

If doctor's note is unclear, insist on a properly completed FMLA certification form

Some employees and their treating doctors seem to believe that as long as a medical professional says an employee can't work, that's enough to justify FMLA leave. That's not true.

If the doctor's note is vague and doesn't spell out the start and expected duration of the employee's serious health condition, you're entitled to send the standard FMLA certification form provided by the Department of Labor (DOL) and expect an answer.

If it isn't forthcoming, you can deny FMLA leave.

Recent case: Following an alleged sexual assault, Kim stopped coming to work. Her doctor sent a note saying she had post-traumatic stress disorder, but it didn't explain when the condition began or how long Kim might be expected to be out.

The employer then sent the doctor a copy of the DOL's FMLA certification form, requesting that he fill it out and provide the details listed on the form. The employer wanted to know when Kim's serious health condition first developed and how long the doctor thought she would be out. The doctor never returned the form and Kim was terminated.

She sued, alleging that the initial note was good enough to qualify her for FMLA leave.

The court disagreed. It said that if an employer receives an incomplete certification, it can and should send the official form. If it doesn't come back, it can deny FMLA leave and terminate the employee. (*Miedem v. Facility Concessions*, No. 11-20580, 5th Cir., 2012)