

DEPENDENT CARE, FMLA

What's the difference and how does it really work?

submitted by Bob Cregan, member

Dependent care is listed under our current (expired) contract in the Memorandum Of Understanding as a benefit for those represented by the American Postal Workers Union. That means you. Don't worry! It's still in effect until the mechanisms of The Collective Bargaining process go through its course.

What Dependent Care does allow you under the current language is for you to be able to use up to 80 hours of your own sick leave to care for an ill family member. This is defined as your spouse, mother or father, son or daughter. That doesn't include your Aunt Mary, Uncle Joe or your Grandparents or your best friend Biker Billy.

Eligibility for Dependant Care runs the leave year. Dependent Care can be used to care for your family if they have an illness that would, if you had such illness, prevent you from meeting your assigned work schedule.

This means that if a family member has broken bones, a contagious illness, dementia, measles, mumps, strep throat or practically any illness where they need your care and help to overcome such illness, you can use Dependent Care.

Under the provisions of the Employee Labor Relations Manual, management can require you to provide medical documentation for Dependent Care whenever they deem it to be in the best interest of the Postal Service. This can be for an absence of just one day.

So, what can you as a responsible Postal Employee do to frustrate management's ridiculous rules and regulations? Simple! You need to know the rules and regulations better than they do.

If you or a family member needs medical attention, you would naturally make a visit to your health care provider. The doctor provides you a note for your family member and you then submit that documentation to the appropriate management official.

In a Regional Arbitration conducted several years in case # S7C-3W-C 29019, Arbitrator Marlatt concluded: I hold therefore that a request for any sort of leave including leave without pay received by the Postal Service from any employee 24 or more hours prior to the beginning of that period of leave, and which is subsequently approved, will be presumed to result in a scheduled absence.

This means that if you call in sick for you or a family member, its imperative for you to provide management 24 hours notice of your inability to make your assigned schedule. If you cannot do so, the absence will be construed to be an unscheduled absence and can be held against you even if you provided documentation should

management wish to proceed against you in a disciplinary action regarding your use of sick leave. The following imaginary character will provide example on how you can play this game and be successful at it.

"Hello..Attendance Control?..Yeah, this is Bob Bitchin..no Bitchin. Yeah, I'm calling in for Dependant Care.. Yeah, my family member has some kind of virus. I think it may be the Ebola one and we're just sick as the devil puking our guts out all over the place. I expect that I'll be out for the next three days. What's that? I need to provide a note?"

"Mr. Bitchin, we're instructing you to provide documentation for your absence in the interest of the Postal Service."

"I have to say though, since I've been talking with you on the phone, my stress meter has gone off scale and now I'm really going to puke, so instead of being out sick three days, it'll be five days instead of three, OK? You want me to call in every day?" (You really don't have to call them every day. Another Regional Arbitration decided that issue as well. But rather than belabor the issue, call those guys every day just to humor them.)

You see, management decides to mess with you by requiring you to provide documentation when you and everyone in the house are really sick as the Dickens and they have now given you the opportunity to schedule 80% of your sick leave instead of 66%. Get it? And you were under the false impression that this was a complicated game. Its really simple once you really know it really works! True fact is that your 104 hours of sick leave earned annually (or less as the case may be) are right in line with what the general population in our income bracket utilize on a yearly basis due to accident or illness. That 104-hour sick leave benefit negotiated by your Union has remained unchanged since it's inception. Comprehensive surveys provided by the Bureau Of Labor Statistics demonstrate conclusively that wage earners in our income bracket are out sick 12.1, 11.8, 13.4, 12.6 and so on, days per year due to accident and illness.

In my experience, Managements own published allowable percentages have ranged from 3% to 3.5% as their goal. This translates into an allowable sick leave usage between 62.4 and 72.8 hours of allowable sick leave to be used in the last calendar year preceding your latest absence, before you reach their phantom line of

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demarcation. Management has proceeded with disciplinary actions against employees who have used as little as 17 hours of unscheduled sick leave in the last year. If you happen to be one of these hapless employees, ask to see your Union Representative.

If you operate like my good friend Bob Bitchin and schedule as much of your leave as possible, you'll be a much more elusive target for management to collar.

Since you can get burned when using your own sick leave for Dependent Care, schedule as much of it as possible. If you suspect you'll be out for a few days inform management of that fact during the call in. Management must make a determination as to whether you need to provide documentation during the call in. Believe me they will!

If you know that the deal is going to go down when you're puking your guts out on your weekend because your co-worker Mary Typhoid infected everyone in your pay location because she came in looking like death warmed over, call Attendance Control. Let them know over 24 hours in advance of your inability to make your assigned schedule so you can schedule 100% of your sick leave. Since you already have to go to the doctor anyway for medical attention, you'll be getting a note for the doctors in Attendance Control. Isn't this fun! You can use management's own rules and regulations to your benefit.

Now there's no point in calling Attendance Control in an attempt to schedule your sick leave if its for yourself or a family member if the absence is covered under the Family and Medical Leave Act. It makes not one bit of a difference whether the leave utilized is scheduled or unscheduled. Law protects leave under the provisions of FMLA and such leave, if subsequently approved, can never be held against you. If management tries to nail you in a LOW for absences that were protected under FMLA, see your Rep.

Now for those of you who are creative, you can utilize the benefits of Dependent Care and FMLA. Remember that you're limited to 80 hours of sick leave for Dependent Care. FMLA for an eligible employee caps out at 480 hours per year. If your family member has an illness suitable for protection under Dependent Care more than likely the provisions of the Family and Medical Leave Act would also apply. So, provide management an APWU3 form for your family member. That way, you can take Dependant Care under the provisions of FMLA and never have to worry about it since it doesn't matter whether the leave is scheduled or unscheduled. When you call Attendance Control, claim the protection of Dependent

Care and FMLA. Its a snap if you've been prudent and already have a note on file. If you don't, get one.

Management keeps tabs on Dependant Care. So should you. When you hit your 80 hours, they'll let you know. If you call Attendance control for Dependant Care, FMLA, scheduled, unscheduled, sick leave or whatever, it's management's responsibility to request documentation during the actual call in. That's another part of how the system is supposed to work. It's in Handbook EL-501 and is entitled "The Supervisors Guide To Attendance Improvement". If management fails to request documentation, they cannot do so after the fact, unless your absence exceeds three days. If it does, they'll let you know for sure. If the absence you're requesting is covered under FMLA and you don't have any documentation on file, the law allows you 15 days to provide a note. If no documentation is requested and you requested leave under FMLA, the absence is automatically approved as FMLA in two days and it doesn't count against your 12 weeks. Cool huh!

Now that you have a better idea how all this stuff works, you've become a tremendous asset to your Labor Organization. Keep good records. Note the date and the time, what you requested and whom you spoke with. Get their name, rank and serial number. Keep tabs on your hours worked and hours used. Don't fall under the 1250-hour minimum work hour credit in the previous 12-month period if you can help it.

Remember, the best policy whenever possible, is to let management know nothing. If you missed the January Article, "Never Despair", check it out. An informed member is our Unions best possible asset

Stay tuned. Your Union, it pays to belong.

