



COMPLIANCE OVERVIEW

Calculating FMLA Leave During Holiday Weeks



Holiday weeks can pose an extra administrative challenge to employers with employees on leave under the federal Family and Medical Leave Act (FMLA). In addition to their regular FMLA obligations, employers must figure out how to calculate employees' leave use when the leave coincides with a holiday.

FMLA [regulations](#) and an [opinion letter](#) from the U.S. Department of Labor's (DOL's) Wage and Hour Division help clarify how employers should address holidays when determining FMLA leave amounts. The guidance distinguishes between full and partial weeks taken during a week with a holiday and explains the proper way to arrive at the portion of a workweek used.

Leave Calculation Under the FMLA

The FMLA entitles eligible employees of covered employers to take up to 12 workweeks annually of unpaid, job-protected leave for qualifying family and medical reasons. Employees may take up to 26 workweeks of FMLA leave during a single 12-month period to care for a covered service member.

The FMLA permits employees to take the leave intermittently (in separate blocks of time) or on a reduced schedule (reducing the time worked in the day or week) in certain circumstances. The FMLA regulations specify that only the amount of intermittent leave actually taken may be counted against the employee's leave entitlement. Employers may convert an employee's FMLA workweeks to an hourly equivalent for ease of tracking, but the actual workweek is the basis of the leave entitlement. In other words, the employee's FMLA entitlement must be based on the employee's total normally scheduled hours.

The regulations provide the following examples:

- If an employee is regularly scheduled to work 50 hours per week, they are entitled to 600 hours of FMLA leave in a 12-month period. If an employee who would otherwise work 40 hours a week takes off eight hours, the employee would use one-fifth of a week of FMLA leave; and
- If a full-time employee who would otherwise work eight-hour days works four-hour days under a reduced leave schedule, the employee would use half of a week of FMLA leave.

FMLA Taken for Full Weeks With a Holiday

The calculation for leave in this situation is straightforward. The FMLA [regulations](#) state that if a holiday falls during a week when an employee is taking a full workweek of FMLA leave, the entire week is counted as FMLA leave. The regulations provide the example of an employee who works Monday through Friday and takes leave for a week that includes the Fourth of July on Thursday. Under the rule, the employee uses one week of leave and not four-fifths of a week.

FMLA Taken for Partial Weeks With a Holiday

Calculating FMLA leave is more complicated when a holiday falls during a week when an employee is taking less than a full workweek of FMLA leave. In this case, according to the regulations, the holiday is not counted as FMLA leave unless the employee was scheduled and expected to work on the holiday and used FMLA leave for that day.

Determining the Fraction of the Workweek Used: DOL Guidance

The DOL provided additional guidance on calculating FMLA during holiday weeks in Opinion Letter FMLA 2023-2-A. The letter addresses whether an employee taking intermittent or reduced-schedule FMLA leave during a week that includes a holiday uses leave equal to a fraction of their usual workweek or a fraction of a reduced workweek (the employee's usual workweek less one day).

The Wage and Hour Division advised that if the employee is not scheduled to report for work during the holiday, the holiday does not count as FMLA leave, and employees use a fraction of their usual, full workweek. The letter said that subtracting the holiday from the workweek would impermissibly reduce the employee's leave entitlement because it would force the employee to use a larger amount of FMLA leave than needed.

Therefore, employers calculating FMLA leave for employees not expected or scheduled to work on the holiday should divide the amount of FMLA leave taken (which does not include the holiday) by the total workweek (which does include the holiday) to determine the fraction of the workweek used.

LINKS AND RESOURCES

- DOL Wage and Hour Division [Opinion Letter FMLA 2023-2-A](#)
 - [DOL Fact Sheet #28: Counting Leave Use under the Family and Medical Leave Act](#)
 - FMLA [regulations](#) for calculating holidays
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Provided to you by Team Nash

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