

Survey Says: 73% Of Employees Taking FMLA Are Non-Exempt, And Other Tidbits

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The [latest survey](#) from our friends at Employers Resource Association of its members focuses on employers' practices and employees' usage. Here are some of the findings:

- Employers have several options for how they count the applicable 12 month period. Not surprisingly, the great majority (63 percent) of employers use the rolling 12-month period.
- 9 percent of respondents' employees have used Family and Medical Leave Act (FMLA) leave during the last year. This includes substantial numbers of employees taking intermittent leave and substantial numbers taking longer term leave.
- Respondents reported that 73 percent of FMLA users were non-exempt employees.

One unofficial statistic not included in the survey – 95 percent of employment lawyers' time spent counseling clients seems to be on intermittent leave situations. This is due to a number of factors. Intermittent leave presents much more of a challenge to employers in scheduling, so managers push back more than they do on predictable, continuous leaves. Also, intermittent leave is associated with invisible and less predictable conditions such as fibromyalgia, migraines, and mental health issues. These can also tend to raise more questions among employers. In any event, these intermittent leaves dominate the challenges FMLA presents for employers.

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