

FMLA Insights

Guidance & Solutions for Employers

DOL's Model FMLA Forms Now Approved Through 2015. Details Here...

By Jeff Nowak on February 14, 2012



As I reported last month, the Department of Labor has been working with the Office of Management and Budget to extend the life of its model FMLA forms, which expired on December 31, 2011. If you checked the DOL website today, you would find that the Department now has approval to use its model FMLA forms through February 28, 2015. The "new" forms can be accessed here.

So, what changes did the DOL make to its model FMLA forms? [*Insert background music from Groundhog Day.*] Ahem, there are no changes to the forms. That's right! *Zero. Zip. Nada.*

Call me naive, wet behind the ears, clueless about federal government [*not apologizing for that one*], but it's a bit odd that DOL made absolutely no changes to its model FMLA forms. Sure, the OMB process can be maddening, at best, but all we anticipated a few tweaks, right?

At a minimum, I would have expected the following changes to the DOL's FMLA forms:

1. *Incorporating the 2010 amendments for military family leave.* The forms do not account for the changes to exigency leave, which now is possible as a result of a family member's call to duty in a foreign country (as opposed to the confusing "contingency operation" language originally used). Indeed, the "contingency operation" language remains. They also do not contain any reference to a servicemember's past service, since caregiver leave now can be taken up to five years after the servicemember leaves the military.
2. *Reference to use of genetic information under the Genetic Information Nondiscrimination Act.* Last month, I provided language that we recommend inserting into FMLA medical certification to avoid any issues with disclosure of genetic information. Employer also should use this disclaimer when seeking medical information from a health care provider (e.g., to support a request for an ADA reasonable accommodation after FMLA leave has expired).

Will the model FMLA forms change any time soon? We presume that the DOL will update its FMLA forms when the new regulations take effect. See my prior post outlining those recently proposed changes. Given that we are squarely in the middle of an election year, however, I would not expect any final regulatory changes or even tweaks to the forms until 2013.

Now that the DOL's model FMLA forms are in effect for the foreseeable future, employers should work with their employment counsel to review and amend their FMLA forms to include the

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suggestions above and to streamline forms to fit your operational needs. If you haven't done so already, you also should update your FMLA policy regarding the changes to military family leave, since those changes took effect when the military amendments were passed in late 2009.

Hat tip: Anne St. Martin

Tags: [DOL FMLA forms](#), [election year](#), [Genetic Information Nondiscrimination Act](#), [military family leave](#), [OMB](#), [update FMLA forms](#)

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