



Employee and Worksite Perspectives of the FMLA

Who Is Eligible?

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Who Is Eligible for FMLA?

The Family and Medical Leave Act (FMLA) guarantees eligible U.S. employees up to 12 workweeks of unpaid leave for qualifying reasons. Employees are **eligible** for FMLA if they:

1. Worked for a *covered employer* for at least 12 months;¹
2. Had at least *1,250 hours* of service for this employer in the past 12 months (equivalent to about 24 hours per week); and
3. Are at a physical work location (“worksite”) where at least *50 employees work within 75 miles*.

This brief uses data from the **2018 FMLA Employee Survey**, part of the fourth and most recent wave of a national longitudinal survey. The brief summarizes findings on employee eligibility rates, reasons for ineligibility, differences in eligibility by employee characteristics, and knowledge of their own eligibility.

What Percentage of Employees Are Eligible?

Overall, **56 percent of U.S. employees are eligible for FMLA**. This is not detectibly different from estimates in the last survey in 2012. Reasons for ineligibility vary (percentages are among all employees), as shown in Exhibit 1:

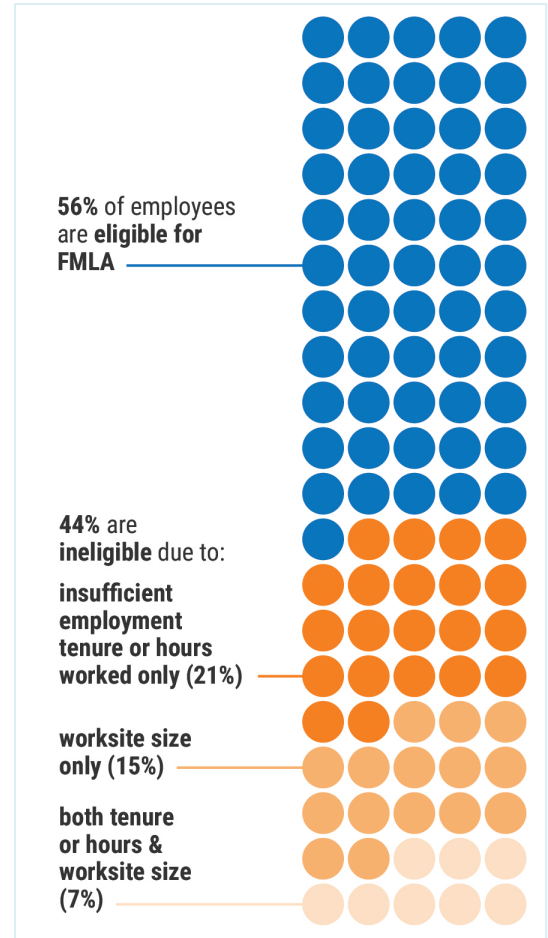
- 21 percent are ineligible due only to having worked too few hours or for an insufficient period of time for their employer;
- 15 percent of employees are ineligible due only to their worksite being too small; and
- 7 percent are ineligible due to both tenure/hours requirements and worksite size.

What if Eligibility Requirements Changed?

Exhibit 2 shows simulated employee eligibility rates if the minimum number of hours worked requirement or the minimum worksite size requirement changed, keeping all other policies the same.

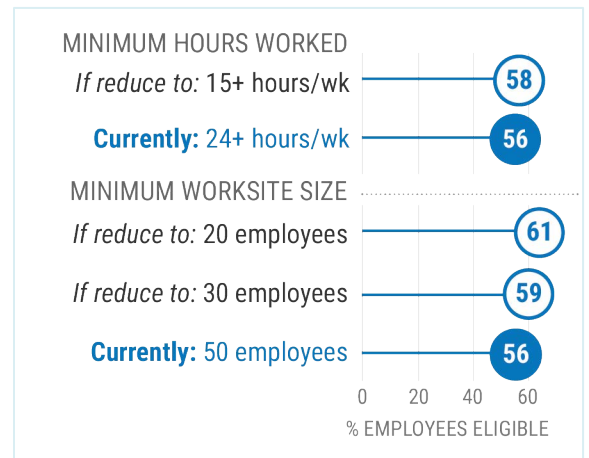
- **Minimum hours worked:** If requirement were lowered from 24+ hours per week (1,250 hours total) to 15+ hours per week (780 hours total), the eligibility rate would likely increase by 2 percentage points (to 58% eligible).
- **Minimum worksite size:** If the requirement were lowered from ≥ 50 employees to ≥ 30 employees, the eligibility rate would likely increase by 3 percentage points (to 59% eligible). If lowered to ≥ 20 employees, it would likely increase by 5 percentage points (to 61%).

Exhibit 1. Employee eligibility and ineligibility for FMLA, by reason for ineligibility



* Extra circle for “both tenure or hours & worksite size” reflects numbers not adding to 100% due to rounding.

Exhibit 2. Simulated percentage of employees eligible for FMLA, by changes in requirements



Does Eligibility Vary by Employee Characteristics?

Eligibility rates did not differ for many employee characteristics.

Eligibility rates and reasons for ineligibility are not detectably different by sex, ethnicity, race, education, or caregiving.

