



*Early Warnings: Using FMLA to
Understand and Manage Disability Absence*

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Early Warnings: Using FMLA to Understand and Manage Disability Absence

EXECUTIVE SUMMARY

Managing work absence under the federal Family and Medical Leave Act (FMLA) continues to challenge employers. Our conversations with a variety of benefits managers and FMLA claims administrators revealed that employers focus much of their efforts and resources on complying with the law, tracking time off and preventing misuse of leaves (although there was broad agreement that misuse does not represent a majority of FMLA leaves).

The larger question, therefore, is how FMLA leave management can be improved and how its impact on longer, more expensive disability claims can be ameliorated. In an era of ongoing economic challenges for employers and the need to have employees at work and productive, using FMLA as an “early warning system” becomes critical. A more complete understanding of how FMLA fits in a broader absence management framework becomes a key part of that strategy.

To provide this deeper understanding, IBI researchers analyzed a leading absence management company’s disability data to investigate the links between FMLA, short-term disability (STD) and long-term disability (LTD). We then created a panel of experts from IBI’s employer and supplier membership to provide practical guidance based on the research findings.

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PRINCIPAL FINDINGS

This report summarizes the results and the recommendations based on the experiences of 161 businesses employing nearly 520,000 people from 2007 to 2011. Key findings include:

- **A substantial minority of employees takes leave over a five-year period.** Over the five-year study period, 24% of the employees in the research data took FMLA leave, 14% filed an STD claim and fewer than 1% filed an LTD claim.
- **FMLA has an impact on short-term disability experience through both incidence and duration.** Employees who had a continuous or intermittent FMLA leave in one year had an increased likelihood of an STD claim in the next year. The results were stronger if the FMLA leave was for an employee's own condition, but leaves for family members' conditions also made a difference. Notably, family leaves were more predictive of mental health STD claims than of claims for physical health conditions.
- **Employees who are ineligible for FMLA may still benefit from interventions.** Denied FMLA leaves are also predictive of later STD use. For later physical health STD claims, a denied leave was more predictive than an approved leave for a family member's condition. For later mental health STD claims, denied leaves were as predictive as approved FMLA leaves for an employee's own condition.
- **When employees do not have access to STD benefits, claims for continuous FMLA leaves are longer.** The average full-time worker whose employer did not offer STD benefits used more continuous FMLA days than the average worker whose employer offered STD benefits. This is in spite of the finding that many FMLA days used by STD-eligible employees are taken concurrently with disability benefits. Although employees with STD benefits used more intermittent FMLA days, overall FMLA utilization was highest among employees without access to STD benefits.
- **STD durations are six to nine days longer when preceded by continuous FMLA claims.** Prior intermittent FMLA leaves also predicted slightly longer STD durations (about one to two days longer compared with claimants with no FMLA use).
- **FMLA leaves can also be an early warning of later LTD claims.** Continuous FMLA leave for any reason and intermittent leave for an employee's own condition also predicted later LTD claims. In fact, an STD claimant with a previous continuous FMLA leave is about twice as likely to have a later LTD claim as a claimant with no prior FMLA leave.

KEY RECOMMENDATIONS

Our analysis shows that FMLA use (and even denied FMLA requests) is predictive of later STD and LTD claims and longer disability durations. This suggests that engaging employees at the earliest revelation of a potential issue represents an opportunity to avoid more-costly disability claims without substantially increasing absence management expenses.

These findings warrant a reorientation of employers' attitudes toward FMLA's utility as an early warning system for costly health issues rather than strictly a legal compliance requirement.

From these research results, IBI's panel of experts recommends:

- Given the link between FMLA leave and disability claims, employers should take steps to connect employees requesting FMLA leaves with resources such as employee assistance programs, ergonomic interventions and disease management programs. This should be done regardless of an employee's eligibility for FMLA.
- Discussions about job accommodation and stay-at-work should commence at the earliest opportunity.
- Employers should coordinate activities across benefits program silos in their organizations, which continue to be barriers to effective FMLA management.
- Employers and their benefits partners should expand FMLA training for supervisors on early warning signs and potential interventions and should train employees on rights and responsibilities under FMLA. They should also conduct periodic "roundtables" with supervisors and human resources staff to review ongoing cases and provide appropriate coaching and support for supervisors.

Background

The U.S. economy has improved gradually since the most recent recession, but employment growth continues to lag behind what was experienced during previous economic recoveries. Whatever the reasons for employers' reluctance to add jobs in the current economic climate, the immediate consequence is that many businesses are competing in their fields with smaller workforces.

This is not necessarily a problem for employers in and of itself. Doing more with fewer employees, however, could pose challenges for particular business units that experience the extensive absence of a team member due to his or her own or a family member's health issues. The absence and productivity costs of an employee on extended leave under the federal Family and Medical Leave Act (FMLA)—lost revenue opportunities, work disruptions and a reliance on overtime and

substitute workers to take up the slack—are expensive enough. These costs are compounded, of course, when a health issue results in a claim on the company's short-term disability (STD) policy and become worse still in the event of a long-term disability (LTD) claim.

Many employers now try to get ahead of these costly disability claims (and reduce group health, sick-day and presenteeism costs as well) by offering health promotion and disease management benefits to their workers. Nonetheless, connecting workers to these programs so that disability leaves can be avoided—and if not avoided, at least mitigated—remains a challenge. Part of that challenge stems from an incomplete understanding of how, why and when employees use FMLA, STD and LTD benefits—and what to do about it.

The Early Warning System: FMLA Requests

Employers that coordinate or integrate management of group health, wellness, absence and disability benefits have some advantages in anticipating the demand for disability leaves and connecting employees to available resources—if they invest the time and the resources into analyzing their data systematically. Unfortunately, employers may miss opportunities to minimize the impact of the costliest disability absences by not acting decisively when presented with clear evidence that a specific worker is at a high risk for an STD claim: the request for job-protected time off under FMLA.¹ After all, a request for FMLA leave is one of the few times when employees formally reveal a serious health need or family situation to an employer before a disability incident occurs. If employees who request FMLA leave have a high likelihood of also filing disability claims, a request for unpaid leave presents an opportunity for employers to help employees coordinate their care and get the assistance needed to avoid later STD and LTD incidents.

This may seem an obvious point: Doesn't the fact that an employee who needs time off for a health condition or family situation indicate that the window for beneficial wellness resources has closed? Furthermore, if employees

are eligible for STD benefits (or paid sick days or vacation) concurrently with FMLA, the FMLA leave will in fact coincide with paid time off. By the time FMLA leave is requested, isn't it too late to manage disability costs?

The answer to both of the questions is likely no—for a number of reasons. For example:

- Not all employees who request FMLA leave are statutorily eligible even if they have a serious health condition.
- Some FMLA requests are for intermittent time off for treatments rather than continuous leaves that run concurrently with an STD claim.
- FMLA requests for family members' conditions may not qualify an employee for STD benefits but may signify a situation that exacerbates or precipitates the employee's serious physical or mental health needs.

In fact, employers that offer disability benefits may gain an advantage from viewing FMLA as an "early warning system" for costly STD and LTD claims. Even for employers that do not offer disability benefits, requests to use FMLA may provide early signals for a potentially costly work disruption down the road, such as an unpaid leave of absence for a highly valued worker who is difficult to replace.

Research Questions

A better understanding of usage patterns across health-related leave programs could help employers anticipate the demand for costlier benefits based on earlier requests for less expensive benefits (e.g., movement from FMLA to STD or from STD to LTD). To explore these patterns, IBI obtained data on five years of FMLA, STD and LTD experience from a leading absence management firm. The resulting dataset covered approximately 520,000 employees from 161 companies.

Specifically, we set out to answer the following research questions.

- Do employees requesting FMLA leave have different patterns of STD and LTD use than other employees? If so, do the patterns differ by:
 - continuous, intermittent and denied FMLA leaves?
 - leaves for an employee's own versus a family member's condition?
- For STD claimants, is early use of FMLA a good predictor of the duration of a disability absence and a later LTD claim?
- What characteristics of an STD claim are predictive of later LTD use?
- Does eligibility for paid disability benefits influence the use of FMLA benefits?

