

An employer must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that employer uses to account for use of other forms of leave provided it's not greater than one hour. In other words, employers may require employees to take FMLA leave in minimum increments equal to those used for other forms of leave (e.g. if employers account for sick leave in 30-minute increments, they can require employees to use 30 minutes of FMLA time for intermittent or reduced schedule leave), provided it is one hour or less. Previously, employers were required to account for FMLA leave in increments used by the employer's payroll system.

Leave entitlement for employees working a schedule that varies from week to week will now use a weekly average over the 12 months preceding the leave period (rather than just prior 12 weeks under current rule).

Employers may require fitness-for-duty tests for employees returning from intermittent FMLA leave if doing the job raises a significant risk of harm to themselves or others.