



# FMLA PAPERWORK

How and Why?

# What is FMLA?

- The **Family Medical Leave Act** entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.
- **COVERED EMPLOYERS**: Public agency, including a local, state or Federal government agency, regardless of the number of employees it employs.

# Notification Requirements under FMLA

- Employers covered by the FMLA are obligated to provide their employees with certain critical notices about the FMLA so that both the employees and the employer have a shared understanding of the terms of the FMLA leave.  
<https://www.dol.gov/agencies/whd/fact-sheets/28d-fmla-employer%20notification>
- Covered employers who have employees who are eligible for FMLA leave must:
  1. Provide employees with **general notice** about the FMLA
  2. Notify employees concerning their **eligibility status and rights and responsibilities** under the FMLA; and
  3. Notify employees whether specific leave is **designated as FMLA leave** and the amount of time that will count against their FMLA leave entitlement.

# General Notice Requirements

- All covered employers are required to display and keep displayed a poster prepared by the Department of Labor summarizing the major provisions of the FMLA and telling employees how to file a complaint. The poster must be displayed in a conspicuous place where employees and applicants for employment can see it. A poster must be displayed at **all locations** even if there are no eligible employees.
- Poster last revised: April 2016 (the February 2013 version still fulfills the posting requirement)
  - <https://www.dol.gov/agencies/whd/posters/fmla>
- The FMLA poster is one of the six Federal Posting Requirements. To receive a labor law compliance poster which address all six of these federal posting requirements (referred to a 'six in one poster') at no charge, **contact your job service office**.
  - Limited amount available here today

# General Notice Requirements

- A covered employer who has any eligible employees also must provide a general notice containing the same information that is in the poster in its **employee handbook** (or other written material about leave and benefits). If no handbook or written leave materials exist, the employer must distribute this general notice to new employees upon hire.
- The poster may be posted electronically, and the general notice may be distributed electronically provided all other requirements are met.

# Eligibility & Rights and Responsibilities Notice Requirements

- When an employee requests to take leave, or when the employer acquires the knowledge that an employee leave may be for an FMLA qualifying reason:
  1. Employee eligibility must be determined
    - If the employee is NOT eligible for FMLA leave, state at least one reason why.
  2. Notice of eligibility status must be provided to the employee within **five business days**.
    - This may be either oral or in writing.

**Form WH-381**: Notice of Eligibility & Rights and Responsibilities under the Family and Medical Leave

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-381.pdf>

# Designation Notice Requirements

- This notice informs the employee whether the FMLA leave request is approved; also informs the employee of the amount of leave that is designated and counted against the employee's FMLA entitlement.
- This notice may also be used to inform the employee that the certification is incomplete or insufficient and additional information is needed.

**Form WH-382:** Designation Notice under the Family and Medical Leave Act

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-382.pdf>

# Certification Forms

- Certification is an optional tool provided by the FMLA for employers to use to request information to support certain FMLA-qualifying reasons for leave. An employee can provide the required information contained on a certification form in any format, such as on the letterhead of a healthcare provider, or official documentation issued by the military.
- A good rule of thumb: Request a Certification of Healthcare Provider for every situation in order to be consistent.
  - **Certification of Healthcare Provider for a Serious Health Condition**
    - Employee's serious health condition <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-380-E.pdf>
    - Family member's serious health condition <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-380-F.pdf>
  - **Certification of Military Family Leave**
    - Qualifying Exigency <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-384.pdf>
    - Military Caregiver Leave of a Current Servicemember <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-385.pdf>
    - Military Caregiver Leave of a Veteran <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh-385-V.pdf>

# FMLA: Forms

- The Department of Labor has developed optional-use forms which can be used by employers to provide required notices to employees, and by employees to provide certification of their need for leave for an FMLA qualifying reason. These forms are electronically fillable PDFs and can be saved electronically. Alternatively, Employers may use their own forms, if they provide the same basic notice information and require only the same basic certification information. <https://www.dol.gov/agencies/whd/fmla/forms>

### FMLA Checklist

Employee Name \_\_\_\_\_ Department \_\_\_\_\_

RETURN TO WORK FT \_\_\_\_\_

Type of leave:      Continuous      Intermittent      Reduced Work Schedule

Date Notice given by Employee or Employer: \_\_\_\_\_

Within 5 days of notice, must complete and provide employee with The Notice of Eligibility and Rights & Responsibilities

Is Employee Eligible? \_\_\_\_\_

Has the employee used FMLA leave in the past 12-month period?      Yes      No

If Yes, amount of leave remaining \_\_\_\_\_      Expected duration of leave: \_\_\_\_\_

Entered Into Excel for Tracking: \_\_\_\_\_

1. Give Employee:      Date: \_\_\_\_\_      Mailed      Emailed      Hand Delivered

- FMLA Notification Letter**
- Notice of Eligibility and Rights & Responsibilities (FMLA Form)**
- DOL Fact Sheet #28: The Family and Medical Leave Act**
- Certificate of Health Care Provider (FMLA Form)**  
Due Back: \_\_\_\_\_      Received: \_\_\_\_\_  
\*\*Allow 15 days  
\_\_\_\_ For Employee's Serious Health Condition WH-380-E  
\_\_\_\_ For Family Member's Serious Health Condition WH-380-F  
\_\_\_\_ Certification of Qualifying Exigency for Military Family Leave WH-384  
\_\_\_\_ Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave WH-385  
\_\_\_\_ Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave WH-385-V

- Copy of Employees Job Description**

2. Once you receive Certificate of Health Care Provider

Give Employee (within 5 days):      Date: \_\_\_\_\_      Mailed      Emailed      Hand Delivered

- FMLA Designation Notice (FMLA Form)**

---

### FMLA HOURS TRACKING:

### OTHER INFORMATION

**City of Aberdeen 12-month period:** A "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

#### **FMLA QUALIFYING REASONS**

- The birth of a son or daughter and to care for the newborn child.
- Placement with the employee of a son or daughter for adoption or foster care.
- To care for the employee's spouse, son, daughter or parent with a serious health condition.
- A serious health condition of the employee that makes the employee unable to perform the functions of his or her job.
- A covered family member's active duty or call to active duty in the National Guard or Reserves in support of a contingency operation.
- To care for an injured or ill covered service member.

#### **FMLA ELIGIBILITY**

**An eligible employee is an employee of a covered employer who:**

- Has been employed by the employer for at least 12 months.
- Has worked at least 1,250 hours (actual hours worked) during the 12-month period immediately preceding the start of the FMLA leave.
- Is employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite.

#### **DURING LEAVE**

- Maintain the employee's coverage under any group health plan at the same level and under the same conditions as would be maintained had the employee continued actively working, including employer contributions.
- Collect premium payments for health insurance from the employee during periods of unpaid FMLA leave.
- Review internal policies to determine how other benefits are impacted by an FMLA absence, such as paid-time-off accruals, life insurance, etc.
- Ensure that the employee complies with any requirement for periodic updates to the employer during leave.

#### **RETURN TO WORK**

- Have the employee obtain a release to work from his or her health care provider, if required.
- Reinstatement the employee to the same or an equivalent position.
- Arrange for the repayment of outstanding insurance premiums owed by the employee.
- Maintain records of the employee's FMLA leave for a minimum of three years, separate from the employee's personnel file.