¹ Technically, the FMLA law requires that employees provide their employer with timely notification of a need for time off due to a serious health condition (whether for themselves or family) rather than make a request for leave. An employer must then determine a worker's eligibility for FMLA leave and notify the worker of its judgment based on whether it is a covered worksite, the employee's work history and the seriousness of the condition. Alternatively, if an employee takes paid leave for a reason that qualifies under FMLA (e.g., workers' compensation [WC] or extended sick days for a serious health condition), the employer may designate the time off as FMLA. In practice, the law contains provisions that allow the employer and the employee to negotiate some of the terms of a qualified leave. For example, employees have a duty under the law to make "reasonable efforts" to schedule medical treatments so that they do not unduly disrupt operations. Employers are also free to offer light duty to employees on a voluntary basis in lieu of leave (the employee does not have to accept the offer). We therefore use the term *request* to reflect that both parties have some options in their response to the need for time off.

We explore these questions primarily through statistical analysis. To inform both the questions and the implications of the findings themselves, however, we also conducted in-depth interviews with several corporate human resources (HR) and benefits managers and sought expert input from disability and absence management consultants and administrators (“expert advisers”). Although we do not claim that these individuals represent employers and advisers generally, their insights guided our analyses and interpretation of the results throughout this work. We summarize their specific guidance and address the challenges their advice poses in the final section of this report.

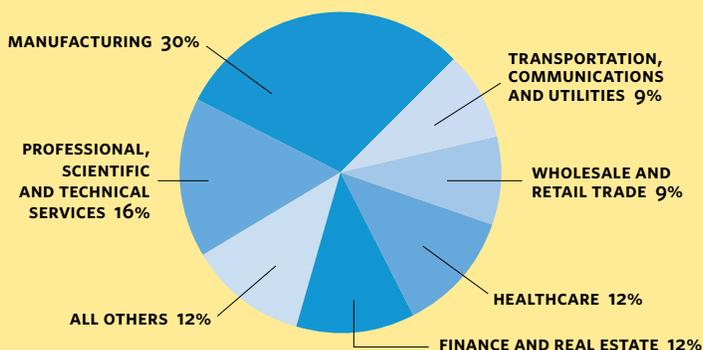
Our analysis shows that FMLA use (and even denied FMLA requests) is predictive of later STD claims and longer disability durations and of LTD claims. This suggests that engaging employees at the earliest revelation of a potential issue represents an opportunity to avoid more-costly disability claims without substantially increasing absence management expenses.

These findings warrant a reorientation of employers’ attitudes toward FMLA’s utility as an early warning system for costly health issues rather than strictly a legal compliance requirement.

ABOUT THE DATA

A leading absence management firm provided IBI with data from its book of business from 2007 to 2011. All personal information by which individuals could be identified was omitted. These data included FMLA, STD and LTD claims information from 204 client organizations. We received full workforce demographic information from which we were able to calculate FMLA leave rates and disability claims rates for 161 organizations (about 520,000 employees). Employer headcounts ranged from 40 to more than 50,000, with a mean of about 4,300 employees and a median of about 2,200. The industries represented in the data are shown in Figure 1.

FIGURE 1
EMPLOYERS IN THE STUDY BY INDUSTRY



For our analyses, we retained employees with more than one year of data and began tracking their leave activity in 2007 or their second year of employment (whichever was earlier). About half of employees were female, and the median employee was born in 1968 (43 years old in 2011). The average tenure was 9.1 years working for an employer, and 39% were exempt employees.

With a few exceptions, U.S. employees are entitled to 12 weeks of job-protected, unpaid FMLA leave during any 12-month period if they worked for a covered employer for at least one year, they worked 1,250 hours over the previous 12 months and the employer had at least 50 workers within 75 miles. Given that all observed employees had at least one year with their organization, we determined FMLA eligibility by full-time status (data on hours worked in the previous year and the number of employees within 75 miles were not provided). By this standard, about 80% of employees were eligible for FMLA leave.

The Elephant in the Room: Accommodation, Compliance and Misuse

One highly salient objection to viewing FMLA as a useful early warning system is the widespread negative perception of the program among many employers and absence management professionals.

One highly salient objection to viewing FMLA as a useful early warning system is the widespread negative perception of the program among many employers and absence management professionals. FMLA was signed into law in 1993 to provide eligible employees with up to 12 weeks of job-protected, unpaid time off from work for an employee's or a family member's serious health condition, for the care of a new child or to assume caretaker duties for a militarily deployed family member.

Anyone who has discussed the issue widely with supervisors or benefits managers, or who has read the comments in response to the Department of Labor's Requests for Information about FMLA,² is familiar with complaints that, regardless of the program's benefits for most users (there was broad agreement among our panelists that misuse does not represent a majority of FMLA leaves), FMLA provides opportunities for employees to circumvent workplace attendance and tardiness rules by invoking an entitlement to job-protected time off with little or no advance notice.³ This imposes costs on employers that must scramble to find a substitute for the worker, keep more staff on hand or on call than would otherwise be optimal, or do without the employee's contributions during the leave period.

In addition, employers must invest time and resources to verify the medical need for leave and keep track of employees' ongoing FMLA entitlement. Given the challenges employers have experienced in 20 years of accommodating employees' time off and complying with the law, it is understandable that many may not recognize FMLA's potential for reducing the costs of paid disability absences.

Nonetheless, without denying the validity of any criticisms of FMLA, employers that focus exclusively on this aspect of FMLA run the risk of missing opportunities to produce tangible improvements to their bottom line. Recognizing these opportunities may require only a slight broadening of perspective on how FMLA fits into the wider spectrum of disability leaves. One goal of this research is to present the findings described above as a base of evidence for such action.

At the same time, we also use the available data to investigate the veracity of one indicator commonly believed to point to misuse of FMLA leave—namely, that a large share of intermittent leaves occur on Monday and Friday compared with other days of the week. We did not find substantial evidence of this phenomenon. The conclusions were the same whether using raw data or controlling for workers' industry and demographics and

were similar across industries with many employees who work weekend shifts (such as healthcare and retail), across hourly and exempt employees and across groups of employees with different volumes of intermittent leave incidents.

While these findings do not completely dispel concerns about misuse of FMLA—which was not the focus of the analysis—the lack of an appreciable weekday pattern combined with the consistent finding that FMLA users have a relatively high likelihood of later STD use reinforces the notion that FMLA's challenges should not crowd out its opportunities when employers are developing strategies for managing the health and productivity of their workforce.

² Department of Labor, Employment Standards Administration, Wage and Hour Division. "Family and Medical Leave Act Regulations: A Report on the Department of Labor's Request for Information; Proposed Rule," Federal Register, vol. 72, No. 124, June 28, 2007. <http://www.dol.gov/whd/FMLA2007FederalRegisterNotice/07-3102.pdf>

³ Importantly, several employees echoed these sentiments about co-workers in their comments to the Department of Labor. Thus the costs of FMLA through its impact on the workplace climate may also deserve consideration.

How Employees Use Lost-Time Programs

Figure 2 shows that among full-time workers with at least one year on the job, about 24% had an FMLA leave over the course of five years.⁴ Most of these workers took continuous leave⁵ for their own conditions (16% of all workers), while 2% had at least one continuous FMLA leave for a family member's condition. Four percent of workers had a continuous leave for the birth or adoption of a child. About 4% of workers had at least one intermittent leave for their own condition compared with 3% for a family condition and less than 1% for the birth or adoption of a child. In addition, about 4% of all employees had a denied FMLA leave request (about one employee with a denial for every six employees with an approval). Only 25% of the denied employees were never approved to take FMLA leave.

