

FOR MEDICAL PROVIDERS

Leave & Benefits for Perinatal Patients Who Work in D.C.

Nikola Nable-Juris
2024



Welcome to this webinar for medical providers with perinatal patients who work in the District of Columbia. My name is Nikola Nable-Juris and on behalf of First Shift Justice Project, I look forward to sharing information with you about how your patients can receive job-protected leave and monetary benefits in the District of Columbia while they are pregnant and after they give birth.

[#]

ABOUT FIRST SHIFT

First Shift Justice Project empowers workers to exercise their rights related to pregnancy, illness, and caregiving.

We provide free services to workers in the DMV, ranging from one-time consultations to full representation.



www.firstshift.org

First Shift Justice Project empowers workers to assert their workplace rights.

First Shift provides free counseling and legal support to workers related to pregnancy, illness, and caregiving, ranging from one-time consultations to full representation. We also support medical providers with free consultations and trainings.

Today's presentation is informational and is not legal advice. We encourage you to contact First Shift by phone or email for support as every situation is different.

<#>

Job-Protected Leave and Monetary Benefits for Perinatal Patients

KEY TAKEAWAYS

- ★ WHAT is job-protected leave?
- ★ WHAT are monetary benefits?
- ★ HOW can you support your working patients?

www.firstshift.org

From this presentation, you will learn:

- what is job-protected leave,
- what are monetary benefits, and
- how can you support your working patients who are trying to access them?

<#>

The Rights of D.C. Workers



This presentation addresses the rights of people who work in the District of Columbia. A worker's rights depend on where they WORK. Your patients who work in D.C. have rights under D.C. law even if they live in another state or you provide medical care in another state.

Employers might have their own leave policies that are more generous than the law provides, but this presentation is specifically about workers' rights under D.C. and federal law. Frequently workers in low-wage jobs only have access to what the law provides and not more.

<#>

WORKERS NEED BOTH



**JOB-PROTECTED
LEAVE**



**MONETARY
BENEFITS**

www.firstshift.org

When your patient misses work during pregnancy or after childbirth, at least two things are critically important.

FIRST, workers need a right to job-protected leave. This means that when they miss work due to pregnancy or after giving birth, they can return to work and still have a job! Laws that provide workers job-protected leave prevent employers from firing workers when they miss work.

SECOND, workers need access to monetary benefits. This means that they need some sort of money or income in order to pay bills! Laws and workplace policies that provide benefits make sure workers have some sort of income while they miss work.

Because the laws giving workers these two rights are different, but related, medical providers often need to fill out more than one form or write different medical certification notes for their patients to exercise their rights. Providers might also be asked for additional documentation if a workplace provides benefits beyond a worker's basic legal rights.

<#>

What is JOB-PROTECTED LEAVE?

An employer holds a worker's same job (or an equivalent one) for them when they come back to work.

www.firstshift.org

Job-protected leave means that a worker's employer must hold their job for them when they get back from time away--or a position that is equivalent to the position they were in before they left.

<#>

Laws that give pregnant patients job-protected leave:

D.C. Protecting Pregnant Workers Fairness Act

Applies to all D.C. workers **except** for federal government employees

Federal Pregnant Workers Fairness Act

Applies to federal government employees and D.C. businesses with 15+ employees

=right to unpaid, job-protected time off work for perinatal appointments and recovery from childbirth



www.firstshift.org

Pregnant workers have specific protections under both federal and D.C. law. The federal Pregnant Workers Fairness Act and the D.C. Protecting Pregnant Workers Fairness Act require employers to make reasonable accommodations for pregnant workers. In the context of job-protected leave, this includes unpaid time off for medical appointments related to pregnancy and time to recover from childbirth. While this leave is unpaid, it's important because it means a workplace will hold your patient's job.

Except for federal employees, all D.C. workers are covered by the D.C. law. The federal law covers federal workers and D.C. workers who work for businesses with at least 15 employees. Because of these two laws, basically every pregnant D.C. worker has the right to time off during pregnancy and to recover from childbirth.

However, for workers in low-wage jobs whose employers only provide the minimum of what the law requires, your medical certification is critical for ensuring your patients get job protection. Workers who are trying to take time off under these laws can only get the amount of leave expressly recommended by their medical provider. For example, if you write a medical note saying they will be able to return to work after 6 weeks, then that's the maximum amount of time their employer is required to hold their job. Knowing this, we encourage medical providers to consider the unique needs and circumstances of a particular patient when documenting their need for leave. Patients may bring a form for you to complete or ask for documentation to provide their employer. When writing this documentation for a patient who recently gave birth, it's important to communicate with your patient to fully understand their recovery needs and return-to-work goals. <#>

How are patients & caregivers eligible for job-protected leave?

