

FMLA Updates & Process Improvements Guiding Managers with Intermittent Leaves

it in the

HR Consultant Training
Provided by TCW & OED
July 2015

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Our Top 10



As you settle in, please create a top 10 list at your table of the most common manager questions and needs for intermittent FMLA support

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Our Plan



Two phases for FMLA training are planned to support WSU focus on Intermittent Leave Compliance:

- 1. HR Consultants (July 2015)
- 2. Managers/Supervisors (Sept 2015)

As we explore the tools available today, please use the provided notecard to share *advice* for what should be included in the Manager/Supervisor training

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Should we highlight how intermittent FMLA has become a strong priority for the University... general steps being down to address it & how much of a role HRCs will play in success? Include stat's on FMLA & any targets?

Objectives



- Highlight what's new with FMLA
- Clarify roles/responsibilities
- Review the leave process
- Introduce new reports as tools to help managers track Intermittent leaves and diagnose discussion opportunities
- Share coaching tips, tools and phrases for your use when guiding managers

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Family Medical Leave Act



 Designed to help eligible WSU Employees, our customers, balance their work and family responsibilities by providing unpaid jobprotected leave for certain family members and medical reasons.

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Tell participants to refer to HO **Your FMLA Rights and Responsibilities** (Provided by FMLASource)



Definition of Spouse



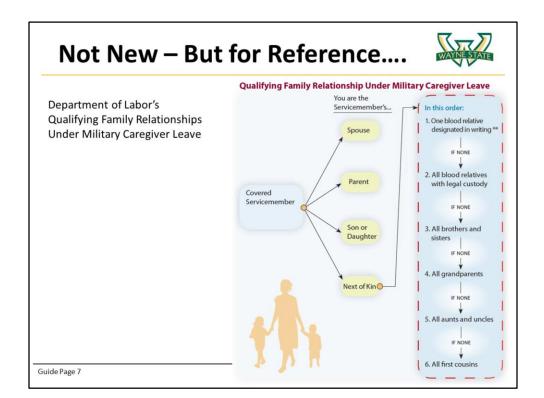
Eligible employees under the "place of celebration" Department of Labor rule can now:

- Care for lawfully married same-sex spouse with a serious health condition
- Take qualifying exigency leave due to lawfully married same-sex spouse's covered military service
- Take military caregiver leave for lawfully married same sex spouse

Effective 3/27/15

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Maternity & Parental Leaves



WSU revised policy provides that an eligible female employee may take:

- Maternity Leave: Typically 8 weeks after delivery date for both natural & caesarean births
- <u>Parental Leave</u>: Typically **4 weeks** of their entire 12-weeks of FMLA entitlement pending employee eligibility and decision to take

Effective 3/25/15

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What's key with this? Parental leave is paid-for time-off??

FMLASource Mobile App



FMLASource NOW

Track time, view leave status, update leave dates, request emailed report all from your GooglePlay or Apple iOS device



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For more information please visit the website at https://play.google.com/store/apps/details?id=com.fmla.mobile.launcher



Roles & Responsibilities



Utilizing the handout provided, summarize

2 key aspects of the assigned role in a

30-second elevator speech

- HRCs
- TCW
- FMLASource
- Manager

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Tell participants to refer to HO's:

APPM 3.4.5 FMLA WSU Policy and Procedure
FMLA Roles & Responsibilities (provided by TCW)
Your FMLA Rights and Responsibilities (Provided by FMLASource)

Roles & Responsibilities



(5-10 min) Small Group Discussion:

When, if Ever,
Do You Feel
Uncertain about
"Who Does
What"
or about
Connection Points
Among Partners?



HRC Works with FMLASource Acct. Mgr. with recertification requests

HRC Ensures any Dr's Notes & Return to Work Notice is Received, Uploaded into AppXtender; Faxed to FMLASource, Communicated to Manager & OEO if necessary

HRC Schedules 2nd & 3rd Opinion BEFORE leave determination made TCW Processes Bank Runouts Based upon Daily Report or upon request

TCW Schedules RTW Exams & Uploads into AppXtender



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1: Employee Submits Request



Utilizing the handout provided, when would we recommend an employee submit a leave request to FMLASource?

WSU's FMLA Leave Process (2015)

While there are a broad range of sensitive and inopportune leaves of absences, it's important to adhere to WSU's policy as much as possible to ensure University compliance. Below is a guide to WSU's FMLA Leave process.

