



September 13, 1994

FMLA-44

Dear *Name*\*,

This is in response to your letter requesting a written opinion with respect to the taking of intermittent leave under the Family and Medical Leave Act of 1993 (FMLA). You ask whether a covered employer may encourage an eligible employee to take leave in a block of time rather than intermittently by paying the employee his or her regular wages for such leave.

The difficulty with your proposal is that the difference between the amount of time needed for the intermittent leave and the leave taken in a block cannot be considered FMLA leave. There is nothing to suggest that this time is in any way connected to the employee's need for FMLA leave. Consequently, you could encourage an employee to take leave in a block but you could not count the difference against the employee's 12-week FMLA entitlement.

The FMLA provides for the temporary transfer of an employee needing intermittent leave to an alternative position with equivalent pay and benefits that better accommodates recurring periods of leave. It should also be noted that an employer is required to grant intermittent leave only for those situations involving the serious health condition of the employee or the employee's son, daughter, spouse, or parent.

We have attempted to answer your question directly without considering any other factors that, in a particular situation, would lead to a different conclusion. We will be glad to answer any further question you may have regarding FMLA.

Sincerely,

Daniel F. Sweeney  
Deputy Assistant Administrator

\* *Note: The actual name(s) was removed to preserve privacy in accordance with 5 U.S.C. 552 (b)(7).*