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HUMAN RESOURCES

REQUIRING A MEDICAL CERTIFICATE

QUICK GUIDE

This Quick Guide sets out the circumstances in which an employer can require proof of sickness or injury under the Holidays Act 2003. Related Quick Guides are: Sick Leave and Bereavement Leave.

WHEN CAN AN EMPLOYER REQUIRE A MEDICAL CERTIFICATE?

An employer may require an employee to provide proof of sickness or injury,

- once the employee has been absent for three or more consecutive calendar days,
- within 3 consecutive calendar days where the employer informs the employee as early as possible that proof is required and that the employer will meet the employee's reasonable expenses in obtaining proof of sickness or injury.

Consecutive calendar days can include days on which the employee would normally not work. For example, if an employee who works Monday to Friday is away sick on a Friday and still sick on the following Monday, the employer can require proof of sickness.

The Act does not give the employer the right to specify which medical provider the employee is to see. However, the requirement to see a particular medical provider in these circumstances could be agreed to in the employment agreement.

OTHER CIRCUMSTANCES

Where an employer provides sick leave in addition to the statutory entitlement, the employer and employee can agree to provisions regarding the production of proof of sickness for this additional entitlement.

The Act's rules regarding proof of sickness or injury specifically apply to sick leave taken under the Act. It is wise to set out in employment agreements when proof of sickness may be required in situations where the employee's sick leave entitlement has been exhausted

WHAT IS DEEMED MEDICAL PROOF?

Proof of sickness or injury will usually include having the employee provide a medical certificate stating that they are not fit to work because of sickness or injury, or cannot attend work because they have a sick or injured spouse or dependant.

The Act states that proof may include a certificate from a registered medical practitioner.

The Medical Council of New Zealand sets out guidelines for doctors issuing medical certificates, including requirements that medical certificates:

- Are signed by the practitioner.
- State the date on which the patient was examined.

- Are written legibly and in language that is easily understood.
- Are based on clinical observation, with patient comment clearly distinguished from the practitioner's observations

The guidelines state that any comments on fitness to work should only be made once accurate information about the patient's work is obtained. Further, the guidelines state that the issuing of retrospective certificates 'is inadvisable and should only be done if the doctor can be confident that the illness commenced at the time stated on the certificate'.

WHEN PROOF IS NOT SUPPLIED

Where an employer, who is legally entitled to do so, requires an employee to provide proof of sickness or injury and proof is not forthcoming (without reasonable excuse), the employer does not have to pay the employee sick leave until the proof is supplied.

WHEN PROOF IS NOT SUPPLIED

Aside from confirming that the stated practitioner exists and did actually see the patient, a medical practitioner should only be contacted with an employee's express permission.

For further information on Requiring Proof of Sickness or injury or any other aspects of employment relations/human resource management, please contact the Chamber, email info@cecc.org.nz or phone 03 366 5096.