

Spell out FMLA rules before worker is eligible

Employees have to wait a year before becoming eligible for FMLA leave. But you should let them know about the law and what benefits it provides *before* they hit their one-year anniversary. This is especially true if you have been denying time off for a serious health condition during the first year. An employee, believing she can't have time off, may quit rather than request FMLA leave and then sue you for interference with her right to that leave. That's what happened in the following case.

Recent case: Alis was born with a heart condition that requires periodic follow-up to a cardiology clinic. She began working for California Home Medical Equipment on April 27, 2010. Alis was disciplined for absences before April 2011. When her doctors recommended, in May 2011, that she take several weeks off for her heart, she emailed the company and resigned, stating that she couldn't work. Her resignation was accepted.

She then sued after apparently learning that the time should have been covered by the FMLA. The court said she may have an interference with her right to FMLA leave claim. She will have to prove that no one told her she would become eligible for FMLA leave after one year on the job or that her position would be kept open. She argued that she would never have quit had she known she could take FMLA leave. The court said her lawsuit could proceed. (*Derus v. California Home Medical Equipment, No. 13-CV-01411, ND CA, 2014*)

Final note: Include the [Department of Labor FMLA poster](#) in your employee handbook and post it on the employee bulletin board. Educate employees during orientation about their FMLA rights.