

MATERNITY LEAVE BENEFITS

The following is to provide benefit information and resources for questions that occur most frequently. It is not intended to include all possible maternity situations or circumstances. It is also not to be taken as “legal advice”. Finally, the information provided is only a “snapshot” of much more thorough information you may need.

Under state and federal labor laws, patients who have been employed may be eligible for certain paid and/or guaranteed time off maternity leave benefits. Your Human Resources or Benefits Department is best-equipped to guide you. However, because providers are often asked about these policies, a general review of possible benefits is discussed.

Should you have any questions, websites and phone numbers to the state and federal offices that have the authority to correctly interpret to you, or to your employer, what benefits you may be entitled to have been included. You are encouraged to seek clarification from these sources. Also, these sources usually are NOT familiar with how these different benefits work together. Consequently, you must understand them individually, then figure out how they work together for you in your situation.

CALIFORNIA MATERNITY LEAVE: California law allows working mothers to begin maternity leave at 36 wks of pregnancy regardless of whether or not they have paid into the SDI fund through payroll deductions. (A woman may choose to work closer to her due date. If a medical condition or pregnancy complication requires her to do so, she may have to begin a full or partial maternity leave earlier than 36 wks.)

From the date of actual delivery, the law allows for an additional six weeks (vaginal delivery) or eight weeks (c/section) time off. One cannot be denied a full maternity leave. This is approximately a 10-12 week maternity leave for most women, depending on the actual date and type of delivery. Working closer to one’s due date does NOT extend their time off once they have delivered their baby.

CONTACTS: Fair Employment and Housing Dept @ 1-800-884-1684; Equal Employment & Opportunity Commission (EEOC) @ 1-800-669-4000.

WEBSITES: www.dfeh.ca.gov or www.eeoc.gov

CALIFORNIA STATE DISABILITY INSURANCE (SDI): If you have paid enough into the disability system, you may receive SDI payment while taking your maternity leave. This is paid through the Employment Development Dept (EDD) at about 60% of your gross income. Once you begin your first day of disability/maternity leave, there is a seven calendar day waiting period, with your benefit being calculated from day eight of your leave. Many women turn in a week of sick or vacation time to cover this waiting period. (Example: One stops working at 36 weeks and turns in a week of sick time to cover her first week off. SDI begins to calculate her benefits from 37 weeks, her eighth day off, and continues until six to eight weeks from the date she actually delivers, based on type of delivery.)

Please note that if you are eligible for SDI coverage, in terms of having more time off after delivery, there is **no** advantage by working as close to your due date as possible. Benefits are calculated starting the eighth day after your last day worked, whether that’s, for example, at 36 wks, 38 wks, or the day you deliver. You are entitled to six weeks of SDI for a vaginal delivery (eight weeks for a c/section) **from the date you deliver**, regardless of how close you keep working up to the actual day of delivery.

Another frequent issue concerns whether you have to use all your sick or vacation time **prior** to filing for SDI. This is not true. SDI, if you are entitled to it, is primary- you may use SDI first, before any employer benefits you have accrued. This means you cannot be required to use any accrued sick/vacation time before turning in a claim for SDI. (You may, however, use a week of time to cover your seven-day waiting period before the State calculates paying any SDI benefits.) Your employer may require, or you may request, “Coordination of Benefits” between SDI and any accrued time off benefits from work that you have. This means you would receive SDI income **and** you may use some of your accrued time off from work for the **difference** between what SDI pays and what you would have earned if you had not started SDI. This results in getting two checks- one from SDI, and another small check from your employer, while on maternity leave.

If your employer automatically pays out any significant amount of accrued time off pay to you **after** your SDI waiting period is over **and** you begin to earn SDI, you may be required to repay your employer a portion. Again, in the event you have accrued time off, using “Coordination of Benefits” between SDI and your employer will prevent this from happening while maximizing your income while on maternity leave.