Federal FMLA

12+ months of work
~24 hrs/wk (1,250 hrs/yr)
50+ employees
=12 weeks unpaid leave every year

D.C. FMLA

12+ months of work
~19 hrs/wk (1,000/yr)
20+ employees
=16 weeks unpaid medical leave & 16 weeks unpaid family leave every 2 years



www.firstshift.org

In addition to pregnancy-specific laws, your patient may simultaneously have rights under the FMLA, or the Family Medical Leave Act, when taking time off work. This leave is also unpaid and requires employers to hold a patient's job.

For both of these laws, there are eligibility exclusions based on the size of the worker's employer, length of time they've worked there, and the number of hours per week they work. If workers are eligible for leave under both of these laws, the leave periods run at the same time (meaning that workers would get a total of 16 weeks of unpaid leave).

Many workers don't fit these criteria-- such as people who work for small businesses, people working several part-time jobs, or people who recently changed to a new job in the past year, so workers often rely on pregnancy-related leave laws.

If your patient has a family member who will be caring for them, please refer to First Shift's resources for caregiving family members.

<#>

What are MONETARY BENEFITS?

Money replacing a worker's paycheck when they're not working:

- paid family leave benefits from the D.C. government
- short-term disability insurance
- employer-provided sick days, vacation, PTO, and parental leave

www.firstshift.org

Monetary benefits are different ways workers can receive money while they miss work in order to replace the paychecks they would have received if they were working.

For workers in low-wage jobs, frequently the only benefits available to them are a few employer-paid sick days and paid family leave benefits from the D.C. government. The D.C. paid family leave benefits program does not provide job-protected leave. Instead, it's the way workers receive wage-replacement benefits when they already have the right to job-protected leave under another law.

Employers may also choose to offer additional benefits, often to higher-wage workers. They may include short-term disability insurance benefits, which are paid by an insurance company, or paid time off during which an employer pays a worker, such as parental leave, sick days, vacation days, or paid time off (called PTO).

<#>

Sources of MONETARY BENEFITS

During Pregnancy

D.C. Paid Family Leave Benefits - pregnancy

- 2 weeks for prenatal; 12 weeks for serious health condition
- Up to 90% salary replacement

Short-Term Disability Benefits

- Differ based on plan and provider-stated needs
- Approximately 60% salary replacement or less

Employer-Paid Time Off

- Paid sick time, vacation time, PTO



www.firstshift.org

There are a few ways to receive monetary benefits when your patient misses work during pregnancy.

Paid family leave benefits are paid by the D.C. government and may replace up to 90% of your patient's wages. Pregnant patients are eligible for up to two weeks of "prenatal" benefits related to their pregnancy. For example, patients can receive pregnancy-related benefits when they miss work for prenatal appointments or if they are placed on "bedrest." While "bedrest" is a disfavored term, it is what the law currently says and it is our understanding that the government will grant benefits for situations akin to "bedrest", in which the patient is restricted from normal activities but maybe not confined to their bed.

Pregnant workers are also eligible for 12 weeks of benefits for their own serious health condition. It's important for patients to apply for benefits as soon as possible, because there are limitations to receiving benefits for past dates.

Pregnant patients also might be eligible for short-term disability benefits during pregnancy if they have serious pregnancy complications. These benefits differ based on plan and what a medical provider describes as a patient's limitations. Short-term disability benefits typically require medical certification and replace approximately 60% of a patient's salary. These plans often have restrictions and exclusionary criteria.

Employers can also choose to offer paid time off to their employees, including paid sick time, vacation time, or paid time off (PTO), but this is rarely available to workers in low-wage jobs. D.C.

law does require 3-7 days of paid, job-protected sick leave, depending on the size of the employer, but this is extraordinarily limited for most workers in low-wage jobs.

