

Chair Greenlick and Members of the Committee,

Per your request for more information about the circumstances under which a person may access up to 36 weeks of leave under OFLA, I wanted to offer some additional clarification. You requested this information during the hearing on HB 2600 last Friday, 3/6.

First, both FMLA and OFLA offer employees up to 12 weeks of unpaid leave annually for a qualifying condition. So it is not true, as was asserted in Friday's hearing, that OFLA allows for 9 months of leave while FLMA allows for 3 months - it is a small language nuance, but an important one. Both protect just 12 weeks of leave for a qualifying reason.

The circumstance Betsy Earls mentioned occurs in the very rare circumstance when an employee qualifies for 3 different and consecutive 12-week OFLA leaves for different purposes covered under the law. This could theoretically happen in the case where a woman qualifies for a full 12 weeks of pregnancy disability leave, and then a full 12 weeks of maternity leave, and then also has a very sick child that requires up to 12 weeks of additional "sick child leave". I don't believe BOLI tracks information about how often this circumstance occurs, but I think anyone you ask there would agree that it is rare that someone would qualify for all 3 of these types of leave consecutively in this manner.

Additionally, very few people, even if they did qualify, could *afford* to take 3 consecutive leaves under OFLA because OFLA leave is unpaid. Even in the case where employees have some sick or vacation time they can use to offset the cost of unpaid leave, it usually only lasts for only a couple of weeks. Most employees experience OFLA and FMLA leaves as unpaid time.

Without passing HB 2600, an employer can force an employee to pay 100% of their own health insurance costs while on OFLA leave (usually done through COBRA) or can drop an employee's health insurance altogether if the employee cannot cover this additional cost. It's worth noting that this is at the exact time when an employee most needs access to health insurance - as they are away from work due to a serious health condition. This also means that an employee is being required to cover the full cost of their own insurance when they are least able to afford to (due to the unpaid nature of this leave).

I'd be happy to answer any other questions you may have about how OFLA leaves are actually taken, but want to restate that for qualifying absences under FMLA an employer is *already maintaining their contributions toward an employee's health insurance* - so the additional protection offered under HB 2600 would only occur if the leave is OFLA-eligible but not FMLA-eligible. Having these two systems operate more similarly adds much-needed clarity and certainty for employees during a time when they need it most.

Finally, Representative Hayden asked what would happen if an employee does not contribute their portion of the premiums while on leave. The answer is in the third paragraph of this fact sheet on FMLA: <http://www.dol.gov/whd/regs/compliance/whdfs28a.pdf>. HB 2600 would require the same process as is already true for FMLA, namely:

*If paid leave is substituted for FMLA leave, the employee's share of group health plan premiums must be paid by the method normally used during paid leave (usually payroll deduction). An employee on unpaid FMLA leave must make arrangements to pay the normal employee portion of the insurance premiums in order to maintain insurance coverage. If the employee's premium payment is more than 30 days late, the employee's coverage may be dropped unless the employer has a policy of allowing a longer grace period. The employer must provide written notice to the employee that the payment has not been received and allow at least 15 days after the date of the letter before coverage stops.*

Thank you,

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