

Department of Labor Issues Guidance on FMLA Leave during a Week with A Holiday

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Just in time for the summer holidays, the United States Department of Labor (“DOL”) recently issued an [opinion letter](#) providing guidance regarding calculating the amount of leave used when an employee takes federal Family and Medical Leave Act (“FMLA”) leave during a week with a holiday.

The DOL explained that, if an employee takes a full week of FMLA leave during a week with a holiday, the holiday has no effect on FMLA leave and the employee will use a full week of FMLA leave. For example, if an employee takes FMLA leave from July 3, 2023 – July 7, 2023, which includes the Fourth of July holiday, the full week will count as FMLA leave and reduce the amount of FMLA leave the employee has available accordingly.

If, on the other hand, an employee takes intermittent FMLA leave during a week with a holiday and the employee was not expected or scheduled to work on the holiday, the holiday does not count toward the employee’s FMLA leave. For example, if an employee takes FMLA leave on Monday, July 3, 2023, and Wednesday, July 5, 2023; Tuesday, July 4, 2023, is a company holiday; and the employee works the rest of the week, the employee will use 2 days of FMLA leave. However, if the employee would have been expected or scheduled to work on Tuesday, July 4, 2023 if the employee did not take FMLA leave, and the employee uses FMLA leave to not work on July 4, the Fourth of July holiday counts as FMLA leave and reduces the amount of FMLA leave the employee has available.

The DOL noted that deducting a holiday from an employee’s available FMLA leave when an employee takes intermittent leave in a block of less than a week constitutes unlawful interference with an employee’s FMLA rights.

Employers should ensure that they properly calculate an employee’s FMLA leave during a week with a holiday.

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