

Q&A Employee Benefits



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What are the regulations regarding employees returning from workers' compensation leave?

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Since each state administers its own workers' compensation program, there may be variances in coverage and benefits. The federal government also administers its own program for federal employees.

Employers should refer to their state's workers' compensation laws to determine the rights of employees returning after a workplace injury or illness.

If an employee on workers' compensation leave qualifies for the Family and Medical Leave Act (FMLA), he or she is protected under that law. FMLA provides employees with up to 12 weeks of job-protected leave, which may coincide with workers' compensation leave. Under the FMLA, employers cannot force FMLA-qualified employees to return to work in a different position prior to their 12 weeks of leave being exhausted. Upon returning to work, these employees must be returned to their former or equivalent position.

If an employee is offered a light-duty or alternate position, he or she can determine whether to accept the position or to utilize FMLA leave. If FMLA leave has been exhausted and the offered position is declined, workers' compensation benefits may cease. If the offered position is accepted, the employee has the right to be returned to his or her original position or an equivalent position when cleared to return to work without restrictions.

If an employee's workplace injury or illness qualifies as a disability under the Americans with Disabilities Act (ADA), the employer may need to provide the employee with reasonable accommodations in order for the employee to be able to perform the essential functions of his or her former job, unless the employee is willing to transfer to another position that better accommodates the disability. However, the ADA does not require a new position to be created as an accommodation, which would mean that if a new position were the only option, the employer would not have to allow the employee to return to work.