

C-section caregiving can qualify for FMLA leave

Courts typically don't consider pregnancy alone to be a "serious medical condition" qualifying for job-protected leave under the Family and Medical Leave Act (FMLA). But, as this case shows, important exceptions exist: Incapacity or complications associated with pregnancy usually are covered under FMLA.

That means if a doctor determines that a pregnant employee must take a leave of absence, she will be able to use FMLA leave. Also, since the law allows a worker to take FMLA leave to care for a seriously ill child, parent or spouse, you may need to allow parents to take FMLA leave to take care of a daughter with pregnancy complications.

Recent case: A mail carrier learned that her daughter would be delivering her baby by Caesarean section. She requested two weeks' FMLA leave so she could help her daughter before and after delivery. The mail carrier even produced a note from her daughter's doctor, explaining the need.

A supervisor said the mail carrier's circumstances didn't qualify for leave and wouldn't grant it. Soon after, the worker was fired for poor attendance, including two days of disputed FMLA leave. She sued under the FMLA, and the court let the case proceed. Reason: A Caesarean delivery qualified as a "serious health condition," the court said, because it involves incapacity after the delivery. (*Blackburn v. Potter*, No. IP01-1645-C-B/S, S.D. Ind., 2003)