<#>

Medical Provider Certification



dc paid family leave FAMILY LEAVE MEDICAL CERTIFICATION FORM (PFL-FMC)

INSTRUCTIONS FOR CLAIMANT:

Use this form to file for Family Leave benefits with the DC Office of Paid Family Leave. This form is used to determine whether your family member has a "serious health condition" as defined by DC's Paid Leave law and whether your family member requires your care or companionship. You must complete part 1 of the form, which asks for information about you (the claimant) and your family member. The doctor or licensed health care provider who is treating your family member must complete part 2 of the form. You may complete the filing process for Family Leave benefits only after this form is completed and signed by your family member's doctor.

You must submit this form using the online Paid Family Leave benefits portal available at dohs.gillnet.de.gov. The system will ask you to upload this form during the claim filing process. Please ensure that the health care provider completes all sections of part 2 or your claim may be denied.

PART 1 (To be completed by the claimant before part 2)

| | | |
|----------------------------|------------|-------------|
| Last Name | First Name | Middle Name |
| Date of Birth (MM/DD/YYYY) | | |

INFORMATION ABOUT THE CARE TO BE PROVIDED TO CLAIMANT'S FAMILY MEMBER

| | | |
|--|------------|-------------|
| Name of the family member for whom the claimant will provide care | | |
| Last Name | First Name | Middle Name |
| Relationship of family member to claimant | | |
| Describe the nature of the care or companionship the claimant will provide to the family member. | | |

I certify that the information I have provided on this form is true and complete.

Signature: _____ Date: _____

- Your contact information, specialty, and license number
- Patient's diagnosis (and ICD-10 code)
- Diagnosis date (often last menstrual period or first prenatal appointment)
- Patient's expected delivery date
- Tentative appointment frequency and/or return-to-work date

www.firstshift.org

In order to receive paid family leave benefits from the D.C. government during pregnancy, your patient needs you to complete a medical certification form. This form will be submitted to the D.C. government, not their employer. Your patient needs this form before they can apply for benefits. Your patient's benefits might be delayed or denied if they wait too long to apply. Workers can't get benefits for leave taken more than 30 days before their application.

You will be asked to provide the following key information on the medical certification form:

- your contact information, specialty, and license number;
- your patient's diagnosis (and ICD-10 code);
- your patient's diagnosis date (often their last menstrual period or first prenatal appointment);
- your patient's expected delivery date; and
- your patient's tentative appointment frequency and/or return-to-work date.

If you have questions or would like support completing this form, please contact First Shift.

<#>

Sources of MONETARY BENEFITS

After Birth

D.C. Paid Family Leave Benefits - parental leave

- 12 weeks of parental leave benefits for bonding
- Up to 90% salary replacement

Short-Term Disability Benefits

- Often 6 weeks for vaginal delivery, 8 weeks for c-section
- Approximately 60% salary replacement or less

Employer-Paid Time Off

- Paid parental leave, sick time, vacation time, PTO



www.firstshift.org

There are a few ways to receive monetary benefits after a patient gives birth.

After birth, patients who work in D.C. are eligible for up to 12 weeks of paid family leave benefits for parental leave. Your patients might need documentation from you or their pediatrician that a child was born to submit to the D.C. government. If you wish to approve your patients to receive the full 12 weeks of paid parental leave wage-replacement benefits, you must also make sure to document your patient's need for 12 weeks of job-protected leave to recover from childbirth.

For patients who have short-term disability benefits, insurance companies will often pay only 6 weeks of benefits for a vaginal delivery and 8 weeks of benefits for a c-section. Patients often need medical documentation to prove they gave birth.

While these notes and forms might feel repetitive, they serve different purposes.

Employers can also choose to offer paid time off to their employees, including paid parental leave, sick time, vacation time, or paid time off (PTO), but this is rarely available to workers in low-wage jobs. Patients are able to combine these employer-provided benefits with the D.C. government's paid family leave benefits. The patient's eligibility for employer-provided benefits does not impact their right to apply for D.C. paid leave benefits.

<#>

Family Caregivers



dc paid family leave FAMILY LEAVE MEDICAL CERTIFICATION FORM (PFL-FMC)

INSTRUCTIONS FOR CLAIMANTS:

Use this form to file for Family Leave benefits with the DC Office of Paid Family Leave. This form is used to determine whether your family member has a "serious health condition" as defined by DC's Paid Leave law and whether your family member requires your care or companionship. You must complete part 1 of the form, which asks for information about you (the claimant) and your family member. The doctor or licensed health care provider who is treating your family member must complete part 2 of the form. You may complete the filing process for Family Leave benefits only after this form is completed and signed by your family member's doctor.

