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Attachments: [FMLA forms comments_000002.pdf](#)

Thank you for the opportunity to comment concerning the proposed revision of the information collection request in accordance with the FMLA. I work for a large, local government where we administer FMLA in-house. I have found the current WH-381, 380-E, 380-F, and 382 forms to be confusing to medical providers so they ignore many questions or provide answers that do not make sense with the regard to our employees' situations.

The proposed revisions to these forms are a step in the right direction, but my experience tells me that more modifications are necessary. In consideration of that, please see my suggestions/requests below.

- WH-381: Please change opening sentence to "On _____(date), we learned that **you may have a situation that qualifies for FMLA protection. You may need intermittent time off or a period of full-time leave for the following reason:**"
- For WH-380-E, Section II, Part B (1), 'end date' can have two meanings that are confusing to both patient and employer. Please change to:
 - "First Day of Absence:" and "Return to Work Date:"
- WH-380-E, Part A (5) requests expected delivery date if condition is pregnancy. Please ask how long medical incapacity will last. Employers who require the substitution of paid leave (where there is a separation of sick and vacation) may only pay sick leave during the period of medical incapacity. Remaining time off for bonding would necessarily be vacation or unpaid leave. For WH-380-F, please ask for the duration of medical incapacity for which the employee's presence is necessary. Again, the employee would only be permitted to use sick time during the period of medical incapacity.
- WH-380-E, Section I (2) "Date:" Should reflect the date the Certification Form is provided/mailed to the employee. WH-380-E, Section I (3) should reflect the date the employee, or the employee's representative requested a Certification Form. And, WH-380-E, Section I (4) reflects at least 15 days from (2).
- WH-380-E, Section I (6): What is the expected answer here? 8:00 a.m. to 5:00 p.m., or 40 hours weekly, or Monday through Friday?
- WH-380-E, Section II, Part B (5): It is unclear whether the physician is indicating the hours/days that the employee can work or the hours/days that the employee *cannot* work. (See attachment of actual physician response using current WH-380-E) On the attachment, will the employee be working one hour per day per month; or does the employee intend to be absent one hour per day per month?
- Please make similar changes to WH-380-F, Section II (4).

- WH-380-E, Section II, Part B (4): You will likely need to explain to physicians and their designees to choose only one option under “Duration” and only one option under “Frequency.” And, provide physicians and their designees the opportunity to indicate a duration range, such as “4 hours to 3 days.”
- WH-380-E, Section II, Part A instructions to physician: Please change this sentence as follows: “Be as specific as you can; terms such as “*lifetime*,” “*unknown*,” or “*indeterminate*” ~~may~~ **are** not be sufficient to determine if the benefits and protections of the FMLA apply.”
- Please make similar change to WH-380-F, Section III, Part A.
- On forms WH-380-E and WH-380-F the medical provider is asked to give a best estimate of frequency of absence and duration. That information can and *should* be shared with an employee’s chain-of-command, but the Designation Notice (WH-382) does not share frequency and duration information.
- Physicians’ offices primarily use a patient’s name AND date of birth to access records. So, on WH-380-F, Section II (2b), please do NOT limit the request for date of birth to son or daughter. Please request that the employee supply the date of birth for spouse and parents as well.
- For WH-380-F, Section II (3b), please provide the same choices the physician has in Section III, Part B (4). This will provide the employee with a better understanding of the information that is being requested. It should prevent responses like “all year” or “monthly.”
- WH-382 Section III, “Provided there is no deviation . . .” Employers and employees would prefer to see the dates of leave versus 240 hours, 45days, or 3 weeks. Hours, days, or weeks does not give any indication of when those hours, days, or weeks will occur.

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