

Deny FMLA if clarification request goes unanswered

You can require employees seeking FMLA leave to have their health care provider submit a certification form estimating how long the medical condition will last. If that or any other part of the certification is left blank, the employer can request clarification as long as the employee has at least seven days to respond.

Recent case: Douglas applied for intermittent FMLA leave. His doctor said his condition was ongoing and its duration “not determined.” His employer gave him seven days to provide an updated certification, including an estimated duration. He turned in the same form and was terminated for taking unauthorized leave.

Douglas sued, alleging FMLA interference. The court tossed out his case, reasoning that it was Douglas who didn’t follow the rules when he didn’t update the form. (*Horsting v. St. John’s, et al.*, SD NY, 2018)