

Family Medical Leave Administration (FMLA) Recertification Tips

While employee abuse of the Federal Medical Leave Act may not be rampant, the wise employer will take steps to protect itself from abuse by staying informed and considering recertification when appropriate.

Recently, CareWorks USA came across a perfect example appropriate for recertification. An employee was absent one to two days per month for migraine headaches and was covered under FMLA. However, the frequency and duration changed and exceeded the healthcare provider's original certification; therefore, CareWorks USA recommended a recertification. Upon receiving the recertification, the paperwork looked doctored and similar to the original certification form, now allowing the employee indefinite leave for as many as four to six times per month for the condition. Given the facts, the CareWorks USA Nurse Case Manager and Leave Coordinator began a thorough investigation to verify authenticity of the certification form. Through this process they found the physician did not complete the recertification form. The employer identified the employee engaged in fraud which was basis under their personnel policy for termination.

The certification form is one of the most important forms to verify and double check the information as it can be your best tool in battling FMLA abuse. The certification form should be complete, with each section fully filled out and should not be vague. The health care provider should provide you with a clear idea regarding the condition or situation of your employee along with the time they will be absent from work and when they are expected to return. That means all the sections contain consistent information regarding the frequency and duration of leave and substantiate the employee's need for leave.

The employer must allow the employee at least 15 calendar days to obtain the medical certification and return it. CareWorks USA's practice is to call at approximately the 8th day as a reminder to the employee to help determine the status of obtaining the required FMLA documentation.

All too often, the employer lets that 15 day time frame slip by and simply designates FMLA leave without getting the proper medical documentation. Many employers don't realize they are missing the opportunity to curb abuse this early in the FMLA claim process. If an employee does not submit completed certification documentation on or before the 15th calendar day, their FMLA requested time can be denied. The employee then is subject to any workplace and attendance policies for time not certified under FMLA. By ignoring the 15 day deadline or simply designating time as FMLA without proper scrutiny of certification forms, you may be costing your company money.

In cases where an employer has questions about the form and needs additional information from the employee's health care provider, the DOL states that "an employer may require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition."

At CareWorks USA, our FMLA clients can be sure we provide a service which enables them to adhere and comply with FMLA regulations and state specific regulations. Our best practices are built on consistent claim handling and making sure there is an abundance of communication with the human resources staff, supervisors, and employees as the lack of awareness is one of the single greatest issues with FMLA.

Our first step in talking with a client about FMLA is making sure their policy clearly provides language on FMLA. As with most government programs and regulations, the FMLA program was created with good intentions and was meant to be simple to administer. However, as most employers have discovered, this is not the case.

Through a series of articles, CareWorks USA wishes to continue sharing best practices and tips on managing FMLA. Here are some brief tips to manage your FMLA program.

Tips on certifying an FMLA leave request

- 1.** Require certification for each request for leave regardless if it is the employee's own serious health condition, serious health condition of a covered family member, adoption, birth of a child or military leave. The certification is the first step in the process in which employers have in combating abuse and identifying any fraud.
- 2.** The federal regulation requires an employer to allow a minimum of 15-calendar days for the employee to submit certification paperwork. If an employee fails to submit certification within the 15 day period, you can deny the leave request.
- 3.** If you are questioning the leave..... Investigate! Investigate! Investigate the certification. If necessary have your human resources professional or your FMLA administrator contact the employee's physician directly to verify authenticity or to perform medical clarification.
- 4.** If you still have doubts, you can schedule a second opinion at your expense. You are not permitted to utilize a provider who works for your organization. It is best to use an independent doctor that you select.

For more information about this article or information regarding CareWorks USA's Family Medical Leave administrative services, please contact Ron Lucki, Director of Business Development, at 614-760-3510.



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