, adoption/foster care, serious health condition of employee, care for family member (spouse/son/daughter/parent-see <https://www.dol.gov/whd/regs/compliance/whdfs28f.htm>).

FLI A new child or seriously ill loved one (see <http://www.njtimetocare.org/node/176>).

ESL Covered family members include: spouse, child, parent, grandparent, grandchild, legal ward, civil union partner, domestic partner, sibling, parent-in-law and sibling-in-law (or the sibling or parent of domestic partner or civil union partner), and individuals whose relationship is the equivalent of family. Family equivalent individuals might include a close friend, roommate, or neighbor (see http://www.njtimetocare.org/sites/default/files/Earned%20Sick%20Days%20Law%20fact%20sheet_1.pdf).

Is it better to take intermittent leave or all at once?

It depends on the situation. If it is a one-time event with a recovery period, it may be better to take leave time all at once. However, if there will be periodic treatments such as chemotherapy, intermittent leave could work. If it is a combination of both an event like surgery followed by intermittent treatment, parents may want to alternate and use both.

Are there job protections in place?

FMLA When an employee returns from FMLA leave, he or she must be restored to the same job or to an "equivalent job" (see <https://www.dol.gov/whd/regs/compliance/whdfs28a.pdf>).

FLI When you return to work, you are generally entitled to return to the same position you held before leave (see http://www.njtimetocare.org/sites/default/files/Know-About_Family-Leave-Act_SM_0.pdf).

ESL All workers are protected against being fired, discriminated against, or punished for using or requesting earned sick time (see <http://www.njtimetocare.org/sites/default/files/FINAL%20ESL%20FLYER%20%286%29.pdf>).

Is it better to use federal or NJ leave?

This depends on the family circumstances. Currently, FMLA has more time off but it is unpaid. Remember, families also have the option of combining both the federal and NJ leave.

What can be done about discrimination?

FMLA Employers may not deny leave and there cannot be retaliatory actions such as hiring/promotions/discipline (see <https://www.dol.gov/whd/regs/compliance/whdfs77b.pdf>).

FLI "An employer shall not discharge, harass, threaten, or otherwise discriminate against an employee with respect to the compensation, terms, conditions, or privileges of employment on the basis that the employee requested or took any temporary disability benefits or family temporary disability leave benefits" see <http://www.njtimetocare.org/node/197>).

ESL Employers are not permitted to take retaliatory action or discriminate against an employee who requests or uses their allowable earned sick days (see <http://www.njtimetocare.org/sites/default/files/FINAL%20ESL%20FLYER%20%286%29.pdf>).