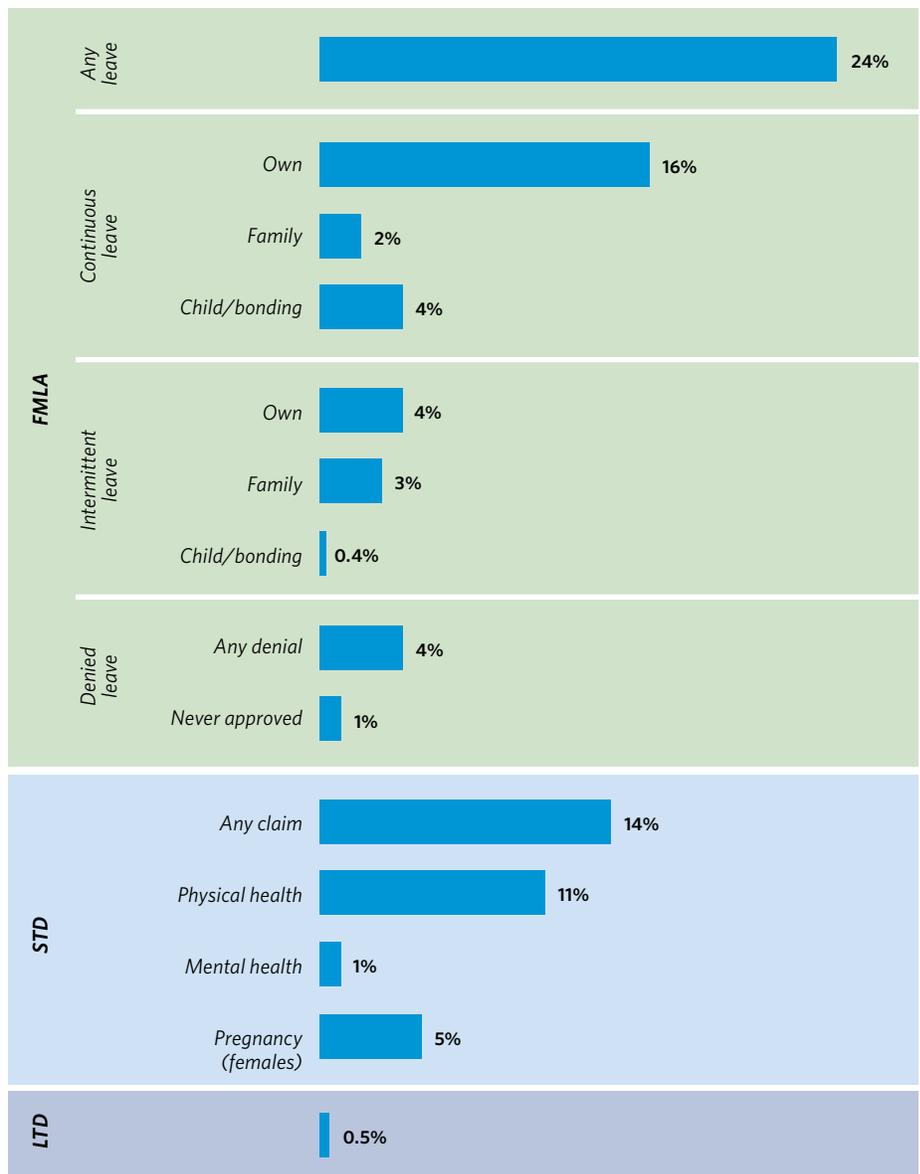
Based on the experiences of employees hired during the study period, the average duration between eligibility for FMLA leave (generally after one year on the job) and the first day of an FMLA leave was about one and a half years (561 days). Only 1% of FMLA users took leave during the first two months of eligibility.

Among employees who worked for an employer with an STD or LTD plan, 14% filed an STD claim and less than 1% filed an LTD claim over the course of five years. Based on the experiences of employees hired during the study period, the average duration between hire and the first STD claim was about 2.2 years (794 days).⁶ Only 3% of STD users had a claim during the first two months of eligibility.

FIGURE 2

OVER FIVE YEARS, 1 IN 4 EMPLOYEES HAD FMLA LEAVE; 1 IN 7 HAD AN STD CLAIM

Five-year cumulative leave and disability experiences among employees eligible for each benefit: percentage of employees taking leave



⁴ The categories shown in the graph are not mutually exclusive. Employees can have more than one type of leave or disability absence.

⁵ While FMLA entitles employees to unpaid leave, in many cases employees on continuous leave will use accrued vacation or paid sick days or will take leave concurrently with their STD benefits if the reason is for their own health conditions (or workers' compensation if the injury or illness is work related). Because the data do not have information on vacation or sick days and do not observe usage of STD benefits or WC claims managed by other parties, we avoid characterizing continuous leave as either "concurrent" or "stand-alone." As described in the text, in our statistical models we nonetheless control for employees' simultaneous use of STD and FMLA when these are observable.

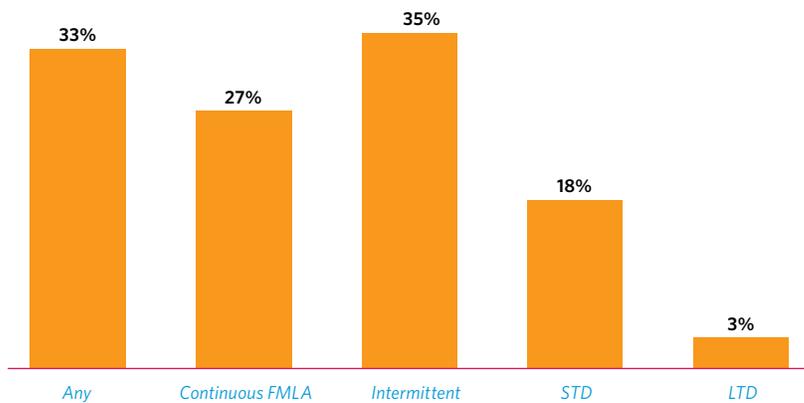
⁶ Logically, average days to the first LTD would add the average STD maximum duration (about 162 days) to the average days until the first STD claim.

Repeated Leave Usage

Figure 3 shows the proportions of leave users who have unique leave events in multiple calendar years (for our research purposes, a leave that begins in one calendar year and ends in another is considered to have occurred in one year). Over the course of five years, a majority of leave users had only one calendar year with a leave

event. Overall, 33% of FMLA users had leaves in more than one year. This primarily reflects the experiences of intermittent leaves; the repeat rates for continuous and intermittent leaves were 27% and 35%, respectively. The repeat rates for disability leave takers were 18% for STD and 3% for LTD.

FIGURE 3
MOST LEAVE USERS DID NOT TAKE LEAVE IN MORE THAN ONE YEAR
Percentage of leave users with leave activity in multiple years



Addressing a Common Perception About Intermittent FMLA

Intermittent FMLA leave poses challenges for both supervisors who are responsible for workforce productivity and benefits professionals who must keep track of ongoing eligibility for leave and manage lost time. It will surprise very few to learn that corporate benefits managers we interviewed described “unscheduled intermittent leaves” almost unanimously as their biggest FMLA headache.

In particular, one of the most common grievances about FMLA leaves one hears from employers is that some employees take advantage of their certification for intermittent leave to give themselves long weekends—hence the derisive nickname “the Friday–Monday Leave Act.” Certainly, as with any disability/lost-time program, there is misuse of FMLA leave. Our analyses of almost 920,000 intermittent leave episodes, however, did not provide evidence that “Friday–Monday” misuse dominated intermittent

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FMLA leave experiences. As shown in Figure 4, intermittent leave episodes were roughly proportional to the days of the week on which work typically occurs. An employee was more or less as likely to take intermittent leave on a Friday or Monday as on a Tuesday, Wednesday or Thursday.

Nearly identical results were observed whether using raw data or controlling for workers’ industry and demographics and were very similar for industries with many employees who work weekend shifts (such as healthcare and retail). The results were also similar for hourly and exempt employees.

