



# COMPLIANCE BULLETIN

## HIGHLIGHTS

- Many employers use the DOL's model forms to administer employee leaves under the FMLA.
- The DOL is proposing changes to its model FMLA forms to make them easier to use.
- At this time, the proposed changes are for the public to comment on. Employers should not use the draft forms to administer leaves.

## IMPORTANT DATES

### August 5, 2019

The DOL announces a 60-day public comment period on proposed changes to the model FMLA forms.

### October 4, 2019

Deadline for submitting comments on the proposed changes.

## Provided By:

Better Business Planning, Inc.

## DOL Proposes Changes to FMLA Forms

### OVERVIEW

The Department of Labor (DOL) recently [proposed changes](#) to the forms that are frequently used for administering employee leaves under the federal Family and Medical Leave Act (FMLA). The DOL is asking for the public to comment on the proposed revisions by Oct. 4, 2019.

According to the DOL, the proposed changes are intended to increase FMLA compliance and reduce the burden on employers, employees and health care providers by making the forms easier to use. The proposed changes would:

- ✓ Reduce the number of questions that require written responses (and replace them with check boxes);
- ✓ Reorganize the medical certification forms to simplify the determination of a serious health condition; and
- ✓ Expand the instructions to clarify how to accurately complete the forms.

### ACTION STEPS

Employers that use the DOL's model FMLA forms should watch for developments related to these proposed changes. The draft revisions are in proposed form for comment only. At this point, they should not be used to administer FMLA leaves.



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## FMLA Forms

The federal FMLA requires private sector employers with 50 or more employees, schools and public agencies to provide unpaid, job-protected leave to eligible employees for certain family and medical reasons.

The DOL created seven forms to help employers and employees meet their notice obligations under the FMLA.

These forms are free and publicly available on the DOL's website at: <https://www.dol.gov/whd/fmla/forms.htm>.

Employers are not required to use these model FMLA forms, although the use of these forms (properly completed) may help employers satisfy their FMLA notice obligations.


## Proposed Changes

The DOL has proposed revisions to its model FMLA forms for the stated purpose of increasing compliance with the FMLA and reducing the burden on the public by making the forms easier to use. More specifically, the DOL says it hopes to reduce the number of forms returned for additional information because they are considered incomplete or contain insufficient information. The DOL also wants to reduce the amount of time it takes to complete some of the forms.

The DOL is requesting public comment on the proposed changes to the forms, which include:

- ✓ Fewer questions requiring written responses (replaced with statements that can be verified by checking a box);
- ✓ Reorganization of the medical certification forms to more quickly determine if a medical condition is a serious health condition as defined by the FMLA;
- ✓ Clarifications to reduce the demand on health care providers for follow-up information;
- ✓ More information on the notification forms to better communicate specific information about leave conditions to employees;
- ✓ Changes to the qualifying exigency certification form to provide clarity to employees about what information is required;
- ✓ Changes to the military caregiver leave forms to improve consistency and ease of use; and

**Notice of Eligibility and Rights & Responsibilities  
(Family and Medical Leave)  
U.S. Department of Labor  
Wage and Hour Division**

 U.S. Department of Labor

OMB Control Number: 1215-0003  
Expires: 3/31/2015

**RETURN TO EMPLOYEE - DO NOT SEND TO THE DEPARTMENT OF LABOR**

In general, to be eligible an employee must have worked for an employer for at least 12 months, meet the hours of service requirement in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. While use of this form by employers is optional, a fully completed Form WH-381 provides employees with the information required by 29 C.F.R. § 825.300(b), which must be provided within five business days of the employee notifying the employer of the need for FMLA leave. Section II provides employees with information regarding their rights and responsibilities for taking FMLA leave, as required by 29 C.F.R. §§ 825.300(b), (c). Information about the FMLA may be found on the WHD website at <http://www.dol.gov/whd/fmla>.

Date: \_\_\_\_\_ From: \_\_\_\_\_  
(Employer)

To: \_\_\_\_\_  
(Employee)

On \_\_\_\_\_ (date), we learned that you need leave beginning on \_\_\_\_\_ (date) for one of the following reasons:

- The birth of a child, or placement of a child with you for adoption or foster care, and to bond with the newborn or newly-placed child
- Your own serious health condition
- Because you are needed to care for your family member due to his/her serious health condition: (select family member)
  - spouse,
  - child, or
  - parent
- Because of a qualifying exigency arising out of the fact that your family member is on covered active duty or has been notified of an impending call or order to covered active duty status: (select family member)
  - spouse,
  - son or daughter, or
  - parent
- Because you are the family member of a covered servicemember with a serious injury or illness: (select your relationship to the covered servicemember)
  - spouse,
  - son or daughter,
  - parent, or
  - next of kin

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- ✓ Layout and style changes to reduce blank space and improve readability.

Comments on the proposed changes must be submitted by Oct. 4, 2019. The proposed changes to each of the forms are available at:

- [Form WH-380-E](#) – Certification of Health Care Provider for Employee’s Serious Health Condition
- [Form WH-380-F](#) – Certification of Health Provider for Family Member’s Serious Health Condition
- [Form WH-381](#) – Notice of Eligibility and Rights and Responsibilities
- [Form WH-382](#) – Designation Notice
- [Form WH-384](#) – Certification of Qualifying Exigency for Military Family Leave
- [Form WH-385](#) – Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave
- [Form WH-385-V](#) – Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave

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