



January 12, 1999

FMLA-99

Dear *Name**,

Thank you for your letter of December 10, 1998, seeking guidance on the Family and Medical Leave Act as it would relate to siblings who work for the same employer.

In enacting FMLA (29 U.S.C. 2601 *et seq.*), the Congress stated that one of the purposes of this law is to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The FMLA allows up to 12 weeks of job-protected leave in any 12 months – with group health insurance coverage maintained during the leave – to eligible employees for the above mentioned family and medical reasons. Upon completion of the leave, the employee must be returned to work to the same or an equivalent position with equivalent pay, benefits and other terms and conditions of employment. It is unlawful for any employer to interfere with or restrain or deny the exercise of any right provided under this Act, or to discharge or in any other manner discriminate against an employee for opposing or complaining about any unlawful practice related to this law.

Section 29 USC 2612(f) specifically limits the total aggregate number of workweeks of leave to which an “eligible” husband and wife are both entitled to if they work for the same employer. This “spousal limitation” provides that a combined total of 12 workweeks of FMLA leave may be taken between the two for the birth or adoption or foster care placement of a child or to care for a sick parent. The “spousal limitation” does not apply to husbands and their wives, however, if the reason for leave is for a serious health condition of the employee or the employee’s spouse or child. According to the legislative history of the Act, the limitation on leave taken by spouses who work for the same employer is intended to eliminate any employer incentive to refuse to hire married couples.

As you have correctly noted in your letter, the FMLA does not have any provisions for limiting the amount of leave siblings working for the same employer may use to care for a seriously ill parent. Thus, in the example cited in your letter, you would not be permitted under the Act to limit the amount of FMLA leave the two sisters may use to care for their seriously ill mother.

To amend the Act to include provisions to limit the amount of FMLA leave that siblings may take to care for a seriously ill parent would require action by Congress. The Department of Labor is not authorized to make such changes to this law.

We appreciate your interest in the FMLA and for sharing your concerns with us. I hope that this letter fully responds to your concerns.

Sincerely,

Michelle M. Bechtoldt
Office of Enforcement Policy
Family and Medical Leave Act Team

** Note: The actual name(s) was removed to preserve privacy in accordance with 5 U.S.C. 552 (b)(7).*