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From: titaniumcwgrl@aol.com
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Conversation: ESA-2006-0022 COMMENT
Posted To: Comments

Subject: ESA-2006-0022 COMMENT

To Whom It May Concern:

The basic premise of allowing "qualified" individuals to take medically mandated leave to care for self or immediate family has obviously been lost in the translation of the administration of the ACT. The failure lies in interpretation by the federal government, the employee, the employer, the HR professional, the doctor.

Employees now use this Act as a free ride to determine how and when they will work. Employers use this Act to punish employees in some format because of frustration over abuse of the Act, usually subtly to result in constructive discharge.

The HR Professional hates the Act for existing without any recourse to stop abuse, such as 2nd and 3rd opinions of medical practitioner.

The Doctor is scared that he will be held liable for refusing to provide the necessary permission to qualify the employee. The 2nd opinion would weaken liability for the 1st doctor, 2nd doctor could refer to a 3rd opinion. If the employee truly believes in the issue, at this point he will stand firm in his resolve to acquire the FMLA status... the lazy one will usually just waft away... too much trouble.

This Act can become a valuable tool if the guidelines are clarified for employee qualification. The particular "illness" should be listed, with those "illnesses" not listed requiring a hearing before a Board in which an employee must self represent.

Since when did FMLA take the place of PTO???

I have experienced both sides of the issue, as a user of FMLA during the terminal illness of a parent and as an employer who administers it. It is too broad in language - even I saw that when I used it - BUT, I did not abuse it.

Clarify the requirements to qualify.

Require 2 medical concurrences, resolving to 3 if a tie breaker is needed, to qualify.

State a limit to intermittent leave within a time frame, ex: 5 days out of quarter, use PTO for balance if needed.

State stiff monetary penalties for violation of the Act.

Allow employers to mandate in relation to size of firm a percentage of employee hours available for FMLA.

Arkansas doesn't seem to have any problems getting rid of employees who use FMLA, Workman's Comp...

Sincerely,

Kate Cunningham

HR Trainer

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