

Ensure employees know about intermittent leave

Not every employee who needs FMLA leave has to take a continuous block of time off. They may need short amounts of leave to go to medical appointments, check in for brief hospital treatments or deal with flare-ups of their medical conditions. That's what FMLA intermittent leave is for.

Clearly explain the intermittent option when an employee asks about FMLA leave. That way, the employee can't come back later and say she took 12 continuous weeks off but really wanted to spread out the leave by taking intermittent time off.

Recent case: When Haymattie's daughter became seriously ill, she asked for time off. HR told her she was eligible for 12 weeks of leave and approved that. A doctor reminded Haymattie that she was eligible for intermittent leave, but Haymattie responded that her 12 weeks off had already been approved. The doctor didn't check the certification form box for intermittent leave.

Haymattie was fired months later, allegedly for poor performance. She sued, claiming that she had been denied the right to intermittent leave, which she now said she had wanted all along.

Her case was dismissed. The judge said she missed her opportunity for intermittent leave when she didn't have the doctor certify her need on the certification form. (*Esar v. JP Morgan Chase*, ED NY, 2018)