

**From:** [Anthony, Macey](#)  
**To:** [WHDPRAComments](#)  
**Subject:** Comments Regarding Revised FMLA Forms  
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Good afternoon, I have two comments for your consideration:

1. My employer routinely uses the DOL FMLA forms, and I have situations where an employee is technically eligible for FMLA (have worked here 12 months, have 1250 service hours, 50 or more employees within 75 miles); however, due to their use of FMLA in the same 12 month period, they no longer have any of their entitlement remaining, or have exhausted their benefit. In the form WHD 381 (the Notice) Part A, the employer chooses the option of either the employee being eligible for FMLA with the above-listed criteria, or the employee is not eligible – due to not meeting the above listed criteria. Then in Part B of the form, it notes that “you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12-month period.” I would like to see an addition to Part A that says essentially that while the employee is eligible for FMLA, they have exhausted their entitlement in the applicable 12-month period.

While it is probably not common for many employers to run into this – employers such as police departments do run into it due to the physical and dangerous nature of being a police officer. Our employees may have several FMLA-qualifying conditions in one 12-month period, for themselves as well as family members.

2. I don't see any information in the new forms which address the DOL's recent opinion that the employer must designate leave as FMLA if the employer knows that it qualifies as such. I would like to see language reflective of this in form WHD 381 or WHD 382.

Thank you for considering these comments,

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