

LABOR RELATIONS



September 25, 2002

MANAGERS, HUMAN RESOURCES (AREA)

SUBJECT: Military Leave - Family Medical Leave Act - Eligibility

Based on a recently issued Department of Labor (DOL) Memorandum, the USPS is amending its position on how an authorized absence to perform military service is counted when determining eligibility for leave under the Family and Medical Leave Act (FMLA). The DOL memorandum clarifies its position on the rights of returning uniformed service members to family and medical leave under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Under the FMLA, employees must have worked for the employer for at least 12 months and must have worked at least 1250 hours for that employer during the 12 month period prior to the start of the leave. Under USERRA, employees who are reemployed are entitled to certain rights and benefits that they would have attained had they been continuously employed. DOL has determined that the months and hours that employees would have worked, but for their military service, should be combined with the months employed and the hours actually worked to determine if they meet the FMLA 12 month employment and 1250 work hour eligibility requirement.

Therefore, the Postal Service will credit the period of military service as follows:

- 1) Each month served performing military service counts as a month actively employed by the employer for the purpose of determining the 12 months of employment requirement. The 12 months of employment do not have to be consecutive to meet this FMLA requirement.
- 2) The hours that would have been worked for the employer, based on the employees work schedule prior to the military service, are added to any hours actually worked during the previous 12 month period to determine if the employee meets the 1250 work hour requirement. The hours the employee would have worked will be calculated in the same manner as back pay calculation, found in Section 436 of the Employee and Labor Relations Manual (ELM).

As a reminder, once an employee meets the 1250 work hour eligibility test, the employee remains eligible for all absences that are for the same FMLA qualifying condition during the same postal leave year.

If you have any questions concerning this matter, contact Sandra Savoie of my staff at 202-268-3823.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug A. Tulino".

Doug A. Tulino
Manager
Labor Relations Policies and Programs