- The Employee will contact FMLASource to submit a leave request. The employee will speak with an
 experienced FMLA Source Human Resource Specialist who will explain the following:
 - · Correspondence that they will receive in the mail regarding their FMLA claim
 - · Medical documentation that is needed from the employee's health care provider
 - · The employee's FMLA responsibilities

Employees may sometimes resort to contacting their Manager/Supervisor to inform them when they will be absent. If the Employee's absence exceeds 3 consecutive days or an inpatient hospital stay, the Manager/Supervisor should redirect employees to FMLASource as appropriate.

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FMLASource contact information provided on page 10 of the guide

An employee has a serious medical condition. He was offered leave but refused to take it. Options? A Higher Degree of HR Guide Page 10

2: FMLASource Correspondence



How long does an employee have to respond with medical certification before FMLASource automatically denies the request?

FMLASource will provide the employee with Notification of Eligibility and Rights & Responsibilities. The
initial request letter is sent to the Employee and their Manager/Supervisor. FMLASource will provide written
notification to an Employee within 5 business days and request that the employee provide medical
certification to support FMLA leave within 15 calendar days after their request.

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Manager Coaching Questions



A manager received notification that an employee has submitted a leave request but is suspicious.

What options, if any, does s/he have **BEFORE** the leave decision is made by FMLASource?

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3: Independent Medical Exam



What does the HRC need to do when scheduling an IME?

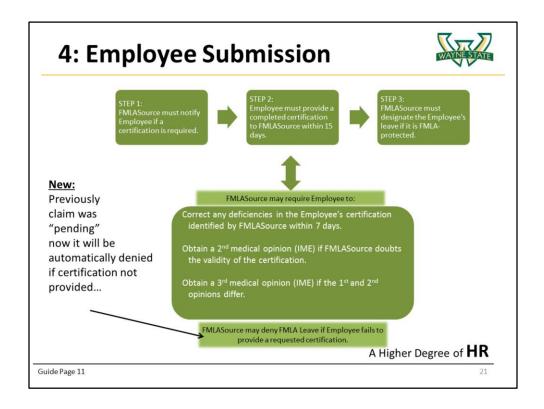
- Contact FMLASource
- Contact MedSource
- Send a letter to the employee and manager (is there standard text for this?)
- FMLASource may then require the employee to have health care provider recertify leave with new documentation

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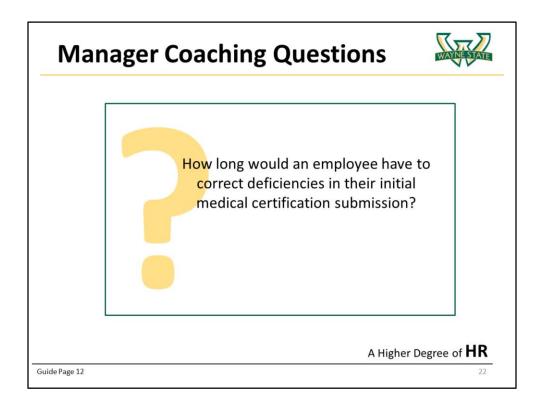
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MedSource contact information is available on page 11 of the guide



Refer to page 11 of the guide (HO also available)



Answer: 7

5: FMLASource Decision Letter



Refer to the sample handouts for what's new: on these documents:

- Intermittent Decision Letter
 - Revisions on Treatments/Appointments
 - · Entitlement Availability/Start Date
- Important Information About Managing Your Leave Time
 - One Week Notification for Early Returns or Extensions

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Refer to HO's

Intermittent Decision Letter
Important Information about Managing your Leave time

Note that changes are highlighted in Yellow

6: Leave Management



The leave type, frequency and duration is determined by the treating physician.

- 1. <u>Continuous or Consecutive:</u> Employees miss every day of work
- 2. Intermittent: Employees absences are sporadic or episodic
- 3. Reduced Schedule: For specific days/hours to be missed

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Paid & Unpaid FMLA Leaves



- · Leaves can be Paid, Unpaid or a combination of paid and unpaid
- Employees taking FMLA leave because of their own serious health condition or to give birth to a child, must use paid leave before going into an unpaid leave in the following order:
 - · Illness banks
 - · Vacation banks
 - · Personal business time (where applicable)
- Employees who take a service member family leave, a leave for the birth, adoption
 or foster care of a child, or a seriously ill spouse, child or parent must use all accrued
 vacation and personal business time respectively before going into an unpaid leave.
- Sick leave used for short-term illnesses or absences (i.e. less than 3 days that are not qualifying FMLA events will not be counted as FMLA leave).

