



For your information

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Supreme Court Rules States Cannot Be Sued for Damages for Denying FMLA Self-Care Leave

On March 20, 2012, the Supreme Court held that states are immune from lawsuits by their employees seeking money damages for the denial of sick leave under the federal Family and Medical Leave Act.

Background

The federal Family and Medical Leave Act (FMLA) entitles eligible employees to take up to 12 weeks of job-protected leave in a 12-month period for their own serious health conditions (self-care), or for the birth or adoption of a child or the care of a family member with a serious health condition (family-care). The FMLA provides a private right of action for equitable relief or money damages against employers (including public agencies) that violate its provisions.

Under the Eleventh Amendment, states generally cannot be sued for damages unless they waive their sovereign immunity. However, Congress has the power under the Fourteenth Amendment to void the states' immunity to prevent violations of the Constitution's equal protection guarantee.

In [*Nevada Dept. of Human Resources v. Hibbs*](#), the Supreme Court considered whether states can be sued for damages for violating FMLA's family-care provisions. Finding that states had family leave policies that discriminated or were administered in ways that discriminated on the basis of gender, the Court held that state employees could sue and recover money damages in federal court for Nevada's failure to comply with FMLA's family-care provisions. The Supreme Court has now weighed in on whether states also can be sued for violating FMLA's self-care provisions.

Coleman v. Court of Appeals of Maryland

Daniel Coleman was employed by the Court of Appeals of the State of Maryland from 2001 to 2007. In August 2007, Coleman requested and was denied leave for his own medical condition. Coleman subsequently brought suit in federal court for damages alleging, among other things, the violation of his FMLA rights.

Lower Court Decisions

The United States District Court for the District of Maryland dismissed Coleman's FMLA claims, finding that the Maryland Court of Appeals as an arm of the state enjoyed sovereign immunity from suit. The

United States Court of Appeals for the Fourth Circuit affirmed. The Fourth Circuit acknowledged that states are subject to suit for violations of FMLA's family-care provisions, but concluded that the *Hibbs* rationale does not support Coleman's suit because FMLA's self-care provision was not intended to eliminate gender-based discrimination. Rather, the provision was intended to alleviate employees' economic concerns of losing their jobs because of illness.

INSIGHT

Each of the four other Circuit Courts of Appeals to have addressed the issue post-*Hibbs* also concluded that suits by state employees to recover damages under FMLA's self-care provisions are barred by the states' sovereign immunity.

The Supreme Court's Decision

In [*Coleman v. Court of Appeals of Maryland*](#) (No. 10-1016, March 20, 2012), the Supreme Court considered whether states are immune from lawsuits for damages under FMLA's self-care provisions. In a 5-4 decision, the Court decided states are immunized because Congress did not validly withdraw governmental immunity from claims under FMLA's self-care provision.

According to the Court, the statutory language must make Congress's intention to exercise its power to revoke the states' immunity unmistakably clear, and the law must be narrowly tailored to prevent the unconstitutional conduct or injury. In passing the FMLA, Congress generally intended to eliminate gender discrimination in the granting of leave benefits. Unlike the family leave at issue in *Hibbs*, the *Coleman* Court found no "widespread evidence of sex discrimination or sex stereotyping in the administration of sick leave" for self-care. The Court reasoned that, without such evidence, Congress could not have intended to remedy a pattern of sex discrimination in the workplace when it enacted FMLA's self-care provision. Thus, the Court held, Congress could not validly subject the states to suit for damages for violating the provision.

Conclusion

States continue to have an obligation to comply with the FMLA and remain subject to suit for damages for violating FMLA's family-care provisions, but *Coleman* limits their exposure to money damages under FMLA's self-care provision. Because the decision only applies to claims brought against state employers, private sector employers remain subject to lawsuits for money damages for violating FMLA's self-care provision.

Even though state employees cannot sue for money damages under the self-care provision, they may still seek injunctive relief and the Department of Labor may bring an action against the state seeking monetary relief on behalf of aggrieved individuals. Public employers should factor that into their leave decisions.

Buck Can Help

- Evaluate the impact of this decision on your leave practices, policies, and processes
- Update your policies and employee handbooks as needed
- Train and educate managers and supervisors on the FMLA, other leave laws, and antidiscrimination laws

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.
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