



Legal Guidance for Employers Dealing with Intermittent FMLA Requests

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The article, “Legal Guidance for Employers Dealing with Intermittent FMLA Requests,” featured in *Akron Legal News*, discussed why in light of an increase in Family and Medical Leave Act (FMLA) lawsuits, attorneys are advising companies to review their policies and tracking procedures especially when dealing with intermittent leave requests.

Sarah Moore said while longer consecutive leave periods are relatively easy for human resources personnel to keep track of, employees with conditions that require sporadic leave can present challenges for companies trying not to run afoul of the rules.

“Intermittent leave can make it easier for FMLA to be abused since the time may be taken at small intervals and be more difficult to track,” said Sarah.

“The best way to avoid problems or misunderstandings between the employee and the employer is for the employer to have a meaningful dialogue at the inception of the request in order to gain a real understanding of how the condition might impact the employee’s ability to work and trigger the need for intermittent leave.”

Sarah said employers must be sure that workers requesting leave for themselves or a family member provide a certification from a health care provider that a serious health condition exists and the need for continuous or intermittent FMLA leave. In certain circumstances, a company can also request a second or third medical opinion along with periodic recertification that the illness is continuing.

“An employee should not be using FMLA to schedule a doctor’s appointment during the workday if that appointment could otherwise be scheduled after the workday,” said Sarah.

“If human resources personnel have a conversation right from the beginning, this general topic of scheduling doctor appointments should be discussed.”

Sarah said in the medical certification, the employer will be made aware of the potential need for unanticipated intermittent leave and the context in which it may present, i.e., flare-ups.

“For example, if the person has a serious health condition with intermittent likelihood of migraines, the employer will be aware that time off may be requested with little notice,” said Sarah.

To read the full article, please visit [Akron Legal News](#).

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