



Absence Management – Is Now the Time to Outsource?

When it comes to absence management and dealing with employee illness, injury, or protected leave, choosing not to outsource can seem like the affordable option. However, absence management is often described as a “minefield” for employers and can be one of the most difficult and time-consuming responsibilities a company has.

Companies without a sophisticated absence management program can suffer significant productivity losses and may even end up on the wrong side of a lawsuit if they lack the capacity to determine if an employee’s absence qualifies for Federal Medical Leave (FMLA). To make things more difficult, a growing number of states and municipalities are enacting their own requirements when it comes to protected leave, adding to the already complicated tracking and management of the FMLA. To steer clear of noncompliance and discrimination, employers need to understand the constantly changing landscape of local, state, and federal leave laws.

Outsourcing FMLA is growing in popularity as regulations become more complicated and employees more knowledgeable. According to a 2018 survey by the Disability Management Employer Coalition, outsourcing federal FMLA

increased 7% each year following 2014. That finding echoes what other reports have found. In fact, Littler Mendelson’s annual employer survey the previous year reported that employers find managing intermittent FMLA more difficult than managing any other federally mandated accommodation. The fact is, administering absence management programs and ensuring compliance with the FMLA, state, and local leave laws demands a substantial amount of time that modern human resources departments just don’t have.

Many states are introducing their own State Family Medical Leave Laws. In some cases, they expand either the amount of leave available or the classes of persons for whom leave may be taken. In addition, some states have added specific leave protections for things like bone marrow and organ donation, crime victims, domestic and sexual violence victims, pregnancy and child bonding, and many other events. For example, California instituted a law in 2018 that extended FMLA new child bonding leave protections to employees working for smaller companies (20 to 49 employees). All of these coexisting regulations can quickly overwhelm a human resources department and expose an employer to preventable risk in the form of fines and lawsuits.