



# ***APTA Human Resources Committee 2014 Webinar Series***

**Part 1: Family Medical Leave Act (FMLA)-  
*Knowing the Law***

**Part 2: Light Duty Assignments &  
Worker Compensation**

**Wednesday, April 16, 2014  
2:00 – 3:30 p.m. Eastern Time**

**Viewing the webinar:**

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# Session Moderator



**Ms. Kimberly Ulibarri**

**Vice Chair, APTA's Labor Management Relations Subcommittee  
Manager, Labor Relations and Performance Improvement  
Utah Transit Authority  
Salt Lake City, UT**



## 2014 Webinar Series

- **TCRP Report 162: Building a Sustainable Workforce in the Public Transportation Industry - A Systems Approach – Completed**
- **Developing Mentorship Programs: Successful models and pilots – March 19 - Completed**
- **FMLA- Understanding the Law; Light Duty Assignments & Worker Compensation – April 16**
- **Implementing New National Training Frameworks for Frontline Technicians– May 21**



## 2014 Webinar Series

- **The 21st-Century Engineer: Elevating the Game in an Innovation Economy – *Date TBA***
- **Safety Practices for Transit Agency Employees – September 17**
- **Developing Front-Line Workers - The industry's Backbone – November 19**
- **Affordable Care Act: Early Lessons Learned – December 17**



# Family Medical Leave Act: *Knowing the Law*

- Refresher in “the law”
- Understand how to effectively use the law
- Protecting everyone’s rights
- Recognizing “other agendas”



## Session Presenter



**Ms. Ruth Bellm  
Human Resources Manager/  
Equal Employment Officer  
Springfield Mass Transit District  
Springfield, IL**

# Industry Discussants



**Ms. Mary Adams**  
**Director,**  
**Administrative**  
**Services**  
**Lane Transit District**  
**Eugene, OR**



**Ms. Terry Schneider**  
**FMLA Attendance**  
**Supervisor**  
**Port Authority of**  
**Allegheny County**  
**Pittsburgh, PA**




## What to Expect ...

- **FMLA Presentation**
- **Comments from Industry Discussants**
- **Discussions and Audience Q&A**
- **Light Duty Assignments Presentation**
- **Comments from Industry Discussants**
- **Discussions and Audience Q&A**
- **Wrap up**





## Asking audience questions

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**Human Resources Manager**  
**Equal Employment Officer**  
**Springfield Mass Transit District**  
**Springfield, IL**



# Optimizing Concurrent Leave

**Ruth Bellm, HR Manager  
Springfield Mass Transit District**



# Family Medical Leave

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

Twelve workweeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or

Twenty-six workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).



# When FMLA turns into Alphabet Soup

- FMLA & ADA (Americans with Disabilities Act)
- FMLA & STD (Short Term Disability)
- FMLA & WC (Worker's Compensation)
- FMLA & DOMA (Defense of Marriage Act)
- FMLA & GINA (Genetic Info Nondiscrimination Act)
- FMLA & the Number's Game



# When FMLA Overlaps with ADA

- **Assess if the leave for FMLA also qualifies as a disability under ADA**
- **If employee is unable to work after 12 weeks, the condition may qualify as a disability**
- **Consider all reasonable accommodation options before terminating employees**



# Run FMLA Concurrently with Short Term Disability

- **DUH...** Generally, when someone needs Short Term Disability, they think: FMLA
- **Not necessarily**– When a STD is specifically covered in a bargaining agreement, or if it's covered through the pension system or through accrued sick/leave time, employees might feel they do not need FMLA since they already have a way to be off work; **REQUIRE** them to burn the FMLA time
- **Provide Designation in Writing** – You have five days for this



## Run FMLA Concurrently with WC

- **Is it Fair?** - Internal discussion, how serious is the problem?
- **Is it Legal?** – Yes, as long as the WC injury qualifies as a serious medical condition; note: use of accrued paid time can only be applied to waiting period
- **Why?** – Limits the amount of time employees are away from the job; as incentive for light duty
- **Why not?** – Must be uniformly administered; limits options for all employees, not just habitual attendance problems





# State & Federal FMLA/DOMA Issues

- FMLA allows for job-protected leave to care for a spouse
- Some states allow same-sex marriage, and are now covered under FMLA
- Care must be used to properly apply state laws, and how they specifically apply to FMLA
- If you apply FMLA to a non-qualifying situation (and a spouse is only one example) you could also be compelled to additionally offer qualifying FMLA

**Note: This applies to any “FMLA-type” leave applied to family members not covered under FMLA**



# GINA Disclaimer with Medical Certifications

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual employee or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you do not provide any genetic information when responding to this request for medical information.