We also found that a small percentage of employees accounted for a majority of intermittent FMLA incidents. As Figure 6 illustrates, the 20% of employees who had the greatest number of intermittent leave episodes accounted for 70% of all intermittent episodes. The bottom 20% of users accounted for only 2% of all intermittent episodes. Given our conversations with employers and other experts in the field, we might have expected that high utilizers of FMLA would take off more Mondays or Fridays than would low utilizers; however, we found no appreciable differences in the weekdays of intermittent leave incidences across these groups.

Given the data available, we do not know whether intermittent leave episodes were more likely to be unscheduled on Monday or Friday than they were on the other weekdays. If employees were

FIGURE 4
INTERMITTENT FMLA WAS AS LIKELY ON MONDAY AND FRIDAY AS ON ANY OTHER WEEKDAY
Weekday of intermittent FMLA leave incidents

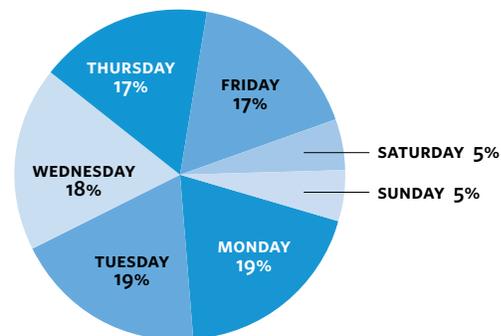
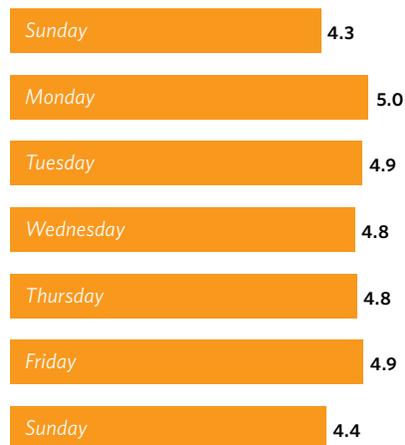


FIGURE 5
HOURS MISSED FOR MONDAY AND FRIDAY INTERMITTENT FMLA INCIDENTS WERE SIMILAR TO OTHER WEEKDAYS
Average number of hours missed per intermittent FMLA incident by weekday



using intermittent FMLA to give themselves long weekends, we would expect Monday and Friday episodes to be longer than episodes on other days (and to be full-day absences more often). The finding that employees were away from work about five hours per intermittent episode regardless of the weekday, however, casts doubt on this (see Figure 5). We also found that full-day leaves were about half of all intermittent leave events regardless of the weekday.

These results have three important implications. First, the finding that Monday and Friday absences did not dominate intermittent leaves does not mean that they are not problematic for employers. Given that absences near weekends may activate the suspicions of supervisors and co-workers in ways that other absences might not—to paraphrase one disability management expert, no one notices if you take off two Wednesdays in a

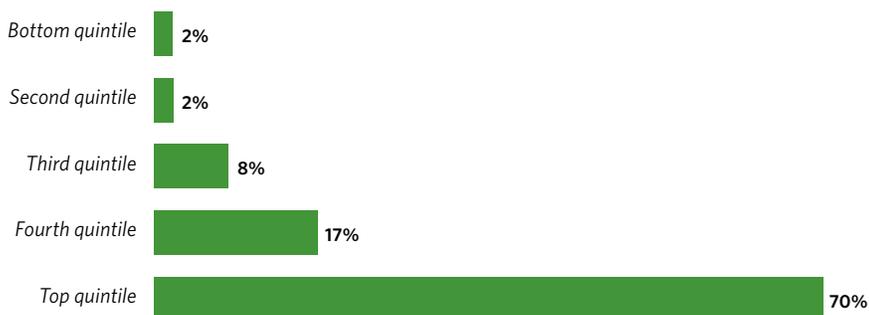
row—they can complicate workplace relations. Second, while employers should not ignore misuse of the FMLA system, they should also recognize that these cases likely represent a small share of intermittent leave episodes.

Third, assuming that most intermittent leave episodes—even when they are unscheduled—are legitimate, they send important signals about an employee’s well-being and therefore about the future risk for more costly leave events such as STD and LTD. The same can be said for FMLA leaves that are taken continuously but do not overlap with a disability absence such as STD or workers’ compensation. The costs of these unpaid leaves are not necessarily limited to operational disruptions, substitute workers or overtime payments if the reasons for absences are precursors to avoidable disability payments down the road.

FIGURE 6

A MINORITY OF INTERMITTENT FMLA USERS ACCOUNTED FOR A MAJORITY OF LEAVE INCIDENTS

Percentage of all intermittent FMLA episodes by quintile of employees with any intermittent FMLA leave



Does Eligibility for Paid STD Benefits Influence Use of Unpaid FMLA?

One possible factor in an ill employee's decision to request FMLA leave is access to STD benefits. Generally, we would expect use of continuous FMLA leave to be lower among employees with STD benefits. After all, why would a person take unpaid time off for an illness if the condition qualifies the employee for paid leave? We might also expect STD-eligible employees to use intermittent FMLA less frequently.

As shown in Figure 7, these expectations were partly borne out. Controlling for employee demographics, industry and

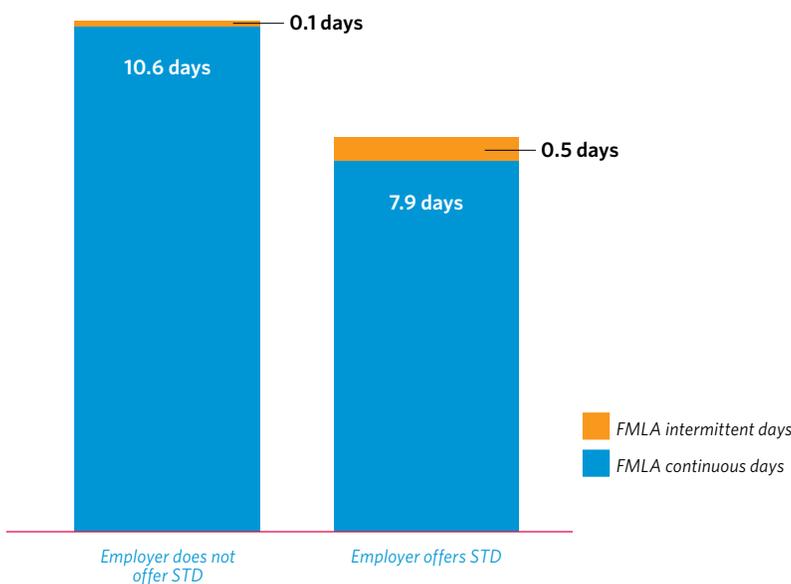
company size, over a five-year period a full-time worker whose employer did not offer STD benefits used about 11 continuous FMLA days compared with about eight days for a worker whose employer offered STD benefits. Our analysis also adjusted for the number of STD days taken by eligible employees. Thus, the results shown below evaluate FMLA for a person with no STD claims and may be thought of as "stand-alone" days. Employees who were eligible for STD benefits but had no claims averaged five FMLA days over five years compared with 70 FMLA days for STD claimants (not shown).

On the other hand, findings for intermittent FMLA days are the opposite of what one would expect. Employees with STD benefits used more intermittent FMLA days—0.5 compared with 0.1 days—than employees with no STD benefits. STD claimants used about a day and a half more of intermittent leave than eligible non-claimants (1.9 days compared with 0.4 days; not shown). Nonetheless, overall FMLA utilization was highest among employees without access to employer-offered STD benefits.

FIGURE 7

EMPLOYEES WITHOUT ACCESS TO STD BENEFITS USED MORE FMLA DAYS

Five-year FMLA absence experiences by STD eligibility



Differences shown are statistically significant.

FMLA Requests: An Early Warning System for STD Claims

A request for FMLA leave is one of the few times when employees formally make their health condition or family situation known to an employer before a disability may emerge. This provides an opportunity to help employees coordinate their care and get the needed assistance to prevent a later STD claim or to minimize the impact of lengthier disability incidents.

