

Employee may be using FMLA leave for years to come--how often can we request an updated certification?

Q: “If an employee has requested lifelong, intermittent FMLA leave (worked one year, and worked over 1,250 hours in preceding 12 months), can an employer make a request for updated medical certification once per year? The employee continues to work at least 1,250 hours in a rolling calendar period.” - Anne, Minnesota

A: Yes. First, there is no entitlement to lifelong FMLA; eligibility is earned (or not earned) each year. Although in general an employer can ask for a recertification of the need for leave no more often than every 30 days, if the certification paperwork states on its face that the health condition will last longer, the employer cannot ask for certification more often than the condition is expected to last as stated on the certification form. Nevertheless, the U.S. Department of Labor has stated that if an employee’s need for FMLA leave lasts beyond a single FMLA leave year, the employer may require the employee to provide a new medical certification in each new FMLA leave year.

Moreover, you can, if you wish, ask for a recertification of the need for leave every six months. You can also request a recertification if the medical condition of the employee has changed significantly, or where you have reason to doubt the continuing validity of the existing medical certification. More information can be found in the [Department of Labor Fact Sheet 28G](#).