DOL Releases New FMLA Forms

The U.S. Department of Labor ("DOL") has released updated Family and Medical Leave Act ("FMLA") forms.

Background

Certain posters and forms are required under the FMLA to inform employees of their rights and to request or verify the need for FMLA leave. FMLA allows employers to create and use their own FMLA forms as long as they provide the information required by the law. However, most employers use the DOL's FMLA forms for the sake of convenience and to avoid compliance violations.

Updated FMLA Forms

According to the DOL, "the new forms are simpler and easier for employees, employers, leave administrators and healthcare providers to understand and use. Revised with substantial public input, the forms include more questions that users can answer by checking a response box and electronic signature features to reduce contact. [The DOL] believes the changes will reduce the time users spend providing information, improve communications between leave applicants and administrators and reduce the likelihood of violations."

The revised forms include:

- Form WH-381 Eligibility Notice. Informs the employee of his or her eligibility for FMLA leave or provides at least one reason why the employee is not eligible and informs the employee of the specific expectations and obligations associated with the FMLA leave request and the consequences of failure to meet those obligations.

- Form WH-382 Designation Notice. Informs the employee of 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. An employer may also use this form to notify the employee that the certification is incomplete or insufficient and that additional information is needed.

- Form WH-380-E and Form 380-F Certification of Healthcare Provider for an employee's or family member's Serious Health Condition.

- Form WH-384Certification of Military Family Leave Qualifying Exigency when the leave request arises out of the foreign deployment of the employee's spouse, son, daughter, or parent.

- Form WH-385 Certification for Serious Injury or Illness of a Current Service member for Military Caregiver Leave when requesting leave to care for a family member who is a current service member with a serious injury or illness.

The new FMLA forms are available at: https://www.dol.gov/agencies/whd/fmla/forms