



Rupp, Anderson, Squires & Waldspurger, P.A. Newsletter
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Stress and the FMLA

by Kevin J. Rupp

Complaints of workplace stress are on the rise. A study by the National Institute of Occupational Safety and Health found that forty percent of workers said their jobs were “very or extremely stressful.” Some employees may be so stressed that they feel they need to take time off in order to cope. In some cases, the employee may seek leave under the Family and Medical Leave Act, or FMLA.

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

Employers need to be adept at handling employees seeking to use “workplace stress” as a reason to take time off. An illness or condition must be a “serious health condition” in order for an employee to take FMLA leave. Whether or not stress is a serious health condition depends on the circumstance. To qualify as a serious health condition:

- 1) The illness, impairment or injury must involve inpatient care or hospitalization overnight.
- 2) Continuing treatment must include a period of incapacity for more than three consecutive days and the employee must receive treatment two or more times within 30 days, or treatment by a health care provider resulting in a regimen of continuing treatment.

Employees who complain of generalized stress, fatigue, or sadness do not meet these standards, and thus do not qualify under the FMLA. However, mental or physical health conditions resulting from stress may constitute a serious health condition. If an employee is incapacitated by panic attacks, anxiety, depression, or a stress-related physical condition, they may qualify for leave under the FMLA.

As an employer, you can take the following steps to make sure that FMLA abuse does not become a problem in the workplace.

- 1) **Enforce company leave policy.** Make sure that leave policies are current, uniformly enforced, and compliant with federal FMLA laws.
- 2) **Train management.** Supervisors do not need to be experts, but they should understand the basics.
- 3) **Put it in writing.** Employees should be required to submit a request form for all absences. You cannot prohibit verbal FMLA leave requests, but you can require that an employee follow up with a written request.
- 4) **Ask questions.** An employer has the right to question employees requesting leave under the FMLA. You may ask questions about requested absences to determine whether FMLA applies.

If you have any questions about the FMLA, workplace stress as it related to the FMLA, what qualifies as a serious condition, or how you can ensure that you comply with FMLA leave policies, contact us at 612-436-4300.

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