To understand how FMLA and STD fit together, we analyzed whether STD claim filing in one year was related to FMLA activity in the previous year.⁷ We focused on STD claims for both physical and mental health reasons and took into account an employee's age, sex, salaried or hourly status, employment tenure, industry and employer size (see Appendix for detailed information about the statistical method). Given the focus of this report on FMLA as an early warning for manageable illnesses, STD claims for pregnancies are excluded from the analysis. By the same token, we do not report on the impact of FMLA leaves for the birth, adoption or fostering of a child (although these are included as control variables).

Our final dataset for this analysis included 460,286 STD-eligible employees at 148 employers, observed for an average of 2.4 years per employee (1,026,344 case years total).

STD Physical Health Claims

Generally, the odds of an STD claim for a physical health reason (i.e., neither pregnancy nor mental health) were greater for employees who had previously taken an FMLA leave (continuous or intermittent) than for employees who had not.

As shown in Figure 8, on average about 3% of employees with no FMLA experience in one year (our baseline category) had an STD leave in the next year. The STD claim percentage was about twice as large if an employee had a continuous or an intermittent FMLA leave for his or her own health condition. Importantly, the chance of an STD claim was greater for employees with intermittent leaves than for those with continuous leaves.⁸ The implication is that employers should not underestimate the severity of an employee's situation simply because he or she is trying to cope without incurring extended absences. Other factors (such as an unwillingness to incur wage reductions) may influence the results, as well.

Employees with an FMLA leave for a family member's health condition were about 50% more likely to have an STD claim than employees with no FMLA leave experience in the previous time period (with no statistical difference whether the family leave was taken intermittently or continuously). This is a significant finding, although the possibility of STD was slightly less than what was observed when a

leave was for an employee's own condition (and less than what was observed for STD mental health claims, as discussed below). It suggests that the stress of family hardships can take a toll on an employee's physical health to such an extent that the employee may qualify for an STD claim down the road. When an employer becomes aware of a challenging personal situation through an FMLA request, it has the opportunity to direct employees to resources that can help minimize the risks of subsequent claims.

FMLA requests were predictive of a future STD claim even when leave is denied. An employee whose only experience with an FMLA leave was a denied request had only a slightly lower chance of a subsequent STD claim than an employee who qualified for continuous leave for his or her own condition. This suggests that an FMLA request typically indicates some physical or mental health issue (which can undermine physical health) even if the employee does not meet the requirements for federally protected time off without pay. Employers would be well advised to help put employees requesting

FMLA requests were predictive of a future STD claim even when leave is denied.

⁷ Use of LTD is considered in the next section.

⁸ It is important to reiterate that the model controls for prior use of STD and continuous FMLA leave simultaneously. The finding for continuous FMLA leave must therefore be interpreted as its average effect on predicted STD usage regardless of any concurrent STD leave—even though true “stand-alone” continuous leaves for an employee's own health condition may be rare in practice. Overall, employees who had an STD claim in one year had a higher-than-average likelihood of an STD claim in the following year.

FMLA leave in touch with helpful resources—for example, employee assistance programs (EAPs) and other health management programs. There may be costs hidden in the assumption that just because a denied employee does not reapply for unpaid time off, he or she will not end up taking paid time off later on.

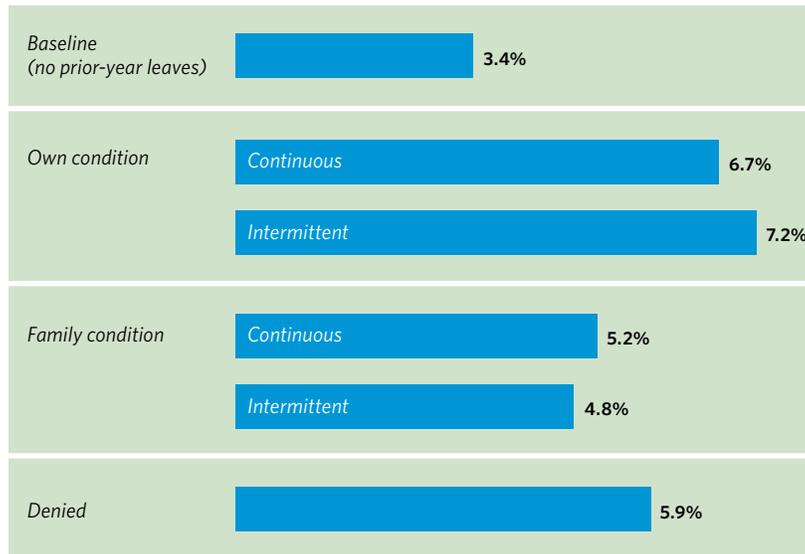
STD Mental Health Claims

Figure 9 shows that the patterns of FMLA leave and STD mental health claims were similar to those observed for physical health claims (although many fewer employees had claims for mental health reasons than for physical health reasons). Only a small share—about 0.2%—of the baseline employees with no FMLA experience in a given year had an STD mental health claim in the following year. Generally, the odds of an STD claim for a mental health reason were greater for employees who had an FMLA leave (continuous or intermittent) or a denied leave request than for the baseline employees.

Compared with physical health claims, however, some important differences emerged when examining mental health claims. Most importantly, FMLA family leaves were more predictive of STD mental health claims than for physical health claims. Relative to the baseline group, an employee with an FMLA family leave was about twice as likely to have a subsequent STD mental health claim. This propensity is greater than what was observed for physical health claims (i.e., about 1.5 times as likely—see Figure 8). Family leaves were also nearly as predictive of a mental health

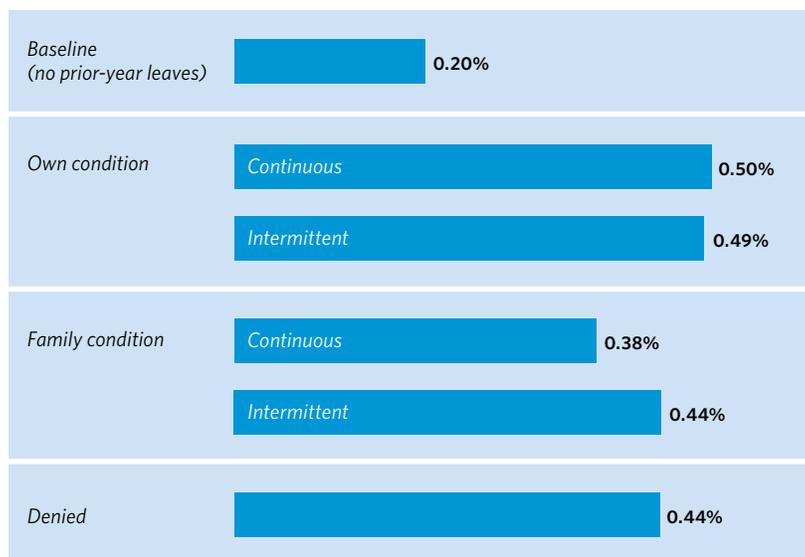
FIGURE 8
LIKELIHOOD OF AN STD CLAIM WAS GREATER FOR EMPLOYEES WHO HAD PREVIOUSLY TAKEN AN FMLA LEAVE

Percentage of employees estimated to have any non-pregnancy physical health STD claim based on prior-year FMLA experiences



All differences from the baseline shown are statistically significant.

FIGURE 9
Percentage of employees estimated to have a mental health STD claim based on prior-year FMLA experiences



All differences from the baseline shown are statistically significant.

STD claim as FMLA leaves for an employee's own condition. Moreover, regardless of whether the FMLA leave was for an employee's own condition or for a family member's condition, there was no statistically significant difference between leaves taken continuously or intermittently (either type of FMLA leave predicts future mental health STD claims more or less equally).

Summary

Taken together, results for both STD physical and mental health claims have similar implications for employers. The time to begin helping employees coordinate their care, access available health and family assistance resources and make positive changes in their health behaviors is when they make their situation known by requesting an FMLA leave. It makes no difference whether that request is for their own or a family member's situation, whether they want to take

time off all at once or on an as-needed basis or whether they meet the statutory requirement for leave eligibility.

