

Tips to Prevent Paid Leave Abuse

State and local governments across the United States have increasingly implemented paid sick leave and paid family and medical leave (PFML) programs to support workers' well-being and economic security. While these laws are designed to be a crucial safety net, employers are often concerned about potential abuse, which can lead to operational disruptions and financial strain.

Striking a balance between providing legally mandated benefits and ensuring they are used as intended is a key challenge for businesses. Here's a look at some practical tips for employers to reduce the abuse of these leave programs while remaining compliant with the law.

Develop a Clear and Comprehensive Written Policy

A well-drafted leave policy is the foundation for preventing abuse. This policy should be a clear, accessible document that outlines all aspects of paid sick leave and PFML. Key elements to include are:

- ▲ **Eligibility and Accrual:** Clearly state who is eligible for leave, how leave hours are accrued, and any caps on accrual or usage.
- ▲ **Permissible Uses:** Detail the specific reasons for which paid leave can be used, such as an employee's or a family member's illness, medical appointments, or care for a newborn or newly adopted child.
- ▲ **Notification and Documentation:** Establish a clear process for employees to request leave. For foreseeable leave (like a scheduled medical appointment), you can require a certain amount of advance notice. For absences exceeding a specified number of days (e.g., three consecutive workdays), you can legally require medical documentation from a healthcare provider. The policy should specify what kind of documentation is needed (e.g., a note confirming the need for leave, not a detailed medical diagnosis).
- ▲ **Enforcement:** Clearly state that failure to follow the policy's procedures or the fraudulent use of leave may result in disciplinary action, up to and including termination.



Making this policy readily available to all employees, for example, in a company handbook or on an internal website, ensures transparency and sets clear expectations.

Implement Consistent and Fair Administration

The key to a successful leave policy is consistent enforcement. All employees must be held to the same standards, regardless of their position or seniority. This helps to prevent claims of discrimination or retaliation.

- ▲ **Training for Managers:** Supervisors and managers are on the front lines of leave requests. They should be trained on the specifics of the company's leave policies and the legal requirements of state and local laws. This ensures they know how to properly handle requests, identify potential patterns of misuse, and avoid making illegal decisions.
- ▲ **Centralized Tracking:** Utilizing a centralized system for tracking leave requests can help identify patterns that may signal abuse, such as frequent absences on Mondays or Fridays, or around holidays. This kind of data-driven approach allows for targeted and fact-based investigations.
- ▲ **Prohibit "No-Fault" Attendance Policies:** Be aware that many state and local paid sick leave laws prohibit employers from counting the lawful use of leave as an absence that can lead to discipline. A "no-fault" attendance policy that penalizes every absence is likely to be illegal and can open the door to a lawsuit.

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Leverage Legal Recourse and Documentation Requirements

State and federal laws, such as the Family and Medical Leave Act (FMLA), provide employers with tools to verify the legitimacy of a leave request.

- ▲ **Medical Certifications:** For leave that falls under FMLA, employers have the right to require medical certification from a healthcare provider. If an initial certification is incomplete or a pattern of leave raises concerns, you can request a second opinion (at the company's expense). In some cases, a third, binding opinion may also be sought.
- ▲ **Recertification:** If an employee's use of intermittent leave or reduced-schedule leave exceeds what was initially certified by their doctor, you can request recertification. This is a powerful tool to address situations where an employee's needs may have changed or where the leave is no longer medically necessary.
- ▲ **Return-to-Work Certifications:** For an employee's own serious health condition, you can require a fitness-for-duty certification before they return to work. This ensures they are medically cleared to perform their job and helps prevent a premature return that could lead to further complications.

Foster a Culture of Communication and Trust

While policies and procedures are essential, a culture of open communication can be one of the most effective deterrents to abuse.

- ▲ **Maintain Contact:** During an employee's leave, it is generally acceptable and advisable to maintain reasonable contact. This can be as simple as a periodic check-in to inquire about their status and expected return-to-work date. This shows you are engaged and can help uncover potential inconsistencies.
- ▲ **Investigate Suspected Abuse Carefully:** If you have concrete evidence of abuse (e.g., social media posts showing an employee engaging in activities inconsistent with their leave), conduct a thorough and documented investigation. However, proceed with caution and consult with legal counsel, as an overzealous investigation can be seen as retaliation.

By implementing these strategies, employers can protect their businesses from the misuse of paid leave while upholding the rights and well-being of their workforce. The goal is not to deny legitimate requests, but to ensure that these important benefits are used as they were intended—to provide a safety net for those who truly need it.

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*Dependents age 1 and older.

**Costs on HDHPs varies by service type. This will change again in 2026.