

Fall 2012

The Family and Medical Leave Act's Impact on the Hospitality Industry: Implementing Policies to Ensure Continued Productivity

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<http://dx.doi.org/10.34917/3553610>

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The Family and Medical Leave Act's Impact on the Hospitality Industry: Implementing Policies
to Ensure Continued Productivity

by

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Masters of Hospitality Administration
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2012

A professional paper submitted in partial fulfillment
of the requirements for the

Master of Hospitality Administration
William F. Harrah College of Hotel Administration

Graduate College
University of Nevada, Las Vegas
December 2012
Chair: Professor William Werner

PART ONE

Introduction

The Family and Medical Leave Act, (FMLA), allows women and men to take up to 12 weeks leave to care for a newborn child (maternity leave) and/or care for sick family members.

The Department of Labor states that:

FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave (Family and Medical Leave Act - Wage and Hour Division (WHD) - U.S.

Department of Labor, 2012).

When an employee decides to take advantage of FMLA, there are often instances, even if an employer is given enough advanced notice, where a business is not prepared for the person's departure. The business has not hired any temporary personnel and/or does not have a person on staff that is available to assist the team or department with the necessary work to ensure the department continues to function smoothly. Additionally, if a woman is pregnant or a family member has a sudden illness, there may be multiple reasons that the employee has to leave work earlier than expected and even stay longer than FMLA dictates. Any of these contingencies can stop the smooth flow of the work process.

Employees also have the option of taking their leave intermittently or on a "reduced leave schedule," which allows them to take leave in blocks of time as opposed to taking leave all at once. Employees may utilize this leave when there is a medical need or when the leave is due to a "qualifying exigency." An example of intermittent leave might be the adoption of a child and/or the birth of a child; this type of leave is based on the employer's approval. However, there are some types of intermittent leave that do not require any type of employer approval.

Intermittent leave that does not require approval might include: medical issues due to pregnancy, serious health conditions or illness, or the serious injury or illness of a covered service member. Additionally, employees do not need employer approval when intermittent leave is a qualifying exigency ([29 USC §2601 et seq.](#)). Leave of this nature differs from the typical 12-weeks of leave that are federally regulated. When an employer knows the length an employee is going to be absent, it is easier for the employer and her staff to prepare for the absence. When intermittent leave is taken, and employers are unaware or ill prepared for intermittent leave, staffing and job division is more challenging.

This type of situation is not only common in the hospitality industry, but also, may have an impact on a variety of work environments. In the hospitality industry specifically, many employers have small, specialized hospitality/meetings staffs and departments. To lose an employee in a small department so unexpectedly or for a long period of time can create havoc. The specific duties in the hospitality industry can be more specialized than in some other careers. It can be difficult to train a new team member if they do not have a background in the hospitality industry; thus, the remaining staff is put under pressure to complete their own work and the work of an absent employee. The employer is either forced to decide to hire a temporary worker, or let the employees know that they will need to make due with the current available staff. The burden on the reduced staff can at times be overwhelming.

In an association such as the American Educational Research Association, a membership organization where scholars and researchers have the opportunity to network with others in their discipline and submit research for potential presentation at the annual meeting, the meetings/hospitality team consists of three hospitality industry employees who are in charge of 50 small meetings and two annual meetings, one meeting with approximately 600 attendees, and

the other meeting with approximately 14,000 attendees. The loss of one team member for a twelve-week period naturally puts additional work on the remaining members of the small team.

Purpose

This paper will offer possible strategies that companies might put into practice in the event that an employee is out for an extended period of time such as use of the FMLA.

Statement of Problem

There will likely be times in the workplace when employees will have to cover for colleague who is absent for some type of long-term leave. Some employees may be fortunate enough to feel little impact. Other workers will not be so lucky, and the workplace may be significantly less productive and more challenging. If the hospitality industry suffers from being under-staffed when an employee is out on FMLA, and a large share of the work falls into the laps of those who are still working, the process of planning and implementing events and meetings can be jeopardized. An equitable solution needs to be addressed and implemented before something of this nature becomes an issue. Employers need guidelines and practices in place to guarantee that their company continues to run in an efficient manner.

The objective of this professional paper is to develop a plan for employers to have on hand and use when implementing a new, automated time keeping system. This system would work for various situations. The plan will also show employers how to adequately prepare for leave when employees utilize FMLA.

With the information that has been gathered through literature reviews, examples will provide information on the impact on companies when colleagues use FMLA. Additionally, literature demonstrates how employers might be ill prepared for potential absences, and thus, FMLA leave might have a negative impact on success of the company's employees and

employers intended company outcomes.

Over-working staff can lead to people seeking different employment and/or adding more stress and contention in the work place environment. By planning ahead, companies will be able to prevent some of the issues that might arise with long-term absences.

