

Managing intermittent FMLA leave.

Employer challenges, risks and solutions.



Intermittent leave under the Family and Medical Leave Act (FMLA) occurs when leave is not taken in a continuous block of time for a qualifying reason. For employers, managing intermittent leave can prove challenging and costly due to the sporadic and disruptive nature of these absences. Having a solid leave administration program in place is important. It can help reduce risks, save money and minimize disruptions in the workplace.

Intermittent leave today

Employers are growing more confident in understanding the FMLA and incorporating it into their business processes. Yet, they still struggle to administer intermittent leave.¹ Consider this:

- 33% of employers have reported an increase in intermittent leave.²
- 45% of employers, almost half, have reported difficulty managing or tracking intermittent leave.²



Unplanned absence can have a huge impact on an employer's business – it costs employers \$225.8 billion in productivity losses each year.³

Employer challenges

Employers say that their biggest challenge in managing leaves of absence is training managers and supervisors on the FMLA. Some of the most difficult activities employers face are:¹

- Having a decentralized approach and nonstandard policies.
- Getting supervisors to grasp the legal implications of mismanagement.
- Lack of training/knowledge of leave laws.
- Leave management staffing issues.
- Lack of technology for tracking and administration.

Intermittent FMLA leave can also be a target of abuse and can have a significant impact on company morale and productivity. Employers should have a clear, FMLA-compliant strategy in place to help combat intermittent leave abuse. Signs of FMLA abuse to look for may include:⁴

- High degree of FMLA leave usage on Fridays, Mondays and around holidays.
- Employees who are unable to use their vacation or personal days take family medical leave for those same days.
- Coworkers informing employers about employee FMLA abuse in the workplace.



GROUP BENEFIT
SOLUTIONS

66%

of HR professionals have reported having issues with chronic abuse of intermittent leave.⁵

80%

of HR professionals said tracking and administering this type of leave was their most difficult challenge.⁵

Employer solutions

Administration of intermittent family medical leave remains a challenge. However, there are ways employers can reduce fraud and abuse, while managing the process more efficiently:

1. Develop a sound leave of absence policy with established call-out procedures. Define the company's processes and policies to ensure consistent absence management, while making sure the policy:

- Complies with the FMLA and Americans with Disabilities Act (ADA).
- Prevents and reduces costly absences.
- Optimizes health, productivity and savings.

It's important to understand intermittent leave regulations to help ensure that the leave policy is compliant with both state and federal laws.²

2. Create solid administrative practices for confirming eligibility, tracking use and enforcing call-out procedures.

Proper tracking helps employers give the right amount of family medical leave for their employees and can also help find patterns or trends that could suggest abuse.

Employers have the right to enforce their regular call-out procedures when an employee is claiming an absence under intermittent leave. Make sure to get sufficient information to find out whether the leave qualifies for FMLA.⁴

3. Make sure that both supervisors and employees understand their roles and responsibilities. Train managers on how to identify and designate leave time properly. Employees should know how to correctly submit a leave request.⁶

4. Use medical certifications and request re-certifications to help find out whether family medical leave should be extended. The FMLA provides employers with the option of requiring medical certifications, which may be the best tool for helping curb abuse.⁴

5. Integrate FMLA management with existing health management programs such as employee assistance and wellness programs, disease management services and health coaching. Employers can look at the most common FMLA claims and offer programs that address these needs.

6. Consider outsourcing FMLA administration.⁶

Advantages can include:

- More accurate and consistent tracking, reporting and correspondence.
- Reduced costs with more efficient and automated administration.
- Increased employee productivity and morale through fair and consistent policy applications.
- Compliance with state and federal FMLA laws.

Effective leave administration is within reach

Intermittent family medical leave can be difficult, complex and costly. And abuse will likely still be a challenge. However, employers can make the process smoother with thorough planning and consistent practices.

Remember – it all starts with an established policy.

And it should include solid tracking and enforcement, well-communicated roles and responsibilities, and an open dialogue. If it seems too daunting, get help.

Outsourcing is always an option to consider. While it's not easy, it is possible to run an efficient and effective leave administration program. And it's worth it. If done correctly, it can help employees when they need it most – while minimizing disruption, misuse and expense.

1. DMEC/Spring Consulting, "2020 Employer Leave Management Survey." March 2020.
2. Dirks, Lincoln and Johnson, Sandy, The Standard Life Insurance Company of New York, "Best Practices for Administering Intermittent Leaves in the Workplace." January 2019.
3. Academy to Innovate HR (AIHR), "Absenteeism in the Workplace: A Full Guide." <https://www.digitalhrtech.com/absenteeism>. 2020.
4. Smith, Allen, J.D. Society for Human Resource Management (SHRM), "How to Stop FMLA Abuse." February 2020.
5. Upcounsel, "FMLA Abuse: Everything You Need to Know." <https://www.upcounsel.com/fmla-abuse>. 2021.
6. Busch, Delaney M., National Law Review, "Getting Back to Basics: Intermittent Leave." <https://www.natlawreview.com/article/getting-back-to-basics-intermittent-fmla-leave>. February 21, 2021.

This information is for educational purposes only. It does not constitute legal advice or a legal opinion on any specific facts or circumstances. You are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. New York Life Group Benefit Solutions assumes no responsibility for any circumstances arising out of the use, misuse, interpretation, or application of any information supplied in this publication.

New York Life Group Benefit Solutions products and services are provided by Life Insurance Company of North America and New York Life Group Insurance Company of NY, subsidiaries of New York Life Insurance Company.

New York Life Insurance Company

51 Madison Avenue
New York, NY 10010

© 2021, New York Life Insurance Company. All rights reserved. NEW YORK LIFE, and the NEW YORK LIFE Box Logo are trademarks of New York Life Insurance Company.

887443 a 0421 SMRU 1900163 Exp. Date 05.13.2023