

Doctor's note should trigger FMLA certification request

The FMLA gives employers the right to ask for proper medical documentation showing that an employee actually needs and is entitled to medical leave. The law also makes it clear that employers don't have to accept vague notes or leave requests.

But that doesn't mean you can ignore a doctor's note that is unclear or ambiguous about the employee's condition.

Once you know the employee *may* need FMLA leave, you must either approve that leave or ask for medical certification. That's why it's a good idea to follow up any doctor's note with a formal request for an FMLA certification showing that the employee has a serious health condition and needs medical leave.

The case: Julie Krenzke worked as the financial services manager for a luxury car dealership. She was frequently late or absent for reasons that the company said Krenzke would only attribute to vague health problems unsupported by medical documentation.

When Krenzke began having heart palpitations, nausea, shaking and dizziness, she called in sick and went to her family doctor. He outfitted her with a heart monitor and prescribed medication. He also faxed the dealership a note stating that Krenzke could not work for two days "due to illness."

When Krenzke returned to work, she met with the general manager and informed him that her doctor was recommending she take several weeks off work. The manager told her that wasn't possible. Krenzke then told him she might be forced to quit in order to take care of her medical needs. Her doctor then faxed a second note, explaining that he recommended "2 weeks no work due to medical complications and no work."

Krenzke then quit and sued, alleging she had been denied FMLA leave. She said no one ever asked for an FMLA certification or gave her a chance to prove she was sick. The dealership insisted it didn't have to ask for the certification because nothing in the doctor's note was clear enough to put it on notice she might need FMLA leave.

The 4th Circuit Court of Appeals sided with Krenzke. It said the doctor's notes were enough to trigger the employer's obligation to figure out whether Krenzke had a serious health condition. (*Krenzke v. Alexandria Motor Cars*, No. 07-1561, 4th Cir., 2008)

Getting medical certification

It's your responsibility to start the ball rolling on medical certifications. Here's how:

- Make sure employees know where and how to report illness or injury. You may want to designate someone in HR as the contact person. That way, you won't miss a report that should trigger a certification request.

- Tell the employee to have his or her health care provider complete and return a standard FMLA certification form. Use the DOL form at www.dol.gov/esa/whd/fmla/ to request certification.
- If you disagree with the certification, you can ask for a second exam, at company expense. If the two conflict, you can get a third, tie-breaking certification.