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Manager Coaching Scenario



It just came to your attention that this employee has exhausted his leave balance for illness.

What coaching should be provided now for the manager?

For the employee?

Who do you partner with and how?

* Group A: Employee is Non-Rep Group B: Employee is P&A

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Bank Run Out's



TCW will determine if employee is eligible for other benefits (short term disability, leave of absence or long term disability) and will partner with Labor Relations or Academic Personnel if the employee is represented.

TCW will process bank run out's and notify employee of eligibility.

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Refer to HO Bank-Run Out Worksheet

TCW to provide demonstration

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TCW to provide demonstration



Answer: 7

7: Track Leave Time



When an employee takes approved leave time, what part of an absence can be coded as FMLA?

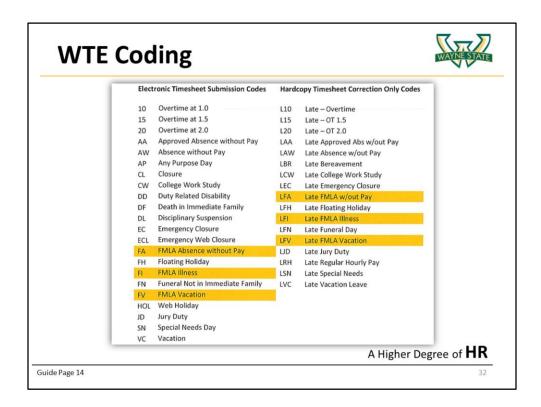
- Only the amount of leave actually taken may be counted
- Time may include appointment and reasonable travel time

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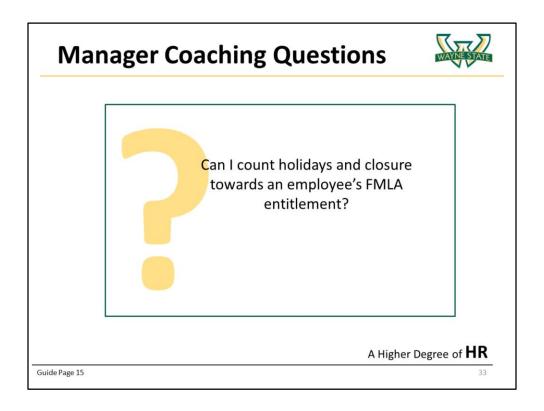
	AAUP	All Other Employees		
Holidays New Year's Day Martin Luther King Day Memorial Day Independence Day Labor Day Thanksgiving Day after Thanksgiving Christmas Day	No Charge for FMLA time	If work any part of holiday week – no charge for FMLA time. If not working entire holiday week – charge FMLA time.		
Christmas Closure	No Charge for FMLA time	No Charge for FMLA time		
Spring Break	Academic Staff – charge FMLA time	Charge FMLA time		
Snow Days	Charge FMLA time	Charge FMLA time		
		A Higher Degree of HR		

Refer to page 14 of the guide *How to Charge FMLA Leave Time* (HO also available)



Refer to *Web Time Entry Codes* HO Example Questions:

 How to code after FMLA runs out & absence continues? Depends on contract or non-rep. In non-rep manual, dept head approves (2.3.4 illness leave of absence without pay)



Answer: 7

8: Return to Work



TCW schedules return to work exams as needed for which employees returning from consecutive leaves?

- FP&M
- AFSCME
- Skilled Trades

TCW will inform HRC & manager when completed exam report is received.

Refer to e-class Notification Table for specific information; TCW automatically schedules the above

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RTW Notification Table Time Requirement E-Class 1 week prior to returning to work 2 weeks prior to returning to work On or before returning to work 7 m, A2, A9, S2, S9, U2, U9, OE, and PS A Higher Degree of HR Guide Page 15

Refer to page 15 (HO also available)

Answer: 7

Manager Coaching Questions Can I post the position while the employee is out on leave if I suspect that s/he will not return to work? A Higher Degree of HR Guide Page 15

9: Reinstatement



What's important for managers to keep in mind when their employee returns to work?

