

FAQs for clients – Coronavirus Pandemic

February 14, 2020

One cannot miss the news and concerns about the Wuhan Coronavirus (2019-nCoV virus) pandemic. Matrix offers this set of FAQs to inform our clients how we are managing disability and leave of absence claims related to the illness. In some circumstances Matrix may relax the FMLA rules and time frames, as outlined below and in other appropriate situations. If you do not agree with Matrix's approach as described here, or if you have additional questions, please contact your account manager.

Q 1: How will Matrix manage leave of absence and disability claims relating to the pandemic illness?

A 1: Please review the questions and answers below for information relating to specific topics. In general, Matrix will handle any claim that involves or may involve the pandemic illness with special consideration and will consult with you if there are open questions or concerns. If your plan allows, or upon special request, we may hold claims pending further information or developments rather than issue an immediate denial if a pandemic-related claim doesn't appear to satisfy approval criteria initially.

Q 2: Does the federal Family and Medical Leave Act cover absences due to a pandemic illness?

A 2: Matrix will assess an employee's absence due to a pandemic illness in the same manner as any other medical conditions for FMLA purposes; that is, does the employee's condition meet any of the definitions of a "serious health condition"? In this case, the most likely applicable definition would be:

Incapacity and treatment. A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(1) Treatment two or more times, within 30 days of the first day of incapacity, or

(2) Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider.

The first (or only) in-person treatment visit must take place within seven days of the first day of incapacity.

In cases of a pandemic, appropriate medical diagnosis and treatment is important to the employee and your workforce. For that reason, we recommend against waiving the FMLA requirements of in-person treatment by a health care provider. However, if circumstances warrant, Matrix will be liberal in applying these time frames for receiving treatment.

Q 3: Does the FMLA cover an employee's absence if the employee is quarantined due to possible exposure to the illness?

A 3: If an employee is quarantined but does not develop the illness, the absence will not be covered by FMLA. The FMLA does not apply to possible illnesses or quarantine, only to actual, current serious health conditions.

However, if an employee is quarantined as a safety precaution and then in fact develops the illness, the time during which the employee is ill will likely be covered by FMLA if it meets the definition of serious health condition. Days prior to the employee's development of symptoms and inability to work would not be covered by FMLA.

Q 4: Does the FMLA cover an employee's absence due to a family member's pandemic illness?

A 4: Matrix will assess an employee's request for FMLA leave to care for a family member due to the pandemic illness in the same manner as other such requests. Such leave encompasses physical care, such as when the family member is unable to care for his or her own basic needs due to a serious health condition. It also includes providing psychological comfort and reassurance which would be beneficial to family member with a serious health condition *who is receiving inpatient or home care*.

Q 5: Does the FMLA cover an employee's absence due to a family member's pandemic quarantine?

A 5: A family member's quarantine is unlikely to support a request for FMLA leave if the family member does not yet have a "serious health condition." However, we don't know all the circumstances or locations in which an individual might be placed in quarantine. Matrix will assess each situation individually if a family member is in quarantine with the pandemic illness and the employee is able to provide physical or psychological care.

Q 6: Will Matrix waive the certification requirements for the pandemic illness?

A 6: In cases of a pandemic, appropriate medical diagnosis and treatment is important to the employee and your workforce. Matrix will follow the ordinary FMLA rules for requiring a medical certification to establish that an employee or a family member has a serious health condition and how much time off the employee needs. However, if circumstances warrant, Matrix will be liberal in applying the usual 15-day time frame for returning a completed certification.

Q 7: Do state leave laws cover absences due to a pandemic illness?

A 7: Not every state has an FMLA-like leave law and those that do vary with respect to covered leave reasons. However, most state family and medical leave laws do allow time off for the employee's own serious health condition or to care for a family member with a serious health condition, and that term is usually very similar to the FMLA definition. Matrix will administer these state leave laws in accordance with the principles outlined above but also in accordance with any variations presented by a

particular law. This includes any state-mandated paid family and/or medical leaves Matrix administers for your company.

Q 8: Do state or municipal paid sick and safe leave laws cover absences due to a pandemic illness?

A 8: Matrix does not administer state or municipal paid sick and safe laws but most of these laws allow an employee to use accrued paid time off for their own and a family member's health matters. In addition, some sick and safe laws also cover an employee's time off due to the closure of the employee's place of work or a child's school or place of care is closed by public health officials for a public health emergency. For more information on these laws, including reasons for usage, whether a doctor's note can be required, covered family members, and more, visit A Better Balance at <https://www.abetterbalance.org/paid-sick-time-laws/>.

Q 9: Are my company's leave policies affected by absences related to the pandemic?

A 9: Matrix will continue to administer company leave policies as normal, unless otherwise instructed by your company. Some employers are considering allowing additional leave with or without pay for employees who need time off due to the pandemic illness, whether the employee is ill or is in quarantine. This is a time employers are trying to be fair to employees and preserve a safe and healthy workplace. If you chose to adopt temporary leave policies or change your existing policies to accommodate this emerging situation, let your Matrix account manager know as soon as possible. Matrix will administer existing, modified, or interim policies uniformly for your workforce.

Q 10: Is a pandemic illness covered by workers' compensation?

A 10: There is a possibility of workers' compensation coverage for an employee's pandemic illness if it was contracted at work or during work-related events or travel. Direct employees who might be in this situation to file a WC claim in accordance with your company's usual procedures for assessment and handling by your WC carrier or administrator.

Q 11: Does my company's short term disability policy cover absences of an employee with a pandemic illness?

A 11: The answer depends on the exact provisions of your STD plan or policy, so you need to look at the document. Coverage is likely if the employee's illness extends beyond the applicable waiting or elimination period.

For disability plans administered by Matrix, we will apply our usual processes to determine coverage.

Some employers with self-funded (not insured) plans may choose to relax the plan's standards for approval of STD benefits to accommodate this emerging situation. If you decide to do so, let your Matrix account manager know as soon as possible. Matrix will administer existing, modified, or interim plans uniformly for your workforce.

Q 12: Does my company's short term disability policy cover absences due to an employee's quarantine for possible exposure to a pandemic illness?

A 12: The plan offered by Matrix to clients with self-funded STD and administered by Matrix includes the following provision:

I.D. *Disability* "Disability" means any physical or mental condition arising from a non-occupational illness, pregnancy or injury which renders a Participant incapable of performing the material duties of his or her regular job. A Participant will also be considered to have sustained a Disability if:

1. he or she is ordered not to work by written order from a state or local health officer because he or she is infected with, or suspected of being infected with, a communicable disease; . . .

Other STD plans and policies may have similar provisions. Matrix will apply these provisions in cases of quarantined employees and will be flexible on time frames for receiving copies of the written orders. Again, a waiting or elimination period in the plan will be applied to the employee's absence before benefits are payable.

Q 13: How will Matrix notify us of any unusual situations or developments relating to the pandemic illness?

A 13: Matrix will use our customary contacts at your company for any pandemic-related issues. If you prefer to designate someone else please notify your account manager.

Other resources

We know you have many additional questions about your workplace, your employees, and the pandemic. There are numerous articles, blog posts, and other resources available on the internet. We have found the following to be informative for ourselves as an employer:

- *When Are Employees Entitled To FMLA Leave Related To Coronavirus? And Can an Employee with No Symptoms Be Forced Off Work?* <https://www.fmlainsights.com/>
- *Coronavirus: Employer Action Items:* <https://www.littler.com/publication-press/publication/coronavirus-employer-action-items>

You can also find up-to-date information about the pandemic at the Centers for Disease Control at www.cdc.gov/coronavirus.