

BRAIN TEASER

FMLA—Caring for a Family Member

You have an employee who has been working for you for 6 years. Today he approached HR and asked to take time off to spend time with his grandmother who is in an in-home care facility for Alzheimer's disease.

He has worked for you for at least 12 months and 1,250 hours in the previous year, so you have no question that he is eligible for leave. You employ over 100 employees, therefore you are a covered employer. However, you do not see "grandmother" listed as a family member under FMLA definitions. In addition, you are not sure why he needs time off to care for a family member, since she is being cared for at an in-patient care facility.

How should you handle this issue?

- A. Deny the leave. A grandmother is not considered a family member under FMLA rules.
- B. Approve the leave. His parents could not care for him as a child, so his grandmother raised him in her home. While he is not providing her direct care, he is offering her psychological comfort during the onset of Alzheimer's disease.
- C. Deny the leave. He does not need to take time off since the in-patient care facility is providing the care for this individual.

See below for answer



The correct answer is B.

The Code of Federal Regulations defines a *Parent* as:

Parent means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter as defined in paragraph (d) of this section. This term does not include parents "in law."

If the grandmother provided day-to-day care and financial support to the employee when he was a child, she would be considered a parent under FMLA definitions. A biological or legal relationship is not necessary.

In regard to the reason he is taking time off to be with his grandmother, FMLA rules state, the need for care for a family member or covered service member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care.