- Reinstate at same/equivalent position
- Identify if s/he can perform essential job functions
- If s/he chooses not to return, TCW will advise on payment for medical insurance premiums

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Manager Coaching Questions

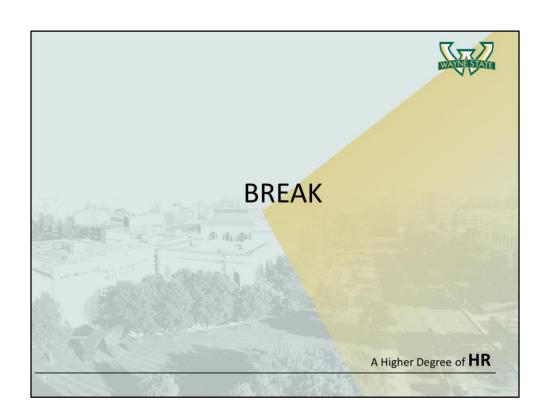


I'd like to request the employee return to work before her FMLA leave time is exhausted.

Can I offer a light-duty assignment for an early return or have employee work from home?

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OUT OF ORDER – REFER TO PAGE 19

Tips & Tools



- · Discussion Do's & Don'ts
- Call-In Procedure & Template
- · Intermittent Leave FMLA Tracking Sheet & Job Aid
- · Recertification Check Points
- · Following up on doubts and significant changes
- Scheduling Considerations for Foreseen Leaves
- · Connecting with Employees on leave
- · When to consider temporary transfers

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Refer to Handout Index in the Guide

Manager Phrases



Using the Discussion Do's & Don'ts

MANAGING INTERMITTENT FMLA LEAVES DISCUSSION DO'S AND DON'TS



Phrases/Questions Before an FMLA Leave is Requested

- "What I'm hearing is that you may need to take some time off..."

 - o "Is that correct?"
 o "You may qualify for job-protected leave under the Family Medical Leave Act. Have you
 - considered reaching out to them to see if you're eligible?"

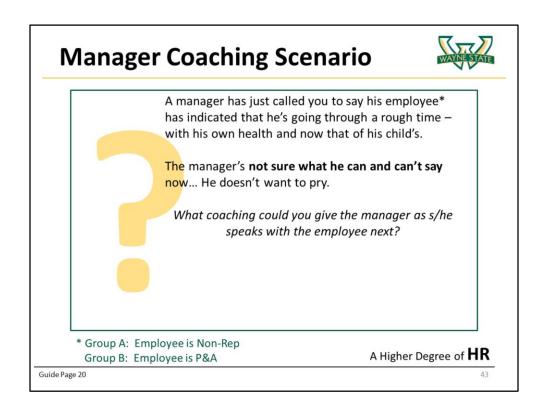
 o "Here's the contact information for our third-party administrator, FMLASource, if you choose to apply: http://hr.wayne.edu/clientservices/employee-services/fmla.php"

Optional: For individuals who are new and clearly not able to meet the minimum eligibility requirements of WSU Policy APPM 3.4.5, Family Medical Leave Act

- "It sounds as though you may have a need to be absent from work. FMLASource is our third-party administrator and the one who determines eligibility based upon FMLA regulations.
 - "I recommend that you contact FMLA Source regarding FMLA eligibility. Should you not be

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Refer to Discussion Dos and Don'ts HO

The manager has just called you to say his employee* has called in sick again and he's not sure how the time should be coded. Is it related to one of the approved FMLA leaves or something else? He doesn't want to violate HIPAA by asking questions. What coaching could you give the manager? How could any manager be sure that time is accurately coded? * Group A: Employee is Non-Rep Group B: Employee is P&A A Higher Degree of HR Guide Page 20

Refer to **Discussion Dos and Don'ts** HO

Call In Procedure & Template



How many of our units have a communicated call-in procedure?