To start Maternity Leave and/or SDI:

- 1) Determine your last day of work (36 weeks or later) and inform your provider a week or two prior to this date. (Feel free to discuss your plans at any OB visit.)
- 2) Your provider will give you a note stating the date you will begin your maternity leave and for how long you may be off work. The diagnosis will be “pregnancy; maternity leave”.
- 3) Give a copy of this note to your employer. (Keep your original note.)
- 4) To file for SDI payment, go on line to www.edd.ca.gov. Make sure to write down your Receipt number.
- 5) Contact our office with your receipt number and we will file our part online.
- 6) The SDI office will notify you of your benefits within a few weeks. On this notification, there will be a phone number for you to contact SDI directly.

***Please do not bring your SDI form to your provider to fill out. Following the above process will definitely speed up the handling of your claim, resulting in more timely payment.

Q: What if I have no sick or vacation time and can't afford to miss a week of pay? If your pregnancy is normal and healthy, you might choose to work part-time beyond 36wks (if your employer will allow you to have a reduced schedule), earning some income, then stop work completely on day eight or later. SDI will count this part time week(s) as your waiting period, making you immediately eligible for full benefits the first day you are off work completely. This may lessen your financial hardship by not incurring a full week without any income. The doctor's note in this situation would identify that you are on “Work Restriction” (modified duty), identifying a reduction in daily and/or weekly hours and activities. The note should also include the date you are to officially be off work completely (date of day eight, etc).

CONTACTS: Employment Development Dept (EDD), State Disability Insurance program (SDI) @ 1-800-480-3287; California Labor Commissioner @ 1-510-622-3273.

WEB SITE: Enter into your search, California State Disability Insurance. This should take you to the specific disability insurance pages and important links.

PAID FAMILY LEAVE (PFL): As a maternity leave benefit, this is additional paid time of for up to six weeks for bonding with your newborn. It is also paid through the EDD like SDI, and is paid at about 55% of your gross income. You may start PFL immediately following the end of your SDI, or you may “save it” and use PFL time for bonding with your baby anytime **prior** to baby’s first birthday. Some mothers use a few weeks’ time to extend their maternity leave and save a few weeks to use later in the year. Many others use all six weeks at once, extending their maternity leave to 12 weeks (vaginal delivery) or 14 weeks (c/section) from the date they delivered, when combined with their SDI time off.

Please note that PFL, unlike SDI, has **no** job protections built into the law. **Unless** you are also entitled to FMLA/CFRA protections (see sections below), you will need to discuss taking PFL time off with your employer to assure they will guarantee your job when you return.

Fathers are also entitled to PFL for up to six weeks as a paternity leave to bond with their baby. It can start at delivery or be used prior to baby’s first birthday. Fathers have a seven day waiting period before benefits are calculated for payment like a mother has for SDI. While being able to take up to six weeks off (with his employer’s permission, unless the father is eligible for FMLA), he will be paid for up to five weeks. He may use a week of sick or vacation time to cover his seven day waiting period.

To start PFL:

- 1) Mothers will automatically receive a one page PFL form from the EDD with her last SDI check.
- 2) If you plan to continue time off on PFL after your SDI ends, fill out this form and return it to the EDD. Your benefits will continue to be paid. You need nothing from Kaiser or your doctor.
- 3) Fathers may call the EDD to obtain a PFL form. Fill out the “bonding” sections as the father is taking time to bond with baby. They will need nothing from our office.

CONTACTS: Employment Development Department (EDD) @ 1-877-238-4373, for information on the Paid Family Leave Program.

WEB SITE: www.edd.ca.gov/eddhome.htm, then click onto the Paid Family Leave link.

