

# THE INSIDE PERSPECTIVE

LABOR AND EMPLOYMENT LAW SOLUTIONS FOR EXECUTIVES AND HR PROFESSIONALS



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## New FMLA Forms from the Department of Labor

With the new FMLA regulations, the Department of Labor has developed forms to facilitate communications among employers, employees and health care providers. Here's how to use them:

### STEP ONE: USE THE NEW FMLA POSTER

- Put the poster up in a common area easily visible by employees.
- Add a copy of the poster to your employee manual. If you do not have a manual, distribute a copy of the poster in hard copy or electronic copy to each employee.

When an employee requests FMLA leave or is absent for what appears to be an FMLA-qualifying reason:

### STEP TWO: PROVIDE FORM WH-381 (ELIGIBILITY / RIGHTS)

- Covers whether the employee is eligible for FMLA rights
- Explains the certification needed to qualify for FMLA leave for *this* absence
- States any rules on mandatory use of paid leave
- Provides limited return-to-work information
- **WITH FORM WH-381, PROVIDE ONE OF THESE CERTIFICATION FORMS**

**WH-380E** employee's health condition; **WH-380F** family member's health condition  
**WH-384** exigency caused by military duty; **WH-385** care for military service member

### STEP THREE: EVALUATE COMPLETED CERTIFICATION FORM

- Absent unusual circumstances, an employee has 15 days to return the certification form
- If information is incomplete, reissue form to employee for updating

### STEP FOUR: USE FORM WH-382 TO DESIGNATE LEAVE

- Form indicates whether employer will GRANT FMLA LEAVE or DENY FMLA LEAVE
- Restates any requirement to use paid leave first, and explains health insurance continuation
- Reviews rules on certifying fitness-for-duty upon returning to work after leave
- **WITH FORM WH-382, PROVIDE LIST OF JOB FUNCTIONS/JOB DESCRIPTION**

# TIP

The new FMLA regulations took effect January 16, 2009. Go to our employment law blog, [www.hrbriefcase.blogspot.com](http://www.hrbriefcase.blogspot.com) for copies of the forms the Department of Labor has issued to help you comply with the regulations.



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