

## Today's HR Daily Advisor Tip:

### [Taming Intermittent Leave FMLA \(Ha, Ha, Says Expert\)](#)

Category: [Leave Policy/Compliance](#)

**"Let's talk about how to handle abuse of intermittent leave rules," says attorney Jeffrey A. Wortman. Then he chuckles, underscoring the near impossibility of easily managing intermittent leave under the FMLA.**

Wortman, a partner in the Los Angeles office of Seyfarth Shaw LLP, and Nancy M. Cooper a partner in the Portland, Oregon, office of Garvey Schubert Barer, shared FMLA tips at a recent audio conference sponsored by BLR.

Any time an employee is on leave, it creates disruption, says Wortman, but at least when it's for a known period of time, you can plan around it.

With intermittent leave, you can't. You don't know on any given day whether the employee will be at work or not, and that's hard to manage.

However, there are some rules and requirements that give at least some ability to control the process.

First, says Wortman, there has to be a specific request for intermittent leave—the medical certification form has to specifically request it.

Second, remember that recertification can be utilized with regard to intermittent leave, so you may require recertification every 30 days.



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Another alternative is the transfer option. You can require employees to work in an alternative position of equal pay to allow you to manage the intermittent leave.

#### **Employees Must Work with You**

Ask employees to work with you to schedule leave around your "push" times, says Cooper.

For example, if an employee wants to be gone for a treatment every day at 2 p.m. and it's an hour's drive away, you can ask, "Could you do it earlier or later to minimize the impact?"

What's the biggest FMLA takeaway? Document expectations of employees during leave, and work together to achieve the goals of the leave. Be proactive, stay in it, and be consistent.

Beyond that, you just have to deal, Cooper says.

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