FAMILY MEDICAL LEAVE ACT (FMLA): While on FMLA leave, the employer must continue the employee’s health benefits and protect the employee’s job. To be eligible for FMLA, an employee must work for a covered employer a) for at least 12 months; **and** b) worked at least 1,250 hrs during the 12 months prior to the start of FMLA leave; **and** c) worked at a location where at least 50 employees work at, or within, a 75 mile radius. As related to pregnancy and childbirth, a covered employer must grant an eligible employee up to a total of 12 weeks of unpaid leave during any 12 month period. (The 12 weeks are converted into an allotment of hours based on how many hours a week one works. A 40-hour employee has 480 FMLA hours to use during pregnancy or maternity leave.)

***FMLA is extensive. What is provided is a “snapshot” of points that generally apply to most pregnant women covered by FMLA. You are encouraged to read this law to assure you and your employer understand and meet its’ specifications.

FMLA can be taken for intermittent or reduced schedule (in increments as little as one hour) while pregnant, for any period of incapacity due to pregnancy, to obtain prenatal care, or for the birth and care of a newborn. For purposes of FMLA, pregnancy is defined by the Federal Dept. of Labor (DOL) as its’ **own** “Serious Health Condition”. It is **not** necessary to have something seriously wrong in the pregnancy to use FMLA time. FMLA law states a visit to your doctor is **not** necessary, nor is a doctor’s note required, for most absences related to your pregnancy, including situations such as “morning sickness” or to attend your prenatal appointments. (This can cause problems between employees and employers.)

FMLA is designed for use during pregnancy, as well as to cover you while on maternity leave.

Employees may choose, or employers may require, that an employee's accrued sick or vacation time be used for any time off from work that is covered by FMLA (subject to coordination with SDI, if applicable). An example would be that you leave work early because you don't feel well due to pregnancy or you have a prenatal appointment. Your employer can deduct the time missed from your total FMLA hours. Some employers will, while others won't, but FMLA law does allow for this.

It's difficult to predict early in the pregnancy what may arise over the course of your pregnancy. This makes it important to use your FMLA time wisely. If one uses too much time too early in pregnancy, then starts her maternity leave at 36 weeks, it's possible to quickly use up the available FMLA time. This could result in running out of health insurance coverage **prior** to delivery or while still on maternity leave. (However, there are some pregnancy complications or medical conditions where time off absolutely must be taken to protect a mother's or baby's health.)

It's very important that you understand fully how to use FMLA, if it applies to you. It offers numerous benefits during pregnancy that can be widely misunderstood by employers.

CONTACTS: U.S. Department of Labor (DOL) @ 1-866-487-2365; U.S. Wage & Hour District Office @ 1-916-978-6123. These agencies interpret and enforce the correct application of FMLA. If the Wage & Hour number is constantly busy, the DOL will take your information and get your situation handled.

WEB SITE: www.dol.gov/esa/whd/fmla/ Additionally, type into your address bar <family medical leave act> in order to access considerable FMLA information.

To obtain FMLA protections:

- 1) Obtain a note from your provider that indicates
 - a) you are pregnant, b) your EDD c) you will be coming in for prenatal visits every 2-4 wks, or as indicated, d) and that you may need to use FMLA time intermittently for pregnancy-related reasons.
- 2) Obtain your employer's FMLA document.
- 3) Return paper work to HR Department at your employer after completion.

***The OB providers do not complete employer forms. Please follow the above steps to have your FMLA document completed in a timely manner.

CALIFORNIA FAMILY RIGHTS ACT (CFRA): CFRA (a State of California labor law) is identical to the federal FMLA law in terms of eligibility and coverage. It provides 12 weeks off work with health insurance and job protections. The difference between CFRA and FMLA, in terms of pregnancy/childbirth, is when CFRA starts. *Please note that CFRA seems to be one of the most misunderstood labor laws.

California's Dept. of Fair Employment has interpreted CFRA to START when the delivered mother's medical disability ENDS. Your SDI payments stop when your maternity leave is over, ending your medical disability. If you choose, you may begin up to 12 weeks of unpaid CFRA leave at this time. (You may, however, be collecting up to six weeks of PFL during this CFRA time.)