Justifications

By researching these issues, and offering possible solutions, employers could possibly ensure that the hospitality industry continues to grow and become more successful. Additionally, the suggested proposals will make contingency plans more effective and efficient. When the suggested guidelines and policies are put into place and/or employers who already have plans ensure they are utilizing their contingency plans, the industry will benefit. Hospitality requires a team effort, and for the most part, a single person cannot handle the entire workload. The contingency plans will guide the industry in continuing to proceed in a smooth, fluid manner should the need arise.

Constraints

There are a few constraints that may come into play in creating a contingency plan for the entire hospitality industry. The author might be biased since she is already working for an association that has a hospitality team and has experience some of the problems associated with being short-staffed and unprepared. There may be little literature on the subject, and literature that may be garnered may not prove to be of scholarly merit. Due to the broad nature of the hospitality industry, the author may find it difficult to create a single plan that will work for each situation. The author may come to the conclusion that there can be a few select guidelines that can be followed throughout the industry, but it is likely that each employer will have to customize a plan specific to their company specific needs: the size of the company, the employee specialization, and the required work for other employees.

PART TWO

History of the Family and Medical Leave Act

The Family and Medical Leave Act, also known as FMLA, was signed into law in February of 1993 under the Clinton Administration. According to the U.S. Department of Labor, The Family Medical and leave act gives employees, who are eligible, the benefit of taking unpaid leave to care for family or themselves, while having job protection and having their current insurance continue.

In support of the law, Secretary of Labor Alexis M. Herman stated that, “the price of workplace success must not be family failure” (Herman, 2000). The Clinton Administration found it important to continue to allow more women to move into the workforce, or come back into the workforce without needing to choose between whether they wanted to raise a family or whether they wanted to have a successful career. In May of 1993, Clinton spoke at the Grambling State University commencement ceremony and stated, “If you or any American has to choose between being a good parent and being successful in your careers, you have paid a terrible price, and so has your country” (Clinton, 1993).

In 1993, the 103rd Congress of the United States found that the number of single parent families and two-parent working families was significantly increasing. Congress also found that with this increase, there was inadequate job security for employees when they needed time off to take care of family. Due to the typical roles of men and women at the time, job security had a larger impact on women than it did on men. Congress felt that it was important for both parents to be involved in the childrearing years of a child, especially if the child was ill. Lastly, Congress found that if “employment standards” were put into place for a specific gender,

employers would be more likely to discriminate against that gender in the hiring process (29 U.S.C. § 2601(b)(1) (1994).

The FMLA covers more than just parents and their children. A variety of medical scenarios are covered under the FMLA to allow employees to care for other sick family members. The FMLA covers employees for 12-weeks for the following:

- The birth of a child and to care for the newborn child within one year of birth;
- The placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- To care for the employee's spouse, child, or parent who has serious health conditions;
- A serious health condition that makes the employee unable to perform the essential functions of his or her job;
- Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" **or**
- Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave)

(U.S. Department of Labor)

The FMLA is meant to protect people when they return to work. Some of the benefits that are available to employees when they return to the workforce after using FMLA include:

- Upon return from FMLA leave, an employee must be returned to the same position or to an "equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment."
- An employee who takes FMLA leave is entitled to maintain health benefits coverage. An employee on unpaid FMLA leave may pay the employee share of the premiums on a current basis or pay upon return to work.
- Employees also have the option of taking their leave intermittently or on a "reduced leave schedule," which allows them to take leave in blocks of time as opposed to taking it all at once.
- There are some types of intermittent leave, as stated above, that require authorization from an employer, but not all leave require an employer's authorization.

(29 U.S.C. § 2601(b)(1) (1994)).

Family Medical Leave Act Statistics from the Department of Labor

The U.S. Department of Labor collects statistics of the number of people who take leave, why they take leave, and how many workers are working in an environment where they are able to benefit from FMLA each year.

Table 1 demonstrates the percentage of men and women who use FMLA, who need to use FMLA but don't, and those who do not use leave at all. The percentage among women and men is vastly different. The statistics illustrate that women are far more likely to take leave than men. The data also shows that men are more likely to want to use leave but do not.

Table 1***Leave Taken and Needed Among Female and Male Employees with Young Children: 2000******Survey***

	% of Females**	% of Males	% of All Employees with Young Children
Percent taking leave (for a covered reason) since January 1, 1999	75.8	45.1	58.2
Percent needing, but not taking, leave (for a covered reason) since January 1, 1999	--	3.8	3.1
Percent not taking or needing leave	22.0	51.1	38.6

* Young children are considered children age 18 months or younger

** Difference between males and females is significant at $p < .05$.

Note: Taken from, U.S. Department of Labor. Wage and Hour Division (WHD). Chapter 4,
Impact of Family and Medical Leave on Employees.