Date/Time Call Was Received	Call Time/ Name of Employee Who Took the Call	Reason for Absence (Consider asking "What 'Leave Bank' Would You Like to Use?")	Expected Return Date	Notes
	Call Was	Call Was Name of Received Employee Who	Call Was Name of Received Employee Who Took the Call Leave Bank Would You	Call Was Name of Absence (Consider asking What Took the Call World You

A manager should *ask* the employee the reason for the absence (appointment/ treatment vs. episode) and for *which approved leave*, if appropriate (if multiple approved leaves)

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Refer to *Call-In Log Template* HO

Call-In Log Template

Manager Coaching Scenario



A manager has just called you to say his employee* has an approved FMLA for 2 episodic incapacitations/month lasting up to 8 hours/episode for epilepsy (he verbally shared this with you) and for 4 treatments/month lasting up to 8 hours/appointments for his child's chemotherapy treatments.

The manager's worried about the business impact of this leave.

What coaching could you give the manager to ensure the foreseen time off is minimized?

* Group A: Employee is Non-Rep Group B: Employee is P&A

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Scheduling Considerations



What phrases have you used to coach managers when seeking an agreed upon schedule for foreseeable leaves?

What should be avoided?

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OUT OF ORDER Instruct Particpants to go back to page17

Intermittent Leave Tracking



New Excel tool to help managers track approved leaves and time taken.

- HRC sends Intermittent Leave FMLA Tracking Sheet to the manager upon notification of an approved leave and offer support with its completion
- Managers/Supervisors will complete the Approved Time-off box in the upper right corner based on the Decision Letter with HRC guidance
- The Manager/Supervisor will complete the blue highlighted cells recording the Employee's (in hours) as episodes or treatments.
- The tracking sheet automatically provides a summary total by month/year and will
 also indicate whether or not the employee is within compliance with their leave
 (Yes or No). If not in compliance, Manager/Supervisors should consult with HRC.

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Page 17	_	14'COLUMNAT			_	_	_	_		_	_	_	_			_	_	-	2	\$2.5	Yes	Yes

Refer to Intermittent Leave FMLA Tracking Sheet Sample and Job Aid

Intermittent Trend Dashboard



Used to identify potential abuse or misuse of FMLA intermittent leave.

Two reports provided for HRCs on a monthly basis from TCW showing only the individuals in each HRCs assigned area are:

- Exceeding Frequency and/or Duration
- Pattern of Usage

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TCW to discuss

Exceeding Frequency



Individuals are coded into the following categories:

- Activity to Watch (Blue)
 - Exceeded leave frequency or duration by 1 time
- Moderately Exceeding Estimate (Orange)
 - Exceeded leave frequency or duration by 2 times
- Significantly Exceeding Estimate (Red)
 - Exceeded leave frequency or duration by 3 times
 - Suggested recertification

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TCW to discuss

Refer to Intermittent Trend Dashboard Exceeding Frequency Duration sample report

Patterns



Leaves that exhibit the following patterns will be included:

- 100% of Absences on Same Week Day
 - 4 or more absences on the same week day within the past 3 months
- 50% of Absences on Same Week Day
 - 6 or more absences within past 3 months and same week day usage comprises at least 50% of total tracked days within the time period

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5.2

TCW to discuss

Refer to *Intermittent Trend Dashboard Patterning* sample report

Small Group Activity



(10 min) Review the provided report:

- **Circle** those individuals that you'd recommend a manager **watch**
- <u>Underline</u> the names of individuals you'd recommend a manager have a discussion with the employee for clarification

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TCW to provide

When to Recertify



- Absence exceeds the approved duration
- Absence exceeds the approved frequency
- Absence occurs on the same day of the week 2 or more times
- Employee is exhibiting unexplained pattern of absences
- When an Employee requests an extension to an existing FMLA leave
- For long-term conditions or conditions that may require sporadic absences, a Manager/Supervisor may request recertification every 30 days in connection with an absence
- · At the beginning of each leave year
- Every six months if the Employee is out on a leave that has been certified to extend for more than six months

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HO also available

When Not to Recertify



- The leave has ended or is ending within 30 days
- The leave began within the last 30 days
- The Employee has exhausted their entitlement

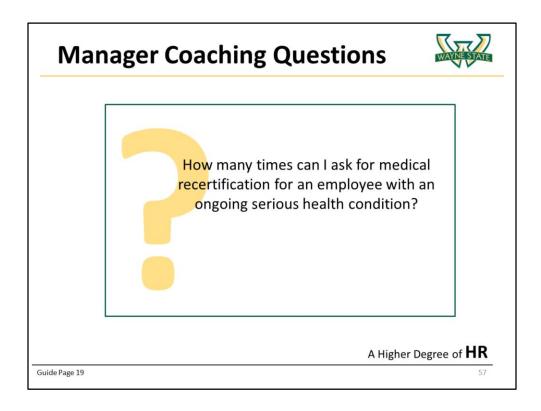
Note: No 2nd or 3rd opinion of recertification is required