For pregnant women who meet the FMLA/CFRA employment requirements, and work for an FMLA/CFRA-eligible employer, from the date of delivery (regardless of when leave prior to delivery began), one would have the ability to take up to 18 weeks off. (Six weeks maternity leave and 12 weeks CFRA leave=18weeks off.) A c/section would result in 20 weeks off. If you have paid into the disability system, you would receive six weeks SDI (eight weeks for c/section) and six weeks PFL payments during this FMLA/CFRA time off. The biggest decision for most women is whether or not they can afford to continue on an unpaid leave with the remaining CFRA time after one's SDI and PFL income ends.

Since CFRA law went into effect complimenting FMLA law, many women working for larger employers (50 or more employees) are no longer faced with working as close to their due dates as possible in order to maximize time off with their baby once they've delivered.

To start CFRA leave

:

- 1) At delivery, obtain a note from the Birthing Center verifying you have delivered your baby.
- 2) Give this note to your employer notifying them of your plan to use CFRA time for "bonding with your newborn" once your medical maternity leave ends. Notify them of the date you intend to return to work. An unusual aspect of CFRA law is that there is no specific form required as there is with FMLA.

CONTACTS: Fair Employment and Housing Dept @ 1-800-884-1684 and Equal Employment and Housing Dept (EEOC) @ 1-800-669-4000 or 1-510-637-3230.

WEB SITE: www.dfeh.ca.gov or www.eeoc.gov

PREGNANCY DISABILITY LEAVE (PDL): Applies to employers with five or more employees. Allows a pregnant employee about four months (16 weeks) of unpaid leave during the period for which she is unable to continue working due to pregnancy, childbirth, or a related medical condition. A woman is required to provide medical verification from her doctor. The employee may be able to use any accrued leave she may be entitled to or leave made available by employers to temporarily disabled employees. If eligible for FMLA, health coverage may be continued for up to 12 weeks of the pregnancy disability leave. (PDL and FMLA would run concurrently.)

As stated in the section on FMLA, it is important to use caution with this time off to assure one does not lose their health insurance coverage prior to childbirth or during one's maternity leave. For contacts and web sites, see the "California Maternity Leave" section on the first page of this document. To begin the paperwork process, follow the steps outlined on pages two and three of this document.

WORK MODIFICATION/LIGHT DUTY: Some patients work in jobs that have requirements which may be too difficult to perform at some point in the pregnancy. Other patients may have physical issues or pregnancy-related complications that make performing some parts of their job too difficult. An OB provider may decide to place a patient on Work Modification by giving the patient a doctor's note.

The note may:

- 1) Place restrictions on specific work activities and/or
- 2) Reduce the hours you are able to work per day and/or
- 3) Reduce the number of days in a week that you are able to work.

While many employers will accommodate a Work Modification note, employers have the right to refuse Work Modification. They can opt to take you off the schedule and send you home until you are able to work unrestricted. In some cases, this may result in a pregnant patient losing her insurance prior to her delivery depending on how close she is to having her baby as well as her employer's health insurance coverage policies. It also depends on any eligibility for job and health insurance protections a woman may have if eligible for Family Medical Leave Act protections.

If you are placed on Work Modification that results in you working fewer hours than you did prior to being restricted, (whether it's due to a pregnancy-related complication or due to requirements of your job) you may be eligible to file for SDI benefits for your lost income. Once SDI approves that the restriction is appropriate for your issue, and deems you to be eligible, you might receive a reduced paycheck from your employer as well as a SDI check from the EDD for your lost time. If this is your situation, file for SDI by following steps #4, 5, and 6 on page 3 above. This is the same process to follow if your employer cannot accommodate Work Modification and takes you off their schedule completely.

The information in this section is somewhat general. It is not intended to cover any and every Work Modification situation that may arise in a pregnancy, but applies to the majority of situations.