Table 2 demonstrates the various reasons that workers use leave. Although the numbers seem to be fairly even across the board, when looking back at Table 1, the difference in the actual number of people who are taking leave is obvious. The numbers still show that women are the ones who leave their careers to take care of the family, even if the absence from work is only for a short period of time.

Table 2***Reasons for Taking Leave, Across All Leaves Taken, Based on Total Population of Female and Male Employees with Young Children: 2000 Survey***

Reason for Leave	% of All Employees with Young Children		
	% Females	% Males	% All
Own health	15.3	9.1	11.8
Maternity-disability	32.4	&	13.9
Care for a newborn, newly adopted, or newly placed foster child	35.8	34.1	34.8
Care for ill child	--	--	2.0
Care for ill spouse	&	--	--
Care for ill parent	--	--	--

* Young children are considered children age 18 months or younger

** Difference between males and females is significant at $p < .05$.

*** Maternity-disability leave is taken before a child is born.

-- Indicates less than 10 unweighted cases.

& Indicates that no significance test was conducted because of zero cell.

Note: Percentages sum to more than 100% due to some persons taking more than one leave.

Note: Taken from, U.S. Department of Labor. Wage and Hour Division (WHD). Chapter 4, Impact of Family and Medical Leave on Employees.

Table 3 compares the number of male and female employees who are and are not covered by the companies for whom they work. The chart illustrates the number of employees who have children, and then notes the percentage of those employees who work for a company that is covered by FMLA. Finally, the stats end with the percentages of those employees who are and are not eligible for FMLA at their companies. Again, it is obvious, that women take advantage of the FMLA far more often than men, and women continue to take the brunt of care giving.

Table 3***Coverage and Eligibility Among Female and Male Employees with Young Children: 2000******Survey***

	% of Females	% of Males	% of All Employees with Young Children
Number of Employees with Young Children	4,146,171	5,524,516	9,670,687
Employees at FMLA- covered worksites	74.5	75.0	74.8
Eligible employees at FMLA-covered worksites	56.3	66.7	62.2
Employees at worksites not covered by FMLA	25.5	25.0	25.2

Note: Taken from, U.S. Department of Labor. Wage and Hour Division (WHD). Chapter 4, Impact of Family and Medical Leave on Employees.

In late 20th century, the information shows that women work outside the home and then continue to maintain the critical needs at home. Although the graph contains older statistics, and there might be some movement in the early 21st century towards men taking additional leave for family, it can be inferred that the movement of men and women taking equal leave is negligible. Certainly more men are taking short periods of paternity leave. However, with that being said, it is likely that more women will continue to use FMLA to take care of their families.

Literature Review

Reducing Employment Law Risks in the Hospitality Industry

In recent years, the hospitality industry has been under scrutiny by the Department of Labor (DOL) due to issues concerning implementation of the Family Medical Leave Act (FMLA), and Fair Labor Standards Act (FLSA). Hospitality experts caution operators of hotels, motels, and resorts that the DOL plans to initiate audits on specific areas of the hospitality industry. Hotels, motels, resorts, and other hospitality companies, such as, The Denver Hotel Management Company, Columbia Sussex Corporation, and Hilton Hotels (LaSorsa, 2010), have seen employees file law suits with complaints such as: unfair disbursement of tips, firing of employees for union affiliations, and employers breaking rules against state laws by hiring contract workers. The DOL warns the hospitality industry that the lawsuits are just the tip of the iceberg. The industry must ensure that they are abiding by all federal laws (Attendance on Demand, 2011).

One law that seems to be problematic in the hospitality industry is FMLA usage, qualification, and/or submission of paperwork. Experts say that hospitality organizations struggle to keep track of employees that take simultaneous leave for reasons such as taking care of an elderly parent, migraines, back pain, and depression. Employers, by law, are not allowed to fire or take disciplinary measures against employees for taking federally mandated leave.

There are ways that employers can reduce the chance of violations when it comes to these federal laws. One way to reduce violations is that employers can track a 12-month period for employees who wish to use FMLA marking employees who need to have some form of approval of FMLA hours, and managing intermittent FMLA leave for employees who choose not to use leave all at once (Attendance on Demand, 2011).

The ability to use an automated system to manage all types of leave and pay makes the job of management easier and more accurate. If for any reason, something were questioned, whether it is hours available for FMLA, or overtime pay, an automated system is the best available evidence an employer can use that can assist them with any lawsuits that may arise.

Some of the best current practices are performed using the automated system, which allows companies to keep track of all necessary information. The automation allows the employer to oversee the budget and minimize overtime pay. The automated system also illustrates to employers the best staff options to ensure that enough staff is available, and that this available staff stays within their budget. In addition to keeping this information, “buddy punching” is a system that requires employees to place their hand on a “biometric” device which stores the employees’ start and end times each day. This system prevents employers from potential issues with recording hours. Companies using this system suggest that this cuts payroll time up to three hours and has given them a better way to comply with federal laws and to control costs (Attendance on Demand, 2011).

