

# Employee who misses work for medical reasons may be eligible for unemployment benefits

If you discharge an employee after she exhausts time off available through the FMLA, sick leave and other benefits, she may still be eligible for unemployment compensation. That's true even if her absenteeism violated a company attendance policy.

*Here's why:* In Ohio, former employees are eligible for unemployment compensation if they are able to work and were terminated through no fault of their own. While you may think that terminating someone for violating an attendance policy amounts to just cause and makes her ineligible, that's not always the case.

**Recent case:** Karen Lemley was fired for excessive absences. She incurred the absences because she had been in an accident and had used up all her FMLA and other leave time.

Lemley applied for unemployment compensation, arguing she hadn't been fired for just cause. She said she had to miss work due to illness and had no control over her absences.

The court agreed with her. It said that unemployment compensation is for those who lose their jobs through no fault of their own and getting sick or being injured wasn't Lemley's fault. As long as she could work when she applied for benefits, she was eligible. (*Lorain County Auditor v. Ohio Unemployment Review Commission*, No. 09-CA-9616, Court of Appeals of Ohio, 2010)