**Ask an HR Advisor: Measuring Leave Periods**

**Q:** How should I measure the leave eligibility periods for my employees?

**A:** The Family and Medical Leave Act (FMLA) entitles eligible employees who work for covered employers to take unpaid, job-protected leave in a defined 12-month period for specified family and medical reasons. Generally, employers may select one of four options to establish the 12-month period to be uniformly applied to all employees taking FMLA leave.

The covered employer may use any of the following four methods to establish the 12-month period:

1. The calendar year – 12-month period that runs from January 1 through December 31;
2. Any fixed 12 months – 12-month period such as a fiscal year, or a year starting on an employee’s anniversary date;
3. The 12-month period measured forward – 12-month period measured forward from the first date an employee  takes FMLA leave. The next 12-month period would begin the first time FMLA leave is taken after completion of the  prior 12-month period; or
4. A “rolling” 12-month period  – 12-month period continuously measured "looking back" from the date an employee  uses any FMLA leave. Under the ‘‘rolling’’ 12-month period, each time an employee takes FMLA leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been used during the immediately preceding 12 months.  Most employers use this method.

Employers may select any one of the four methods to establish the 12-month period as long as the method is applied consistently and uniformly for all employees. Employees need to be informed of the 12-month period measuring employees’ leave under this policy.

If an employer fails to select one of the 12-month period methods discussed above, the employer must use the 12-month period method that is the most beneficial to the employee.

An employer can change to a different method of calculating the 12-month period, but must first give all employees at least 60 days notice of the intended change and the transition must take place in such a way that the employees retain the full benefit of their leave entitlement under whichever method affords the greatest benefit to the employee.

Under no circumstances may an employer change the 12-month period to avoid the requirements of the FMLA.

For a deeper dive regarding this topic, contact Catapult’s Advice team at 919-878-9222.

Written by a Catapult Advisor