Taking action to ensure that these regulations are in place lowers the likelihood that the company will risk legal action. Automating the attendance tracker, confirming accurate FLSA and FMLA policies and procedures are in place, informing employees of the policies and procedures, and staying up to date on the laws helps keep the company running successfully (Attendance on Demand, 2011).

The Family and Medical Leave Act: What Hospitality Managers Need to Know

The passage of FMLA resulted from the American people pushing legislation to recognize that there were significant challenges when working and trying to raise a family. Many employees believed that family naturally took higher importance than a job. At this time,

managers began to feel a shift in the attitudes of their employees. In the past, career goals and family were considered by some companies to be two different issues. People could be successful in one area of their lives, but not necessarily both. This typically led to one parent working and the other parent staying home with the children (Wyld, 1995).

Management expert Peter Senge suggested that employees wanted to be able to have success at home while also being successful in the workplace. With this in mind, employers realized employees were parents of children as well as valued employees. This led to more employers allowing employees to take leave for various family-related circumstances (Wyld, 1995).

Before the passage of FMLA, employers were able to distribute leave, as they deemed appropriate. Some employers thought that the federal law would put their company at a disadvantage, and perhaps even make it difficult for management to control their workforce attendance.

In fact, one study disagreed strongly with the passage of the law and stated that the federal government over stepped its boundaries by enacting FMLA (Wyld, 1995). This study suggested that as working parents became more and more prominent in the workforce, employers would modify their policies to make the work place more family-friendly. Some management companies agreed with the study in theory. In a survey completed by the American Management Association, employees found that many people in management concurred with those who thought the federal government should not be involved with family leave decisions (Wyld, 1995).

Since nothing in a business is cost free, one significant concern was that cost of implementing FMLA would be an issue for the companies. However, companies that decided to

implement the plan without being federally forced to do so, saw a decrease in absenteeism, experienced an increase in workers commitment to the company, and noticed an overall morale boost for the company. With the implementation of this benefit, employers actually experienced a decrease in turnover and found that the availability of FMLA lowered labor costs. Since it is less expensive to allow your employees to take a short time of leave than it is to go through the process of replacing them, FMLA is viewed as financially beneficial to a company (Wyld, 1995).

There are, however, complexities that come into play when an employer is implementing the FMLA. The FMLA is only required for companies that have more than 50 employees. Additionally, there are other stipulations that employers must be wary of and informed about before denying an employee the use FMLA. The FMLA has a varying degree of requirements for franchises, including hotels, restaurants, and other small businesses. Also, many states have laws that protect employees who work for companies that have fewer than 50 employees, which would typically make these companies exempt from FMLA. Employers must be informed of their own state's particular laws pertaining to the FMLA. (Wyld, 1995).

Hospitality Managers must take a careful look at their business when making decisions on FMLA. It is crucial to make the right decision to guarantee the least amount of disruption in scheduling and service for events and meetings; managers need also be mindful of the possible legal actions employees can take if they feel they have not been treated fairly. Management should be cognizant that they are not only maintaining the company's rights, but they are responsible for the rights of their employees. During the short time that the law has been in place, there have been employees file several lawsuits with the Department of Labor; employees have won two-thirds of these lawsuits (Wyld, 1995). One case involving The Denver Hotel Management Company and a female employee came up when the employee was denied the

opportunity to be promoted to a new position due to her responsibilities as a mother. They claimed that the reason she did not receive the positions was because she would not be able to work the hours needed and would not be able to relocate. In turn, the position was given to a less qualified candidate. The case was settled, and The Denver Hotel Management Company paid the woman \$105,000 (LaSorsa, 2010).

When implementing FMLA, an employer must identify if the employee is eligible to use FMLA. Eligibility includes an employee who has been employed with the company for twelve consecutive months in which they have worked at least 1,250 hours. The twelve months do not have to be in a calendar year; however, they do need to be consecutive (Wyld, 1995).

Some common situations where an employee may use FMLA, and where an employer may need to look more closely into the details of eligibility, include: surgery, recuperation, pregnancy, new fatherhood, location, key employee, dubious diagnosis, intermittent medical leave, and intermittent paternity leave. Employers are responsible to look at each individual case to ensure that rights are being met for both parties (Wyld, 1995).

Some additional ways an employer can ensure that they are complying with FMLA are: Communication with employees is critical to informing employees about the steps and processes that they need to follow to be eligible for FMLA. The DOL requires that employers have information about FMLA available on hand, specifically the FMLA handbook. Employers also must have information that needs to be visibly displayed in each business for employees.

