

Should Employees on FMLA Be Paid for Holidays?



Is an employer required to pay an employee on family medical leave (FMLA) for a holiday occurring during the leave?

No federal law requires an employer to pay employees holiday pay. A holiday is generally considered an employer-provided benefit, subject to the employer's policies. Federal FMLA regulations assert that an employee may be entitled to benefits during leave (e.g., holiday pay) depending on the employer's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

The following examples should help to clarify whether holiday pay should be paid per the above guideline.

Example 1:

The employer's policy is to pay for the holiday, providing the employee works the day before and the day after the holiday. An employee on vacation before or after the holiday receives holiday pay. An employee, who is sick the day before or after the holiday (or both), may use sick days if available, but does not receive holiday pay.

The employee works Tuesday and is out on FMLA on Wednesday, Thursday, and Friday. Monday is a paid holiday. The employee returns to work on Tuesday.

The employee may choose to take the time unpaid, substitute vacation pay, or substitute sick pay. Each choice will have its own holiday pay outcome as follows:

1. The employee chooses to substitute vacation pay for all three days.

Since the employee was "on vacation" the day before the holiday and worked the day after the holiday, the holiday is paid.

2. The employee chooses to substitute sick pay for all three days.

Since the employee was on sick pay the day before the holiday, holiday pay is not paid.

3. The employee takes FMLA as unpaid leave.

Since the employee was not at work on the day before the holiday and was not on vacation, the holiday is unpaid.

Example 2:

The employer's policy is to pay for the holiday, providing the employee works the day before and the day after the holiday. An employee on vacation before or after the holiday receives holiday pay. An employee who is sick the day before or after the holiday (or both) receives holiday pay only if a doctor's excuse is provided. Sick days, if available, can be used without a doctor's excuse.

Using the same three situations, the holiday pay outcomes will be as follows:

- 4. The employee chooses to substitute vacation pay for all three days.**
Since the employee was "on vacation" the day before the holiday and worked the day after the holiday, the holiday is paid.
- 5. The employee chooses to substitute sick pay for all three days, but does not provide a doctor's excuse because the FMLA was not taken for their own serious health condition.**
Since no doctor's excuse was provided, holiday pay is not paid.
- 6. The employee takes FMLA as unpaid leave, but provides a doctor's excuse (the sick time had all been used up).**
Since the employee provided a doctor's excuse, the holiday is paid.


This sample document is only an example and is based on the laws in effect at the time it was written. MRA-The Management Association, Inc. does not make any representations or warranties regarding the appropriateness or prudence of using this information for any particular individual or situation. Your company should add, delete, or modify the content of this document as needed to suit your purposes. This material is for your information only and should not be construed as legal advice. In some circumstances it may be advisable to have legal counsel review final documents prior to implementation. © MRA – The Management Association, Inc.



FMLA paid holidays

As the examples illustrate, each employer must look to its own policy to determine if a holiday should be paid during a period of FMLA absence. When an employer does not have a written policy, it should look to its practices and be consistent based on the characteristics of the leave.

MRA's HR Hotline can help you!

 **866-HR-Hotline** | 866.474.6854

 **InfoNow@mranet.org**

 **mranet.org/24-7/hr-hotline**

As one of the largest nonprofit employer associations in the nation, MRA:

Serves 4,000 employers

covering one million employees worldwide.

Holds more than **2,000 Training** events annually.

200 HR experts

with more than 2,000 years of collective knowledge, experience and expertise.

Offers more than **1,000 HR Guides** templates, toolkits, and more.

HR SERVICES



LEARNING & ORGANIZATION DEVELOPMENT



TALENT MANAGEMENT



TOTAL REWARDS



MRA is Your TotalHR[®] Resource.

MRA helps you create powerful teams and a safe, successful workplace with talent, tools, and training.



Wisconsin

Minnesota

Illinois

Iowa

www.mranet.org 800.488.4845