

Updated Forms Issued for Implementing FMLA from the U.S. Department of Labor

AUTHOR: CHRISTI COLEMAN

The U.S. Department of Labor has issued several updated forms for implementing the Family and Medical Leave Act (FMLA), the federal statute that provides up to 12 weeks of unpaid leave to eligible employees for medical conditions, and additional time for military leave. The forms are aimed at easing employer interpretation of certifications and eligibility issues.

The Notice of Eligibility and the Notice of Employee Rights and Responsibilities has been combined into one form. It is reorganized into seven topics related to the employee's leave and return to work. An employer is now required to advise an employee who is ineligible due to a shortage of hours (an employee must work 1250 hours in the 12 months preceding the request) how many hours the employee will have to work in order to be eligible. The form also now gives the employer the ability to indicate the effect the FMLA leave will have on the employee's leave, other than health insurance. Finally, the new form allows the employer to indicate whether the FMLA leave will run concurrently with available workers compensation, short term disability or other leave pursuant to state law.

The Designation Notice has also been amended, to provide clarification when an employee's medical certification is insufficient to determine eligibility for leave. The new notice requires the employer to indicate what additional information or clarification is needed in order to make a determination.

Finally, the Certificates of Health Care Provider (for the employee's serious health condition or the serious health condition of an immediate family member) have been amended, requiring the physician to provide a "best estimate" of future treatment. It also requires the health care provider to describe at least one essential job function that the employee is unable to perform.

These forms may all be found on the Department of Labor's website, and members of the Labor & Employment Team at Sandberg Phoenix are able to assist employers in administering FMLA leave for their employees.