- Employers should develop a reporting system. This will assist employers with statistical information such as what employee(s) has used FMLA, why they used FMLA, the average leave time for those who used FMLA, and how many employees did not return to work after FMLA was used. The DOL will work with companies to ensure

that the system is used correctly and that all laws are being followed.

- Centralizing FMLA is also a way to ensure information is kept accurate. This allows employers to have all information in one place. This also allows the same person in a leadership position to determine the eligibility for FMLA. To be able to keep things equitable, management needs to keep things consistent.
- Creating an internal appeals process is essential for employees to take leave if they feel they have not been treated fairly, or they have not been fairly evaluated with their request for FMLA. This will afford the employees an option of discussing with the employer first, before pursuing legal action.
- Training supervisors and management in the basic aspects of FMLA allows direct supervisors the ability to give employees information on the necessary steps to use when implementing FMLA. Although employers do not need to be an expert in the field of FMLA, they will be able to educate the employee and guarantee the employee understands the steps necessary for accessing FMLA. Hopefully, this ensures the employee will approach the correct management personnel who have been given the specific duty of centralizing FMLA (Wyld, 1995).

Advancing Workplace Flexibility Policy and Practices

In January 2011, the Office of Disability Employment Policy (ODEP) and the Women's Bureau came together to expand on President Obama's thoughts that workplace flexibility was essential in the process of strengthening America's economy. The two parties created a forum to develop ideas for government, at all levels, to encourage workplace flexibility policies and practices for all employees (Office Of Disability Employment Policy Women's Bureau, 2011). This group's goal was to expand the current policies, assist more people to sustain a work-life

balance, and for those not employed, to give them the opportunity to work if needed. The hope was to show that with this type of flexibility, tasks would still get completed. The goals that were set by the forum were in line with the strategy that the U.S. Department of Labor Secretary had in terms of employers being more flexible with employees to balance work and family obligations.

The forum listed and explained all the needs and tasks, including when, where, and how jobs were performed and completed. The forum found the following information to be beneficial to future research and future fine-tuning of the FMLA:

- Workers do not have flexibility in their workplace – although research shows that flexibility creates many benefits for employees and employers, there are still many workers, typically in low paying jobs, that do not have access to flexible benefits. The majority of the employees that are able to benefit from flexibility in the workplace are white males. Since women and minorities are typically the ones who work in lower paying jobs, they are the ones who do not benefit from any required flexibility.
- Flexibility needs to be uniform across the entire company – almost all workers, no matter their wages, skills, or training, can benefit from workplace flexibility. By allowing employees to have this flexibility, the workforce becomes more focused on improving businesses and profitability, and flexibility also gives the employees the benefit of having time with their families that makes for happier, more stable employees.
- Successful flexibility requires the culture of the workplace to be supportive – making employees aware of their options to have flexibility, creates less room for misconceptions on behalf of the employees. Employers need to be willing to discuss flexible options and have open communication to ensure that employees do not think that only limited

personnel have access to flexible schedules.

- Communication is essential to ensuring that a workplace flexibility program is successful – as employers begin to implement new strategies for workplace flexibility, communication about the flexibility program are essential, and employees awareness of how jobs are completed must be communicated to all employees.
- Creating a culture of flexibility requires implementing workplace flexibility fully – employers who get input and feedback from all employees will guarantee a smoother transition (Office Of Disability Employment Policy Women’s Bureau, 2011).

President Barack Obama stated at the forum,

“Workplace flexibility isn’t just a women’s issue. It’s an issue that affects the well being of our families and the success of our businesses. It affects the strength of our economy -- whether we’ll create the workplaces and jobs of the future we need to compete in today’s global economy” (Obama, 2011).

President Obama continued by saying that it didn’t matter what people do for a living, taking care of family is our number one priority, and the workplace must provide employees the ability to do so (Office Of Disability Employment Policy Women’s Bureau, 2011).

Failure to Update: An Institutional Perspective on Noncompliance With the Family and Medical Leave Act

According to a 1997 survey, one quarter of workplaces, which are covered by FMLA, violated the parental leave requirements of the act. When the survey was completed, 400 workplaces and 40 managers were interviewed. The interviews and the study demonstrated that noncompliance occurs in distinct forms. Some of these non-compliance issues include: failure to update institutionalized policies, practices and norms (Kelly, 2010).

Many organizations had existing maternity leave policies before the FMLA came into effect. These laws were in place due to the changes in the sex discrimination laws (Kelly & Dobbin, 1999). In 1978, the Pregnancy Discrimination law protected female employees, and required organizations to treat an employee as “disabled” due to the pregnancy and child birth the same way they were federally required to treat other workers who were physically unable to work (Edwards 1996; Vogel 1993). An example would be that employers who gave their employees time off after suffering from a heart attack, were also required to give women who had just given birth equal time off (Kelly & Dobbin 1999).

