

## Department of Labor Publishes Improved FMLA Forms for Employers and Employees.

Employers covered by the Family and Medical Leave Act (“FMLA”) are [obligated](#) to provide their employees with certain notices so all parties have a common understanding of their rights and obligations under the FMLA.

On July 16, 2020, the U.S Department of Labor (“DOL”) published a series of [optional forms](#) for employers to provide the required notices to employees, and for employees to provide certification of their need for leave. The new forms are intended to be simpler and easier to understand for employers and employees.

### Changes

The DOL’s updated forms contain helpful definitions of key terms such as “spouse” and “parent” and include explanatory language related to FMLA rights and obligations. Medical certification forms now require health care providers to include more detail on the type of medical condition at issue and on the duration of requested leave. Additionally, the [Designation Notice](#) now includes a blank section for employers to explain what information is needed for “Incomplete or Insufficient” medical certifications, and when that information is due.

This new section may require employers to provide employees with the Designation Notice more than once, even if related to the same serious health condition, if the employer first needs more information, then subsequently approves or denies the leave. Other changes include substituting some check boxes for

written responses and supporting electronic completion and signature.

### **Employer Considerations**

The FMLA does not require the use of any specific form or format, therefore, employers may use old DOL forms in lieu of the updated ones. Employers cannot require an employee who has already submitted an FMLA compliant form to fill out a new form. Furthermore, employers cannot require an employee to use any specific forms; employers must accept complete and sufficient certifications from employees regardless of format so long as the form contains all the necessary information.

While use of the DOL's forms is optional, there is no reason not to use them to minimize the chance of error, ensure that all necessary "notice" information is provided to employees, and ensure that only permitted information is requested.

The FMLA is a complicated statute for employers to administer particularly when it intersects with state worker's compensation laws and the Americans with Disabilities Act. New forms won't alleviate complications but they should improve communications between employers and employees.

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