

■ ***One of our employees has requested FMLA leave to care for her child who has a serious health condition. The employee's mother lives in the home, is retired, and is another available caretaker. Do we still need to grant FMLA leave to our employee?***

Yes. The FMLA, in part, provides eligible employees with a maximum of 12 weeks of job protected leave during a 12-month period to care for a child who has a “serious health condition.” The fact that the employee may have someone at home who is reliable and has more time to care for the child cannot be taken into consideration. If the employee in question is eligible for FMLA leave, the employer must grant the leave, no matter who else may be available to care for the child.

Employers are encouraged to consult with legal counsel when confronted with an FMLA leave request. Connell Foley LLP would welcome the opportunity to be of assistance to your organization. Our focus is to assist employers in making employment-related decisions to avoid or reduce the risks of litigation, while maintaining a productive and well-managed work force. We accomplish this by providing employers with proactive and preventative counseling and training on every facet of the employment relationship.

This is not intended to be legal advice, which can only be given after an understanding of the facts of a particular matter. Additionally, employers should consult the law in the state(s) which they operate to determine if any state law addresses the above issue, and whether any such law provides greater rights, responsibilities and/or protection to the employer and employee.

**This article is contributed by
Michael Shadiack, Esq.
of Connell Foley LLP
(973) 535-0500
www.connellfoley.com**