The FMLA has also broadened access to leave for fathers, adoptive mothers, those caring for an ill relative, and/or those who are dealing with their own serious health conditions (Elving 1995). The reasons for these changes are that the government realized that the current law might lead to employers discriminating against employees who are of a specific gender (29 USCS § 2601). Gornick & Meyers (2003) suggest that since there is a lack in pay provisions, this discourages men from using FMLA. The above data demonstrates that men do not utilize FMLA as much as women.

A 2000 survey reported that 84 percent of all organizations covered by the FMLA provided the standard 12 weeks of leave for all reasons, which leaves 16 percent of organizations noncompliant (Cantor et al. 2001:5.1). Gerstel and Armenia (2009), recently used information from the survey to estimate that between 28 and 44 percent of organizations are noncompliant depending on how each of them treat the data of the cases that are missing. Knowing that the research was based from a study conducted in 1997, studies in more recent years show that noncompliance is still significant.

Research has been very consistent in showing that larger organizations and companies

are more likely to put the new policies and procedures pertaining to FMLA in to place faster (e.g., Edelman 1990, 1992; Sutton & Dobbin 1996). This indicates that smaller companies either lack the training in the nuances of the law or are unwilling to allow their employees to understand their rights. Either scenario provides evidence that more training is necessary, and improvement in implementation of FMLA is necessary.

Kelly's graph, charts possible reasons that companies are noncompliant.

Table 4

<i>Potential Reasons for Noncompliance with the FMLA</i>
1. The larger organizations, public sector organizations, and organizations with human resource departments are less likely to be noncompliant.
2. Organizations with temporary disability insurance plans, and older organizations, are more likely to provide illegally short maternity leaves.
3. Organizations with a higher percentage of male workers are more likely to have noncompliant paternity leaves.
4. Organizations with more work-family policies are less likely to have noncompliant paternity leaves.
Deviant Culture Perspective
1. Organizations in industries where noncompliance is higher and/or have previously gone through an Office of Federal Contract Compliance Programs (OFCCP) compliance review are more likely to continue to be noncompliant.
2. Organizations in which the CEO (or equivalent top executive) is more supportive of work-family issues are less likely to be noncompliant.
Rational Choice Perspective
1. Organizations with a higher percentage of female workers and less profitable industries are more likely to have noncompliant maternity leaves.
2. Organizations with more professional and managerial workers and are in states with state family leave laws are less likely to be noncompliant.

(Kelly, 2010)

The Family And Medical Leave Act Is No Picnic For Everyone

Though employees seem satisfied with the passing of the FMLA, human resources departments are less likely to share the employees' enthusiasm.

Seventy-five percent of 300 human resource employees (nearly 225 employees) responded to a survey saying that new regulation has created daily administration problems. The time it

takes HR employees to track the use of employee's leave and the decrease in productivity, are a huge expense for companies to stay in compliance with the FMLA (Hayes, 1995).

Summary

From the articles above, the writers and authors demonstrate the continued need for growth and progression of the Family and Medical Leave Act. The articles also highlight valuable information on how employers can implement different strategies at their companies and/or organizations to make compliance of the FMLA easier and to more efficiently keep track of FMLA and other similar benefits. With the federal government taking a closer look at the hospitality industry specifically, HR departments must ensure all employees are treated equally and that all data is accurate and current. Education and preparation can prevent issues with employees and any legal action that might result when rules and regulations are not followed.

PART THREE

Introduction

It is essential for all employees to be aware of not only their benefits, but their individual rights as well. Currently, there are some companies that do not have a staff handbook that outlines the benefits for which their employees are entitled. Other companies have the necessary handbook but do not give the handout to all employees when they start their work for the company. While some give their employees an overview of their benefits before the employee begins work, these options may not be adequate or acceptable for all companies, but for those that choose these options, they need to be prepared that if there is turnover in the staff, which most companies face, making certain all employees get the correct training and information is crucial.

Since FMLA is such an integral part of today's workplace, and since the Department of Labor will be paying special attention to the hospitality industry over the next few years, it is essential that employers not only follow the correct laws, but these employers also need to know the current and most up to date local and federal laws. Companies have to be responsible for keeping current on laws and legislation.

Training Program

The majority of tasks performed in a new job need some form of training. In theory, FMLA and its regulations are no different. Before a company trains employees on what and how FMLA will benefit them, it is important that top-level executives, the human resource department, and any other essential departments are involved in the approval process for FMLA. Since it is possible that the laws can change over the course of an employee's time with a

company, the company needs to have a team or at least a specific employee in charge of keeping up on the law through contacting the Department of Labor.

