



Updated FMLA Forms Are Easier to Use

Recognizing the importance of protected leave for employees, the U.S. Department of Labor (DOL) has improved its [Family and Medical Leave Act \(FMLA\) notice and certification forms](#). The changes are intended to address frequent problems the DOL confronts in exercising its enforcement authority. Although use of the new forms remains optional, the revisions do provide simpler formatting and greater clarity regarding the information an employer needs to process a leave request.

For example, the Notice of Eligibility/Rights and Responsibilities form (WH-381) articulates in greater detail employers' and employees' rights and obligations associated with FMLA leave and potential consequences if those obligations are not met. It also includes a clearer statement of employees' rights with respect to their health benefits and reinstatement upon return. Moreover, the form now better addresses issues related to the substitution of paid leave. Specifically, the form more fully explains to the employees their rights and obligations with respect to substituting paid leave. Finally, the form incorporates a number of checkboxes that employers can use to designate which type or types of leave apply.

The DOL's other standard forms have been similarly revised as well. The new Designation Notice (WH-382) also contains checkboxes and emphasizes that neither the employer nor the employee has the option to decline FMLA protection for qualifying leave. The Medical Certification forms (WH-380-F and -E) incorporate checkboxes as well, in lieu of spaces for written answers, which are designed to assist health care providers in quickly and accurately completing the forms, reducing both the time it takes to complete the form and the time it takes to be processed. In addition, the Medical Certification forms remind employers that they are not permitted to require a certification form when an employee is requesting leave to bond with a healthy newborn or a child placed for adoption or foster care.

If you have any questions about the new FMLA notice and certification forms or managing FMLA leave requests, please contact Katie D. Triska, Robert S. Driscoll or your Reinhart attorney.

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