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A. The regulations allow recertification no more often than every 30 days in connection with an absence by the employee unless the condition will last for more than 30 days. For conditions that are certified as having a minimum duration of more than 30 days, the employer must wait to request a recertification until the minimum duration expires. In all cases the employer may request recertification every six months in connection with an absence by the employee. The regulations also allow an employer to request recertification in less than 30 days if the employee requests an extension of leave, the circumstances described in the previous certification have changed significantly (i.e. change in duration or severity), or if the employer receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

Additionally, the regulations codify a 2005 Wage and Hour opinion letter that stated that employers may request a new medical certification each leave year for medical conditions that last longer than one year.

Janie takes six weeks of FMLA leave for a cancer operation and treatment and gives her employer a medical certification that states that she will be absent for six weeks. Because her certification covers a six-week absence, her employer cannot ask for a recertification during that time. At the end of the six-week period, Janie asks to take two more weeks of FMLA leave; her employer may properly ask Janie for a recertification for the additional two weeks.

Joe takes eight weeks of FMLA leave for a back operation and intensive therapy, and gives his employer a medical certification that states that he will be absent for eight

weeks. At the end of the eight-week period, Joe tells his employer that he will need to take three days of FMLA leave per month for an indefinite period for additional therapy; his employer may properly request a recertification at that time. Six months later, and in connection with an absence for therapy, the employer may properly ask Joe for another recertification for his need for FMLA leave.

Other FMLA Reports



Report Name	Source	Report Distribution	Description	Received by	Required Action:	Utilization Frequency	
Ineligible Denial Report	FMLASource	Daily	If an employee who has requested FMLA has been denied and the reason for denial	HRCs TCW	See Ineligible Denial / Daily Report Job Aid The HRCs use it as a reference, as needed, to provide updates and guidance to <u>S'VIsors</u> and also used to provide information to employees, upon request.	As needed	
Return to Work	FMLASource	Daily	The report lists the employees whose end of leave date is approaching and/or confirmed	HRCs TCW	The HRCs review to determine if requirements for return to work (i.e., return to work note or physical exam is needed, prior to employee's return). Also used as a general reference to provide updates and guidance to Spvrs.	As needed	
Weekly Leave Status Report	FMLASource	Weekly	Determinations made by FMLASource regarding FMLA eligibility, Number of total protected hours, type of leave request, leave reason, etc.	HRCs TCW	A weekly recap of the activity in terms of claims (pending, approved, denied) within the last 7 days. The HRCs use it as a reference, as needed, to provide updates and guidance to Spvrs and also used to provide information to employees, upon request.	As receive	
Daily Report (Includes Decision Letter and Medical Certification)	FMLASource	Daily	Lists employees that will either exhaust their FMLA entitlement or will not have enough illness/vacation hours to cover their leave.	HRC's TCW	See Ineligible Denial / Daily Report Job Aid HRC uses as a reference and provide guidance to employee and S'Visors as needed.	As needed	

HO available

Also mention FMLASource reports (page 2 of HO)

Other Tips for Managers



- Track all absences related to the qualifying FMLA condition
- Follow-up on doubts and significant changes in leaves
 - Refer to Do's and Don'ts Guide
- Create an agreed upon scheduled planned appointment/treatment
- Connect with Employee while on leave (within reason)
- Consider Temporary transfers when they will benefit the Employee

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Ensuring University Compliance



- Failure to notify an employee of his/her FMLA rights
- · Discrimination and retaliation claims
- · Failure to code time appropriately

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Objectives



- Highlight what's new with FMLA
- Clarify roles/responsibilities
- Review the leave process
- Introduce new reports as tools to help managers track Intermittent leaves and diagnose discussion opportunities
- Share coaching tips, tools and phrases for your use when guiding managers

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Manager Training Input



Please discuss with your table the key things we should be sure to include for you to better coach managers & for managers when they experience training in Sept.

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Check Your Knowledge



Consists of 14 Questions

- Multiple Choice
- True/False

Goal: 80% or higher

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