Researching, Learning, and Knowing the Laws

The most important part of preparing to implement any type of new directives or a new system is that company information must be up to date, and this information must remain up to date through out the year. The Department of Labor provides information for employers, as well as employees, about what the current laws cover and if there are any changes in these laws. Employers will save themselves time and money if they take the time to do the research to ensure that their policies are in sync with the laws of the federal government, or for smaller companies, the laws are in compliance on the local and state level.

Training Management

Training management is key to making certain that all employees are aware of the law. It is management's responsibility to be able to answer all questions, or have the ability to get the answers to questions that an employee might ask. A good way to guarantee that managers are up to date with FMLA is to have a yearly seminar, maybe not specifically for FMLA, but a seminar discussing other benefits or important topics as well. This seminar would not only allow management the ability to stay current, but more importantly, employees would feel as if they were part of the entire process. It is important for all staff to believe that their well-being is considered.

Training Employees

Training employees and giving them updated information will assist in the process of making sure that employees follow all the steps when applying for FMLA. Training will also assist in alleviating excuses an employee may have when they decide to use FMLA. Confusion

might be avoided if this type of training takes place when an employee first begins to work with the company. An employee, working for a large company, should be given a handbook with specific benefits. If the employee is seasonal or part-time, the handbook needs to be clear as to specific benefits.

In addition to individual employee handbooks, management should have a representative from the Department of Labor visit once a year to update staff on any new laws that will impact FMLA, or any changes that have taken place in the FMLA similar to what insurance companies or flexible spending companies currently do. With professionals giving updates, staff can ask questions, management can look at new programs, and changes can be implemented. Implementing any changes must come with adequate time for the company to incorporate changes, and the company must be allowed time to become compliant with new laws.

Keeping Employees Productive

When an employee utilizes FMLA leave, it typically negatively shifts the workload for the effected department. It is crucial that if the need arises work can be split among different people, to avoid the work burden from falling on one or two staff members.

There are several ways employers can guarantee that the work gets disbursed equally:

- Prepare, prepare, prepare – There is nothing more important than preparing for the additional work that must be completed. The more prepared the employer is, the easier the transition will be for the department/team.
- Have a person on standby – If possible, have a contractor on retainer, or perhaps a former employee who will be available to step in if there is a need for additional help. If this plan is possible, retain a person who has at least minimal training. There may be little if

any time to train a replacement staff person, and the remaining staff will be too overwhelmed to carry out too much new training.

- Prepare to hire temporary help – If a company can hire temporary personnel during the period that the staff member is gone, it would be beneficial to hire the help in advance. Training and transition will be smoother, and tempers and challenges may be significantly lessened.

Tracking Leave Usage

There are several different ways that employers can track employee leave. Absences can be handled manually, as stated earlier in the paper, through an automatic clock in and out system using a timesheet that employees are responsible to hand in. This can be tracked manually in a small company, or a computer can track the time card if the company is large. The HR department could be put in charge of alerting managers with any discrepancy.

Manual Tracking

Manual tracking for small companies may be a little bit easier than for companies that have a very large staff; however, there is still plenty of room for error. Anything that has to be entered by a person can be cause for concern. However, keeping track of employee attendance is an issue that every company must determine its own best practice.

Automated Systems

Automated systems, although not foolproof, can make a company's job significantly easier. Having a computer system that keeps track of employees with hi-tech equipment prevents the majority of errors in handling payroll, approving time off, informing of benefits, and/or coordinating FMLA requirements. Since there are certain requirements an employee must have to be eligible for FMLA, these computer-based systems might enable employers to set

up different types program for different employees. Not only would this assist with keeping track of employee benefits and time off, this system also provides employers with a way for their employees to clock in and out by using face recognition, fingerprints, codes, or even cards that are specific to each employee. This system lends itself to accuracy and helps prevent any type of fraud. Hopefully, employees will stay honest and employers will always have adequate records.

Although automated systems that use face recognition may not be affordable or necessary for some smaller companies, the whole concept of having everything automated, even if completed with a card that is linked to a specific employee, assists HR with any type of employee discrepancy or error that might occur when records are kept manually.

Online Access for Employees

In today's workplace, much of the work is completed online. There are instances that employees do not know how much leave they have or how and what their benefits might be. Having an automated system allows employees to log into their own system at any time and view their time cards and records. This is not only provides instant access for the employee, it also saves time for the people who would typically have to pull the information at the employee's request. If a company has a staff of over 100 or more people, and those people want to know how much leave they have, it could take a person several hours or more each day to find the information. In my experience, it is not only a challenge to ask HR to send information; it can take up to three days to receive the information. Having everything stored in an online database would prevent delays and most discrepancies. Employees would be able to go online as many times as they wanted to view their personal information.

How and When to Implement New System

When is the Best Time to Implement?

