



February 11, 2012

Dear Member

Please read the e mail exchange between our attorney Jason Powalisz and myself concerning short term Family Medical Leave (FMLA). There have been reports from several of our members that the city is requiring them to participate in signing up for FMLA even if it is just for a few days rather than the usual longer term up to 12 weeks in a calendar year.

I hope this e mail will answer most of your concerns. Feel free to contact me with any other questions and I will make sure I get you an answer.

In the meantime, I will inquire and ask the city what the basis is for short term FMLA as this is a change in their practice. If you are asked to participate in an FMLA and it is for just a few days then please contact your rep or myself.

I will have the webmaster post this info on the SMEA website where you can find it under the FMLA link.

Thank you

In Unity There is Strength

Ed Halloran

SMEA President

E-Mail from SMEA Attorney Powalisz concerning FMLA

Ed,

Alan asked me to evaluate that the City is apparently telling employees they "must sign up for FMLA" if they take three (3) or more days off. If that is so, I understand that to be potentially inconsistent with the FMLA. This is because FMLA leave is for employees with a "serious health condition," defined as illness or injury requiring inpatient hospital (or other facility) care, or continuing treatment by a healthcare provider.

Accordingly, there are many scenarios ranging from the flu, a stomach bug, back spasms, etc. where an employee may need to be out for 3 or more days, but does not meet the definition of a serious health condition (i.e. they do not receive either inpatient care, or seek continuing treatment from a healthcare provider).

In such instances, I see no basis for the City to mandate that an employee "sign up for FMLA" rather than the employee simply using available sick days per usual.

If this continues to be an issue, you may ask the City to provide you with its basis for making this demand and any documentation it is using to effectuate this mandate.

I also note that if the employee has no sick days, or an insufficient amount to cover their leave (as has been the case with various employees we've dealt with over the years), then they should go on FMLA leave if eligible/the City is offering it to them, as that will provide greater job protection than being absent from work without available sick leave.

Jason