

PUBLICATION

Newly Revised Model FMLA Forms Are Now Available

June 15, 2015

With little fanfare and no advance notice, the Department of Labor (DOL) has posted new model Family Medical Leave Act (FMLA) forms. The previous model FMLA forms expired on February 28, 2015 (note the expiration date in the top right corner of the forms). While the DOL updated the expiration date twice, first March 31 then April 30, they did not actually update the form. Now the DOL has posted newly revised forms that expire on May 31, 2018.

Although the revisions were highly anticipated, they are no real substantive changes. There is now Genetic Information Nondiscrimination Act (GINA) Safe Harbor language with an explicit warning to health care providers not to provide: ". . . information about genetic tests, as defined in 29 C.F.R. §1635.3(f), genetic services, as defined in 29 C.F.R. §1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. §1635.3(b)."

Although the changes are minimal, it is advisable to use the updated forms. Below are the links to access the updated forms:

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

One thing to note is that the DOL's model FMLA forms may not comport with your organization's needs and policies. For example, while the forms ask about the employee's ability to perform the essential job functions, there is no space on the form for the health care provider to list any work restrictions. There may be other questions that are not relevant to your business or that need to be added. These changes should be made carefully with counsel from your employment attorney. Additionally, the DOL has not provided a template FMLA request form, although it is advisable for employers to have one for their employees to use when requested FMLA leave.