You must submit this form using the online Paid Family Leave benefits portal available at doh.dc.gov. The system will ask you to upload this form during the claim filing process. Please ensure that the health care provider completes all sections of part 2 or your claim may be denied.

PART 1 (To be completed by the claimant before part 2)

| | | |
|--|------------|-------------|
| Last Name | First Name | Middle Name |
| Date of Birth (MM/DD/YYYY) | | |
| Name of the family member for whom the claimant will provide care | | |
| Last Name | First Name | Middle Name |
| Relationship of family member to claimant | | |
| Describe the nature of the care or companionship the claimant will provide to the family member | | |
| <input type="checkbox"/> I certify that the information I have provided on this form is true and complete. | | |
| Signature | Date | |



www.firstshift.org

Your patient might have a partner or family member who is supporting them through pregnancy and after birth. If these family members work in D.C., they might be eligible for job-protected leave and paid family leave benefits as a caregiving family member.

If so, your patient might ask you to provide documentation for their family member's employer or fill out a medical certification form to apply for paid family leave benefits.

If your patient asks you to complete leave or benefits paperwork for their caregiving family member, the most important thing for you to document is that your patient is in need of some type of care. Their employer and the D.C. government will determine if the caregiving family member is eligible for leave and benefits based on their family relationship, or you can suggest that your patient call First Shift if they have questions about their family member's eligibility.

<#>

Pregnancy Termination and Loss

Patients may be eligible for job-protected leave and paid family leave benefits based on their own serious health condition.

Their family caregiver might also be eligible for leave and benefits.



www.firstshift.org

At times, pregnancies may end, whether through planned termination or unexpected loss.

Although not caring for a newborn, your patient may need time away from work to recover physically and mentally.

These patients will not be eligible for parental leave and benefits, but your medical recommendation may make them eligible for leave and benefits due to their own serious health condition. Serious health conditions related to pregnancy, including pregnancy loss, may provide your patients with job-protected leave under D.C. and federal law. Mental health conditions related to pregnancy loss may also qualify your patient for job-protected leave and paid family leave benefits. It's important to communicate with your patient about their needs for job-protected leave and benefits when providing them documentation about their ability to return to work.

Your patients' family members who are providing them care and support might also be eligible for caregiving leave and benefits.

Please see First Shift's resources for medical providers about patients with a serious health condition or call for more information.

#

Both Job-Protected Leave and Monetary Benefits are Critical!



A reminder that it's critically important for your patients and their caregiving family members to have BOTH job-protected leave AND monetary benefits-- but it's very possible that the laws would provide them with one and not the other.

Even if an employer holds a your patient's job, it doesn't help if they can't pay bills without a paycheck. And if they receive benefits from the D.C. government when they miss work, that doesn't help if they were fired while they were away from work.

This is why patients may ask you to fill out multiple forms or write multiple medical certification notes that seem similar. Often patients are navigating this process with their employer, the D.C. government, and sometimes an insurance company, so while this paperwork might seem repetitive, it is requested at different times and for different purposes.

[#]

First Shift can support your patients!

- When they plan to miss work for prenatal appointments, procedures, or treatments
- When they unexpectedly miss work for pregnancy reasons
- When their employer treats them unfairly for pregnancy or family caregiving reasons



intake@firstshift.org
(202) 644-9043
firstshift.org/get-legal-help

All clients receive a free consultation. Long-term services typically limited to those at or below 300% of the federal poverty level.



First Shift is available to support your patients for free!

First Shift can help your patients in many situations, including:

- when they plan to miss work for prenatal appointments, procedures, or treatments;
- when they unexpectedly miss work for pregnancy reasons; and
- when their employer treats them unfairly at work due to pregnancy or family caregiving reasons.

Your patients can contact us at intake@firstshift.org, call our intake line at 202-644-9043, or fill out our web intake form.

All clients receive a free consultation. Long-term services are typically limited to those at or below 300% of the federal poverty level.

[#]

QUESTIONS?

CONTACT FIRST SHIFT!

Email: intake@firstshift.org

(202) 644-9043



Thank you so much for learning more about job-protected leave and monetary benefits to support your perinatal patients! We hope this information is helpful to you.

If you have questions or would like support from First Shift for your patient's specific situation, please contact us!

Email at intake@firstshift.org or call our intake line at 202-644-9043.

Thank you and please watch our other webinars for more information!

[#]