

You can insist: Employees waiting on FMLA certification must follow call-in policy

Employees who have a pending request for FMLA leave and are just waiting for their doctor to provide the required medical certification must still follow call-in rules. Have a clear policy in place so employees understand what is expected before, during and after their FMLA leave request.

Recent case: Joanne worked for a medical group that had a clear call-in process to report unscheduled absences. The employee handbook said employees must call and speak with their direct supervisor every day they are absent.

When Joanne's husband, who has epilepsy, had a seizure, she called in to report she was taking care of him. She also called on the second day. But then she stopped calling and never returned to work. After a few days of no-call, no show, she was terminated.

She sued, claiming she had a 15-day grace period to get her certification in and therefore shouldn't have been fired.

She admitted to the court that she had remained off work even though her husband had recovered, but still insisted she shouldn't have been fired.

The court disagreed. First, it concluded there is no automatic grace period for not following call-in rules. She was fired for a legitimate reason—not because she had taken FMLA leave. (*Campbell v. Jefferson Hospital Physicians*, No. 13-3006, ED PA, 2014)

Final note: The FMLA doesn't give employees a free pass to break their employers' rules.