



FAMILY MEDICAL LEAVE  
For Employees of Indiana State Government

# Recognizing FMLA Abuse

## What are the signs?





---

February 27, 2015



# Red Flags

Here are some “Red Flags” that may indicate an employee is abusing approved FML

-  Absences coincide with weekends or holidays.
-  More absences than the approval states.
-  Activities that conflict with the approval.
-  Vacation request for the same time frame was rejected.



FAMILY MEDICAL LEAVE  
For Employees of Indiana State Government



# Examples of potential abuse

- ▀ Absences coincide with weekends or holidays or for specific work assignments
  - Employee regularly calls in for FML leave on an assigned Saturday.
  - Employee has a flare-up whenever assigned to a particular unit or post or duty.

Abuse or not?



FAMILY MEDICAL LEAVE  
For Employees of Indiana State Government



# Examples of potential abuse

## More absences than the approval states

*NOTE: Frequency and duration of absences are the doctor's estimate. No one can guarantee only a specific number of flare-ups will occur or when they will occur.*

- Approved absence is for episodic flare-ups 2 times per month, lasting 1 day in duration.
  - Employee calls in 4 times, two months in a row, taking 2 days each time.

Abuse or not?



FAMILY MEDICAL LEAVE  
For Employees of Indiana State Government



# Examples of potential abuse

## Activities that conflict with the approval

*Important Note: Being on FMLA leave does not require the employee to be bed- or home-bound and to avoid all activity.*

- Employee is not with the family member for whom she is supposed to be caring.
- Employee posts Facebook pictures from a warm climate while on FML leave in January & February.

Abuse or not?



FAMILY MEDICAL LEAVE  
For Employees of Indiana State Government



# Examples of potential abuse

- Employee's vacation request is denied
  - Employee calls in FML for the same timeframe.

Abuse or not?



FAMILY MEDICAL LEAVE  
For Employees of Indiana State Government



# Scenario Answers

In most cases the answer is – “it depends”.

We can not begin to anticipate every scenario nor provide an answer to fit every case. However, here are some general concepts to keep in mind .....



FAMILY MEDICAL LEAVE  
For Employees of Indiana State Government



# Abuse = Misconduct

- “Abuse” of leave time means there is a reason to believe that the person is using the leave for a purpose not covered by that leave.
  - It is abuse to use FML to take your car to the shop or clean your house for a Super Bowl Party.
  - It is not abuse if the medical condition actually flares up more days this month or for a longer time period than the approval notice estimates as the frequency and duration of absences.



FAMILY MEDICAL LEAVE  
For Employees of Indiana State Government





# If abuse is suspected...

## Management should:

- Investigate allegations related to employee's requests for other leave, statements about activities, or other observations
- Track FML leave to look for “patterns”
- Promptly report suspected abuse to Human Resources.
  - Contact your agency HR, or
  - Call the SPD FMLA line
    - @ 317-234-7955 or
    - Toll free 1-855-773-4647 (1-855-SPD-INHR)



FAMILY MEDICAL LEAVE  
For Employees of Indiana State Government



# If employee consistently takes more time off than estimated....

- Speak with employee to see if
  - circumstances have changed and recertification is necessary, or
  - employee is actually misusing FML due to a misunderstanding of what qualifies for leave.
    - If recertification seems appropriate, contact the FMLA Line, and we'll take that action.
    - If explaining his/her misunderstanding doesn't change employee's behavior, then contact the FMLA Line to discuss the facts and what action might be appropriate.



# Have a Question?

Call the SPD FMLA Line

- **317-234-7955**

or toll free

- **1-855-SPD-INHR (1-855-773-4647)**



FAMILY MEDICAL LEAVE  
For Employees of Indiana State Government