The best time to implement any new system is probably during the slow period or off-season. This gives employees time to learn the process instead of getting a brief or obligatory overview, and then instantly being thrown into the new system during a busy time of the year.

An example of poor timing for training in a new system would be what happened at the American Educational Research Association. Although the example is not the implementation of a time keeping system, the experience does show how important timing is to implementation.

In the beginning of 2012, AERA decided to initiate the new website by going live over the final day of early-bird registration for their 2012 Annual Meeting. The system required all members, attendees, and/or presenters to create a new login and password to enter not only the registration system, but to also participate in the online program system. The AERA staff had limited training, and there was not staff member available at all times who was familiar enough with the system to assist with problems. This created multiple issues as members began logging into the system. The implementation was extremely inconvenient for the staff, but it was also a disservice to the membership. Our members immediately went from having a process that was comfortable and familiar with, to having a new system six weeks before the annual meeting.

This example reinforces that timing is everything when it comes to implementation. Had the system been set up three months earlier, employees would have been able to learn the system, been equipped to better assist members with questions and concerns they were experiencing, and the staff would have had adequate time to continue to work efficiently on other projects.

How to Continue Productivity During Implementation

There are various ways to ensure that employees stay productive during the implementation period. Some of these might include:

- Several training sessions about a new system before it goes into action.

- When transitioning, keep the old system in progress so items stay accurate, while still allowing employees the opportunity to see how a new system works.
- Always have someone available during business hours to answer employees' questions. There must be someone who can address all employee questions and concerns.
- Make handouts available for employees to use for reference when the need arises.

How to ensure your Employees are Comfortable with New System

Transition is difficult for employers and employees. Whether the employee is knowledgeable about the new product or whether the employee is a novice, there will always be some challenge and frustration. Similar to continuing productivity during transition, there are ways that employers must ensure that employees can feel as productive and as useful as possible during times of change.

In addition to training employees before implementation, it is important to continue to retrain employees throughout the year. This retraining will serve as a refresher on how the system operates, and retraining allows for information that might arise from any additional changes to current regulations.

Another important plan to have in place is to train a staff person to be the go-to for employees that have any questions on new laws, new procedures, and new practices. Some employees may not ask questions during a meeting, but they will talk to a knowledgeable staff member in private.

Conclusion

Unfortunately, knowing the federal laws as well as the state and local laws regarding FMLA is not something that can be implemented quickly. FMLA laws are complicated and must be put into practice at the beginning of an employee's work experience. However, devising

more effective ways of keeping track of all employees' benefits as well as ensuring that all employees are aware of their rights is something that can be perfected with patience and knowledge. There will be times that a company tries to accomplish implementation one way and then realizes it is better to make changes to ensure ease for the employer distributing information and for the employee to accessing information.

With the variety of employees in the hospitality industry, whether they are part-time, full-time, exempt, non-exempt, seasonal, etc., education and implementation of laws can be difficult for the human resource department, accounting department, and even for each individual department to track. Using an automated system, whether it is a complex system or a fairly simple system, allows employers easier access to the employee's information.

Keeping current ensures that all hospitality organizations and companies have the ability to continue their work in an efficient and productive way. Good implementation of FMLA guarantees that when employers have staff member leave due to FMLA, employers have options available to lessen the impact of the loss of employee.

As more and more people take advantage of FMLA, and as the law continues to change and evolve, all companies, not only in those in the hospitality industry, must be more cautious of current laws and what the laws protect. It is equally important that employees stay on top of these laws and know their rights, and how they are protected with these laws in place.

Recommendations

Along with the recommendations about keeping employees productive, employers will also need a plan of action for smooth implementation. After the company or organization has decided how they would like to move forward with the implementation of the new automated system, I believe the company will need at least a 12-month plan to prepare not only the company, but to

guarantee the employees are comfortable with the knowledge. A company might implement a new system in the following manner:

Months out from final implementation	Action Item
12 Months out	Research the products. Narrow choices down to the top two to make the decision process easier.
11 Months out	Select the product that is the best fit for the company. Enlist feedback from others in the company.
10 Months out	Educate the HR to guarantee all FMLA federal and state regulations are well known and up to date. HR will need to answer questions.
8-9 Months out	Train upper management about the new system and the current laws regarding FMLA. Management should be comfortable with their knowledge before training the rest of the staff. Junior staff will look to management for answers to questions.
6-7 Months out	Train junior staff about the new system. This would be a good time to go over the federal and state laws that apply to the company.
2-5 Months out	Start the implementation process. While keeping the old system in place, slowly begin new implementation with employees, so they get a feel

	for what they are about to learn and implement.
1 Month out	Complete change and make additional tweaks to program. Ensure that HR has the appropriate information in the system and that all material is up to date.
0 Months out	Completely implement the new system.

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