While relatively few eligible employees use STD programs, the costs to employers are considerable. Evidence from IBI's Full Cost Estimator model⁹ suggests that wage replacements and lost productivity from STD absences account for about 11% of all annual health-related absence costs in the United States. Given that many employers already make health promotion and disease management programs available to their workers,¹⁰ preventing even a few STD claims by engaging employees at the earliest opportunity represents a chance to reduce disability costs without materially increasing absence management expenses.

The time to begin helping employees coordinate their care, access available health and family assistance resources and make positive changes in their health behaviors is when they make their situation known by requesting an FMLA leave.

⁹ Integrated Benefits Institute, Full Cost Estimator. <http://ibiweb.org/do/PublicAccess?documentId=1094>

¹⁰ Gifford B, Molmen W, Parry T. *More Than Health Promotion: How Employers Manage Health and Productivity*. Integrated Benefits Institute, 2010. <http://ibiweb.org/do/PublicAccess?documentId=1007>

FMLA Use: Implications for STD Absence Durations and LTD Claims

Given sufficient attention, FMLA leaves may be useful indicators of an employee's heightened risk of a future STD claim. While this early warning may provide employers with opportunities to mitigate that risk, it is unrealistic to expect that foreknowledge of health conditions can eliminate the risk of disability entirely. Nonetheless, the FMLA program may still present opportunities for employers to better manage the duration of STD leaves and—by extension—prevent the necessity of LTD.

On the front end, employees who are guided toward effective health promotion, disease management or EAP programs as part of an FMLA management strategy may have less severe (or fewer) aggravating conditions at the time of their disability absence. For example, an employee with back pain who requests a certification to take unpaid leave on an as-needed basis may benefit generally from incorporating weight loss or stress reduction methods into his or her pain management therapy. In turn, such lifestyle improvements may give the employee a better chance of a speedy recovery if a spell of severe pain requires a disability absence. On the back end, employees and supervisors may have greater success in reaching a modified-duty return-to-work agreement if both sides work from an understanding that an employee will continue rehabilitation during work hours using intermittent FMLA.

To better understand the relationship between patterns of FMLA

and STD durations, we analyzed the number of calendar days (from the first STD absence to closing) of 69,720 employees' first STD claims. We characterized each STD claimant's experience by whether he or she had an observed continuous FMLA claim before or concurrently with the STD claim. As shown in Figure 10, only 10% of STD claimants did not have a continuous FMLA leave before or during their STD claim. Nearly 80% of STD claimants had a concurrent FMLA claim, while 11% had an FMLA leave prior to their STD claim.

STD Durations

To understand the relationship between STD durations and use of FMLA, we used multivariate regression to estimate the number of calendar days between the start and the close of each employee's first STD claim. We included the FMLA categories shown in Figure 10 as well as whether employees used intermittent FMLA leave for their own or other reasons prior to, or after, the STD claim. Additionally, our analyses included as control variables claimant age, sex, salaried or hourly status, employment tenure, eligibility for LTD, primary ICD-9 diagnosis category for the STD claim and the benefit elimination periods and maximum benefit durations of the disability plan design.¹¹ Because employers may manage their disability claims differently from one another in ways that cannot be observed in the data, the analysis also relied on control variables for each unique employer.

FIGURE 10

MOST STD CLAIMANTS USED FMLA CONCURRENTLY

Summary of continuous FMLA leave usage by STD claimants

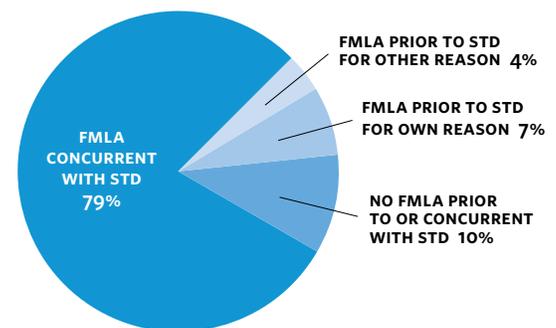


Figure 11 demonstrates that, on average, compared with claimants with no FMLA leaves, claimants with concurrent or prior stand-alone FMLA leaves had longer-duration disability absences. Concurrent FMLA leave takers had STD absences that were about six days longer than non-leave takers. This suggests that benefits managers may not have sufficient opportunities to help employees' coordinate their return to work during the STD waiting period—concurrent FMLA leaves that did not start on the same day as the STD claim began an average of six days before the start of a claim.

STD claims that followed a stand-alone FMLA leave, however were about six to nine days longer than other STD claims on average,

¹¹ We coded plan design elements to reflect common plan types: waiting periods of zero or one day; between two days and one week; more than one week; up to two weeks; and longer than two weeks. Missing values required us to code about 17% of the cases with unknown maximum durations. Otherwise, the maximum duration categories were up to 13 weeks; more than 13 weeks; up to 26 weeks; and more than 26 weeks up to one year.

depending on whether the leave was for an employee’s own health condition or for some other reason. This difference may reflect the severity of the incident for which an employee previously took a stand-alone FMLA leave. For every day that a person was previously on FMLA leave for his or her own condition, however, the average STD duration increased by only about 0.09% (the average duration of a previous FMLA leave was 33 calendar days). What matters for STD durations, then, was whether an employee had a previous FMLA episode regardless of the reason for or the duration of that leave. Considering that the average gap between a previous FMLA leave and the start of a later STD claim was about 16 months, the implication is that employers should remain engaged with an employee throughout the FMLA leave and beyond.

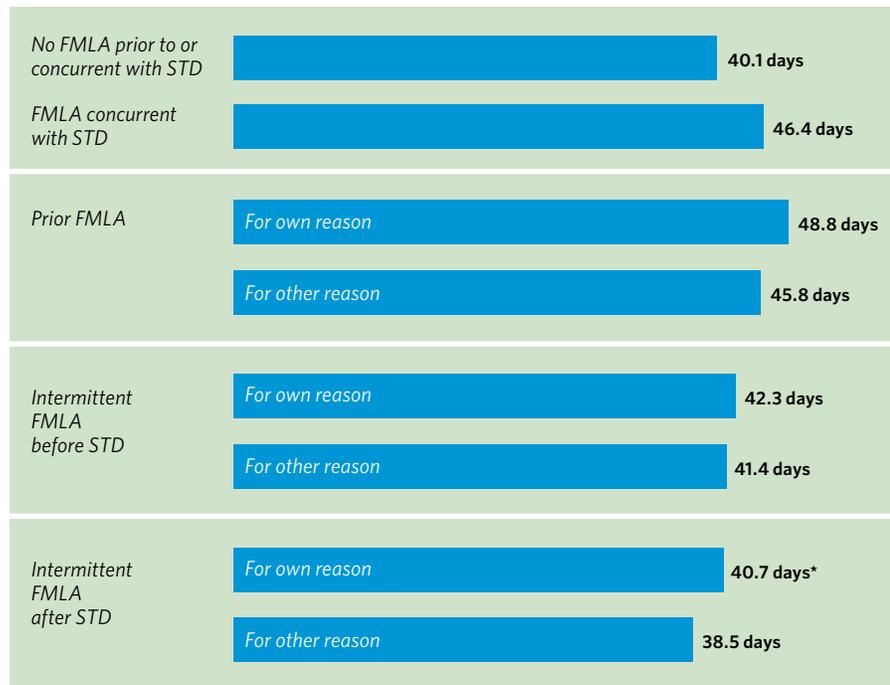
Differences in STD durations based on whether an employee had an intermittent FMLA leave lend further support to the idea that employers could benefit from focusing health promotion and disease management efforts on employees at the first usage of FMLA. Claimants who used FMLA leave intermittently (for any reason) prior to an STD claim had durations that were about a day longer, on average, than claimants who had no FMLA use at all. These are small but statistically significant differences over a large group of employees.