A smaller share of employees in single-parent families are eligible.

Only 43 percent of employees in single-parent households are eligible, compared to 63 percent of employees in dual-parent households. Employees in single-parent households are more commonly ineligible because they are working at worksites too small to be covered by FMLA than are employees in dual-parent households.

A smaller share of low-wage workers are eligible. Only 38 percent of workers earning less than \$15 per hour (“low-wage”) are eligible, compared to 63 percent of those earning \$15 or more per hour (“non-low-wage”). Differences in eligibility rates are primarily due to either insufficient hours worked or insufficient tenure (whether alone or combined with worksite size).

Do Employees Know Their Eligibility?

Covered employers must meet FMLA notice requirements: Display a general notice, even if no employees are eligible. Notify all employees of their FMLA rights at hiring, their eligibility status if requesting leave for a qualifying reason, and whether a leave is designated as FMLA-protected or is ineligible, if any employees are eligible.

More than three-quarters (76%) of employees have heard of FMLA, but many misunderstand their eligibility for FMLA-protected leave.

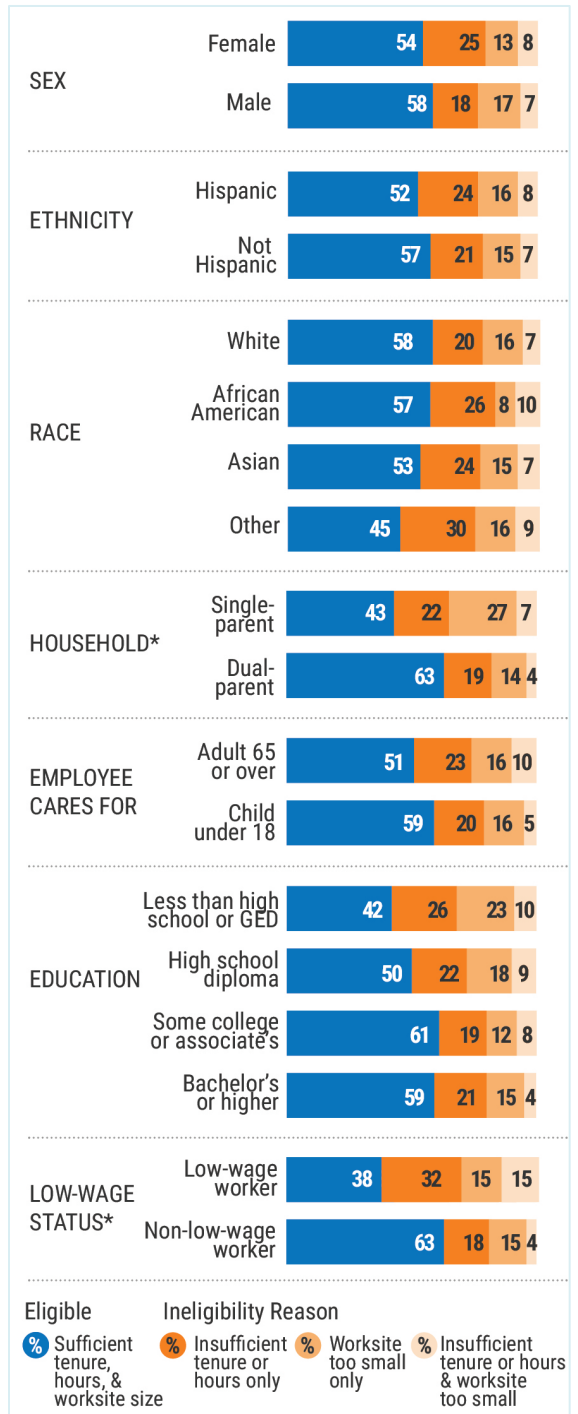
About one-quarter of employees (27%) say they are eligible when their report of their employment tenure, hours worked, and worksite size would indicate they are not actually eligible. These gaps were large across employee demographics. The largest disparity was among employees with less than a high school diploma or who have a GED, where almost all (95%) said they were eligible compared to less than half (44%) actually being eligible.

More than half of employees (56%) believe that FMLA covers more reasons for leave than it actually does. The majority believed a grandchild’s (56%), grandparent’s (59%), or a sibling’s (64%) serious health condition are eligible reasons for leave under FMLA.

Note

1. Private employers with 50 or more employees are covered; all public agencies and local education agencies are covered.

Exhibit 3. Employee eligibility for FMLA and ineligibility reasons, by characteristic



* = difference statistically significant at 5% level. For household, dual-parent household includes employees who are married or have a partner living in the home.

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Other reports in the **Employee and Worksite Perspectives of the FMLA** study series include *Executive Summary for Results from the 2018 Surveys*; *Results from the 2018 Surveys*; *Supplemental Results from the 2018 Surveys*; *Methodology Report for the 2018 Surveys*; *Methodology Report Appendices for the 2018 Surveys*. All briefs and final reports from this series are available online:

<https://www.dol.gov/agencies/oaspe/evaluation/currentstudies/Family-and-Medical-Leave-Act-Wave-4-Surveys>

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