



July 21, 1994

FMLA-38

Dear *Name**,

This is in response to your letter in which you pose questions regarding the relationship between the Family and Medical Leave Act of 1993 (FMLA) and the Federal Employees Compensation Act (FECA). More specifically, you ask what happens when an employee who is receiving FECA benefits and is concurrently on FMLA leave, is advised that he/she is able to return to work in a light duty position and the employee declines. You state that under this circumstance the employee would lose FECA benefits and would be subject to discipline.

We have consulted with the office of Workers Compensation Programs and they advise that you are correct in the statement that if offered employment consistent with the employee's medical limitations, and the employee declines to accept such a job, the employee loses FECA benefits. There is no provision in the FECA regulations that provides for employee discipline in such an instance. We must assume the provision for discipline is contained in the employing agency's policies and procedures.

The employee who is receiving FECA benefits is no different than the employee in the private sector who is receiving state worker's compensation benefits. An employer may offer a "light duty" job to the employee to encourage early return to work, but if FMLA leave is being taken simultaneously, the employee is not required to cease FMLA leave and accept the light duty assignment instead of continuing leave. The result is that the employee who continues on FMLA leave may lose worker's compensation benefits, but may not be subjected to any form of disciplinary action for having exercised his or her statutory rights to continued FMLA leave. In the circumstance you describe, if the U.S. Postal Service attempted to discipline an employee in this circumstance, such action would be a violation of the FMLA.

Hopefully this has been responsive to your inquiry. If I may be of further assistance please let me know.

Sincerely,

J. Dean Speer
Director, Division of Policy and Analysis

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