By contrast, average STD durations were no different if an employee had intermittent FMLA after an STD claim for his or her own health condition. Durations were about a

FIGURE 11

STD DURATIONS TEND TO BE LONGER IF FMLA WAS USED PREVIOUSLY

Calendar-day duration of STD claims by FMLA continuous leaves



*Difference in days is not statistically significant from the “No FMLA” group.

day and a half shorter, however, if the subsequent FMLA leave was for some other reason. This suggests that in their efforts to coordinate employees’ return to work from disability leaves, employers in our sample have not taken advantage of intermittent FMLA leave to reassure employees that if they came back from leave early, they could take time off to continue their healthcare treatments without putting their job at risk.

LTD Claims

Given that the completion of an STD claim is a precondition for filing an LTD claim, we also analyzed the STD claimant data to learn whether patterns of FMLA use that predict STD durations also predict LTD use.¹²

As shown in Figure 12, the patterns of FMLA use that predict LTD claims closely resemble those that are correlated with longer STD claims. Intermittent leave was predictive of later LTD use, however, only if used for an employee’s own condition. Use of intermittent FMLA after an STD claim also had no relationship with later LTD use. Compared with using no FMLA at all, the probability of a later LTD claim doubled (from 3% to 6%) if an STD claimant used continuous

¹² We estimate the likelihood of an LTD leave using multivariate logistic regression. The sample distributions of plan design elements required that we limit this analysis to employees with STD waiting periods of less than two weeks and maximum STD durations of up to six months (we are unable to filter on or control for LTD waiting periods because this information is attached only to employees with an LTD claim). Otherwise, the control variables in the model are the same as those used to estimate STD durations. Applying these model requirements left about 53,000 STD claimants for the LTD analysis.

FMLA for his or her own condition prior to an STD claim, and it increased by about 67% if a prior continuous FMLA leave was for some other reason. Similarly to users of FMLA concurrently with STD, claimants who used intermittent FMLA for their own condition prior to an STD claim had a 33% greater likelihood of LTD use than employees with no FMLA leaves.

Most STD claimants will return to work before they would qualify for LTD benefits. When an LTD claim occurs, however, it can generate sizable costs. IBI's Full Cost Estimator results suggest that LTD wage replacements account for about 16% of annual health-related absence costs in the United States.¹³

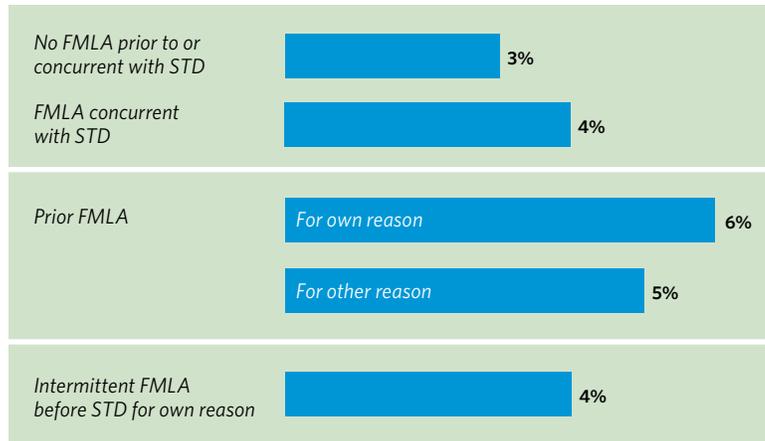
While it is unrealistic to expect that all LTD claims can be avoided, these results underscore that employers stand the best chance to mitigate health-related short- and long-term wage-replacement and productivity losses if they act at the earliest possible indication of a problem. In many cases, that will be at the time an employee requests FMLA.

At the same time, the diagnosis for an STD claim itself serves as an indicator for the likelihood of LTD. Figure 13 shows the predicted probability of a future LTD claim based on the diagnosis for an STD claim. At the high end, we would expect about 7% of STD claimants for neoplasms (tumors) to have a subsequent LTD claim compared with 2% of claimants with digestive conditions at the low end.

¹³ Integrated Benefits Institute, Full Cost Estimator. <http://ibiweb.org/do/PublicAccess?documentId=1094>

FIGURE 12
LTD CLAIMS WERE MORE LIKELY IF FMLA WAS USED PREVIOUSLY

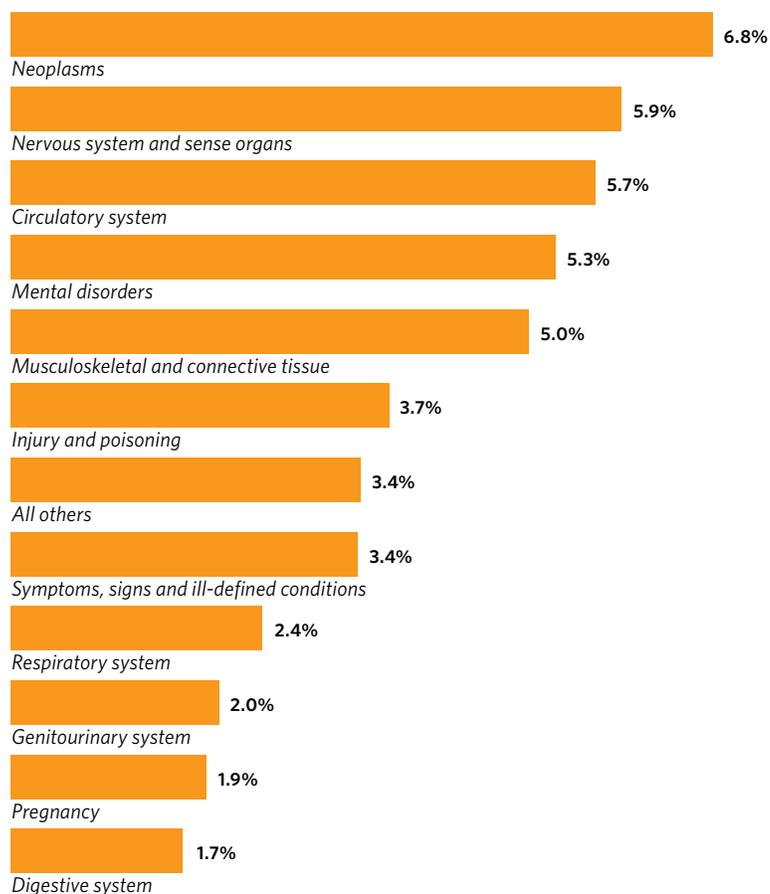
Likelihood of an LTD claim by continuous FMLA experiences



Only statistically significant results are shown.

FIGURE 13
STD CLAIMS FOR NEOPLASMS HAD THE GREATEST LIKELIHOOD OF A LATER LTD CLAIM

Likelihood of an LTD claim by STD diagnosis



Summary and Expert Recommendations

Summary of Findings

- Employees with FMLA experience in one year have an increased likelihood of an STD claim in the next year. This general finding holds across different types of approved and denied leaves and for both physical and mental health STD claims. Family leaves were more predictive of mental health disability than physical health disability.
- Over a five-year period, employees at companies without STD benefits have more FMLA days than employees whose companies offer STD benefits (this includes days taken concurrently with STD, if any).
- Compared with STD claims with concurrent or no FMLA use, previous use of continuous or intermittent FMLA leaves predicts a slightly longer STD duration, while the chance of a subsequent LTD claim differed for different types of STD diagnoses.

Upon completion of this research, IBI shared the results with a variety of experienced disability and absence management professionals. We sought their expert opinion on the research results, on how the current best practices

present opportunities or obstacles for employers to use FMLA as an early warning system for later paid disability claims, and on what employers might do in the event of an FMLA request to minimize future disability costs. We provided the following general questions as guidance.

- What steps do employers currently take when an employee requests FMLA leave but is ineligible or otherwise denied?
- What type of staff typically processes FMLA requests? What training do those personnel receive beyond compliance and tracking?
- To what types of resources are employees directed when they are approved for FMLA? In terms of follow-up (e.g., referral to EAP, health promotion or disease management), are requests for employee FMLA handled differently from family FMLA?