“Genetic Information” as defined by GINA includes an individual’s family medical history, the result of an individual’s or a family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproduction services.



## FMLA Numbers

- **12 / 26?- Basic Leave or Care of a Covered Service Member**
- **15 – Days for employees to provide Medical Certifications**
- **5 – Designate leave as FMLA within 5 days (in writing)**
- **30 – Require employees on intermittent FMLA to provide Medical Certifications each month they actually use FMLA leave**



## Remember:

- Whether your organization decides to run FMLA concurrently with Worker's Compensation or not, it must be consistent.
- It's a good idea to always double-check any ADA issues before acting on reasonable accommodations or terminations.
- Always document FMLA designations and any reasonable accommodations in writing, and always in a timely manner.
- Always carefully examine each leave.
- Have clear policies, so employees understand before they actually need any leave.



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# Industry Discussants



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**FMLA Attendance**  
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**Port Authority of**  
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**Pittsburgh, PA**

# FMLA : Industry Conversation



**Kim Ulibarri**



**Ruth Bellm**




**Mary Adams**



**Terry Schneider**



## Asking audience questions

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# FMLA : Questions from the Audience



**Kim Ulibarri**



**Ruth Bellm**



**Mary Adams**



**Terry Schneider**



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## Session Presenter



**Steve Hamelin**  
**Chair,**  
**Labor Relations Sub-Committee,**  
**Springfield, IL**



# **Light Duty:**

*Making it work for you*

**Steve Hamelin,  
Chair,  
APTA's Labor Relations Sub-Committee**



# What is Light Duty?

- **Light Duty is a temporary work assignment that is sometimes outside the scope of the employees regular job description.**
- **Often times, these job assignments limit physical exertion and have characteristics of an office or clerical setting.**
- **Examples include answering telephones, filing paperwork, inputting data, and assisting Customer Service or Dispatching Operations.**



## When to use Light Duty?

- **Waiting for random or post accident drug test results.**
- **When an employee has medical restrictions due to an on the job incident.**
- **When workman's compensation claims prevent an employee from performing their regular duties.**



## When not to use Light Duty?

- **When employees are sick.**
- **When an employee has medical restrictions due to an accident or incident not job related.**
- **When workman's compensation claims have yet to be determined, approved, or authorized.**



# Why use Light Duty?

- **Motivate employees to return to work.**
- **Reduce lost time.**
- **Help the organization increase efficiency .**
- **Limit the amount of time employees are away from work.**





# Obstacles of Light Duty?

- **Employees prefer light duty to their regular assignment.**
- **Labor Agreement & Contract limitations.**
- **Increases wages and sometimes overtime costs.**
- **Limited number of positions available.**



# In Summary

**Define your light duty program.**

**Know when to use light duty.**

**Know when not to use light duty.**

**Understand the purpose of light duty.**

**Be prepared for the obstacles.**



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# Light Duty Assignments & Worker Compensation



**Kim Ulibarri**



**Steve Hamelin**



**Mary Adams**



**Terry Schneider**

# Final Questions – Today's Webinar Session



**Kim Ulibarri**



**Ruth Bellm**



**Steve Hamelin**



**Mary Adams**



**Terry Schneider**



## ***APTA Human Resources Committee Webinar Series***

**Next scheduled webinar session:**

### **Implementing Transit's New National Frameworks for Training Frontline Technicians**

**Wednesday, May 21, 2014  
2:00 – 3:30 p.m. Eastern Time**

**Registration flyer out this week.**





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