

# QUICK Q&A

## Answers to not-so-common questions

*Even the most experienced HR pros have questions from time to time. Our monthly Quick Q&A series provides answers to not-so-common questions and links to helpful resources.*

### **Q. What can I do if I suspect an employee is fraudulently taking advantage of FMLA protections?**

**A.** Employers have the right to investigate situations in which there is reasonable suspicion that an employee may be abusing or fraudulently using rights protected under the Family and Medical Leave Act (FMLA). Scenarios that could prompt reasonable suspicion of fraudulent FMLA utilization include

- absences that differ from the medical certification in frequency or duration,
- witnessing an employee, or reports of an employee, in a public venue that seems inconsistent with a physician's medical certification restrictions,
- frequent leave requests immediately preceding or following a weekend,
- FMLA leave requests after denial of vacation on the same or similar days, or
- repeated injuries/re-injuries shortly after returning from leave.

If you suspect any of these scenarios are happening at your organization, it may be necessary to follow up with the employee in question. Below are steps you and your organization should take before escalating the situation.

1. Ensure that suspicion is reasonable and cannot be viewed as retaliatory.
2. Look over an extended time period and compare with other employees regarding absences. If something is a real pattern, it needs to happen over prolonged period to be truly suspicious.
3. Review the medical certification. Are the absences consistent or different from what the healthcare provider has listed? When it comes to medical information, employers can directly contact employees' healthcare providers without the employees' permission to make certain that the health care provider is the person who signed the certification form.
4. If your findings indicate that action is needed, initiate a conversation with the employee. Explain what you have discovered and give the employee the opportunity to explain their actions.

If you suspect FMLA fraud is occurring in your workforce, our [HR consultants](#) can provide the guidance you need to navigate the situation professionally and efficiently.