Additionally, IBI conducted open-ended interviews with a variety of corporate benefits managers to better understand the challenges of managing FMLA leaves from the experience of employers. We asked employers what their biggest single challenge with FMLA was and what strategies they typically used to address that challenge.

Our panel of expert advisers and corporate benefits managers included representatives from Cape Cod Healthcare; Capital One; Coventry Health Care, Inc.; the City of Dublin, Ohio; The Hartford; Mercer-Trion; Pitney Bowes, Inc.; Reliance Standard Life Insurance Company/Matrix Absence Management; Standard Insurance Company; Sutter Health; Towers Watson and six other organizations that asked to remain confidential.

We thank them for their thoughtful and helpful guidance.

Steps Currently Taken by Employers

Our expert advisers were consistent in their opinions that employers currently do little to actively manage FMLA claims.

Our expert advisers were consistent in their opinions that employers currently do little to actively manage FMLA claims. This conclusion was corroborated by follow-up conversations with several corporate benefits managers. At the same time, advisers mentioned the potential advantages of connecting employees with existing employer programs at the time of an FMLA request regardless of the employee's eligibility for leave. Particular programs mentioned included EAPs, ergonomic interventions and disease management. It was also advised that the time of a request was an opportunity to begin job accommodation and stay-at-work discussions. To that point, one employer mentioned that it reduced its use of health-related lost work days generally by increasing flexibility in workers' schedules.

Given the potential advantages of early engagement with employees requesting FMLA leave, it is fair to ask why employers make such efforts relatively rarely—particularly given the comprehensive efforts many employers make to engage their workforce as a whole in their own health. One corporate benefits manager mentioned that siloed human resources, benefits and occupational health sections contribute to an underutilization of available capabilities (such as linking leave takers to occupational nurses). Essentially, case management

occurs only for WC claims and STD claims that persist beyond disability duration guidelines because these are the only cases that are brought to the attention of the occupational health section.

Differences in perspective between legal and HR/benefits also may obscure some opportunities to improve disability outcomes. Generally, employers cannot deny valid leave requests (or require light duty or participation in wellness programs) and are prohibited from requiring workers to return to work before their FMLA entitlement ends. To avoid the perception that an employer is trying to influence an employee's leave behavior unduly, some corporate legal counselors advise HR and benefits personnel to attend strictly to FMLA leave verification tasks and to limit contact with employees who are out on leave (as one benefits manager explained was the case in her organization).

While corporate structure may present one set of obstacles, pervasive attitudes toward the FMLA law itself—what might be called “FMLA fatigue”—may present another. To paraphrase the sentiments of more than one benefits manager with whom we spoke, as soon as FMLA becomes invoked (by an employee or by company policy), no one—not human resources and certainly not supervisors—wants to deal with an employee's leave. The priority becomes ensuring compliance with the law and tracking use of the available entitlement to job-protected time off, often in what was described as a deliberately “hands-off” manner. One benefits manager indicated

that connecting leave requesters to available benefits was the responsibility of the company's third-party disability benefits supplier, but he was not aware of the extent to which it was put into practice. Alternatively, employees requesting FMLA were expected to access available benefits themselves with the assistance of online resources and the employee handbook.

Staff Responsibilities and Training for Certifying Leaves

Both the expert advisers and the corporate benefits managers described the difficulties in certifying the appropriateness of leave at the time of a request and even after medical certifications were provided. Generally, corporate benefits managers described situations in which a single person or position (e.g., the occupational nurse) was designated to receive FMLA certification training and serve as an information source for supervisors and HR personnel. When difficult cases arise, benefits managers described turning to resources such as corporate legal counsel, the U.S. Department of Labor, or blogs and user groups for benefits professionals (such as those on LinkedIn).

Training for supervisors was described inconsistently. Supervisor training could include handbooks, classroom training and outside speakers (consultants), but supervisor turnover requires periodic training. Targeting new managers at orientation may not be enough. Instead, an expert adviser said that employers should

develop “just-in-time” training that provides supervisors with detailed information regarding their role in FMLA absence management. Best practices in this regard would include supplying to the supervisor at the time of the employee FMLA request detailed answers to frequently asked questions. Such training materials should include suggestions for permissible communications with employees, a list of available resources for employees (such as EAPs, ergonomic assessments, healthcare coaches, emergency day care and the like) and contact information for the FMLA case manager.

Supervisors also are advised by our experts to remain in contact with employees during FMLA and STD leaves to keep them engaged and connected to work. Employers should provide coaching and resources to supervisors to ensure effective and ongoing communication between supervisors and employees. Periodic “roundtables” with supervisors and HR staff to review ongoing cases and provide appropriate coaching and support for supervisors were recommended.

Importantly, training employees about their FMLA rights and responsibilities was not described as widespread or consistent. Generally, efforts to inform employees about what is and is not covered by FMLA and what constitutes eligibility were described as inconsistent or ineffective. One benefits manager said that some employees mistakenly believe that their FMLA certification for a serious medical condition covers unrelated illnesses (such as colds). Another described

employees who believed that a doctor’s note qualified as certification. Several benefits managers described situations in which employees relied on co-workers with prior FMLA leave experience for guidance—which can lead to a proliferation of inaccurate information and may promote misuse of leave. Aside from handbooks and informational posters in common areas such as break rooms, employee information generally comes from HR but typically only at the time of a request. This increases the workload of personnel who must verify requests with no chance of approval, but it is also easy to see how misunderstandings by employees who are trying to comply with the leave requirements could contribute to ill will in the workplace.

Resources for Approved FMLA Leave Takers

Benefits professionals generally concurred that connecting employees to existing health promotion, disease management and return-to-work benefits at the time of an FMLA leave request provides an opportunity to minimize the chance of a later STD claim and the potential for an LTD episode. On the other hand, very little insight was offered into how frequently this occurs. Employers that utilize case managers appear to be ahead on this issue. In some cases, employers may mandate referrals (if not actual participation) to programs on the approval of a leave.

As soon as FMLA becomes invoked, no one—not human resources and certainly not supervisors—wants to deal with an employee’s leave.

Concluding Remarks

Employers face many issues in accommodating employees' serious health conditions and complying with the FMLA law. This has not necessarily blinded employers to the vast majority of leave takers' health needs, but neither has it encouraged them to capitalize on FMLA as a source of business intelligence about the likelihood of later disability leaves. Because inadequate attention has been paid to FMLA requests as an early warning for STD claims over the past 20 years, the number of lost opportunities to improve productivity outcomes are countless, to say nothing of the lost value to employees, employers and the economy.

The results of this study demonstrate that through their benefits departments and with the assistance of external absence management professionals, employers have an opportunity to minimize disability costs by developing clear, consistent and decisive strategies for connecting at-risk employees to existing benefits. The fact that they largely have not done so before now is a testament to the difficulty of the task; reorienting the perspective on FMLA to take account of its advantages as well as its challenges will not be easy and will not occur overnight. Yet it also means that there is immense room for improvement, with most employers having nowhere to go but up.

Appendix

Statistical Method for Predicting STD Claims Based on Prior-Year FMLA

In this study, we used multivariate logistic regression equations to predict the likelihood of an STD leave relative to not having an STD leave as a function of personal characteristics and prior-year FMLA and disability leave activity. Because we are observing most employees more than once (the average was 3.9 years of observation) and multiple employees within multiple employers, one concern is that within-person variation in the model variables could result in estimates that are biased or that give us unwarranted confidence in the results. We therefore specify a hierarchical model with random effects for the person and the employer at different levels.

In addition to controls for employee's age, sex, exempt status (e.g., salaried versus hourly personnel) and employment tenure, our models adjust simultaneously for usage of all types of FMLA in the previous year (including pregnancy and child-bonding leaves, for which results are not shown) as well as any use of STD in the previous year. The results, therefore, represent the marginal effects of different types of FMLA leave on STD usage independent of whether an employee used any other type of leave. For simplicity, we report the predicted STD usage for hypothetical employees who used only one type of leave in the prior year.

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