

From: [Jodi MacHutchin](#)
To: [WHDPRAComments](#)
Subject: Control Number 1235-0003 (Feedback on proposed FMLA forms)
Date: Tuesday, August 20, 2019 11:03:34 AM

Good morning, DOL FMLA team –

Thank you for taking time to review and update forms used for FMLA administration. As someone who is managing the leaves for my entire company with 11 years of benefits experience, I understand the complexity of this undertaking. Below is my input on several of the proposed updates.

Draft Form WH-380-E (Certification of Health Care Provider for Employee's Serious Health Condition)

- The form is increasing from 4 pages to 6 pages. Many physicians charge the employee per page to complete such documentation. The increased number of pages will put an additional financial burden on many employees.
- Some ongoing things we run into with medical certifications that is not addressed by the proposed updates:
 - Information not written legibly by health care provider, which requires a follow up to understand what was written
 - Multiple colors of pen and/or handwriting, which requires a follow up with the health care provider to authenticate the document
 - Document completed by an administrative support person and signed by the health care provider, which often leads to follow up questions/confusion
 - Dates seen in the past year for the medical condition are not being listed. We often have to obtain clarification to this question to understand if a condition qualifies under FMLA or not. If the new medical certification will rely on doctors checking a box to determine if a condition qualifies under FMLA and nothing more, that will only make the process more difficult for employers to manage. Especially with those we have a strong suspicion are taking advantage of the system.
 - Even though the proposed new medical certification does not ask for diagnosis, HCP often complete the medical certification in regards to an employee's overall health (multiple unrelated conditions) vs the medical condition for which the employee is seeking leave for. It makes it challenging to determine if their condition(s) actually qualify under FMLA per the DOL. Also, without a diagnosis from a HCP, it limits our ability to help our employees through the FMLA process and hold HCP responsible for the paperwork they complete.
- Health Care Provider Instructions should be located BEFORE the section the health care provider has to fill out.
- HCP sections A3b, A4a, and A8: Clarify that the health care provider should provide **dates** in those spaces.

- HCP Section A4b: Ask for dates seen in the **past year** for the condition. Since this is a qualifying question under FMLA, it should be stated clearly.
- HCP section B2: Include a 2nd example besides prenatal appointments so they don't skip it if the person isn't pregnant.
- HCP section B4: Under Duration, split into 2 columns section hours/day and week/months Clarify that they should fill in **one** item for each category/column. Right now we get very confusing responses in this area such as "2 hours per week per month." Force them to select one per category. Also, clarify that this item IS NOT related to the need for prescheduled medical appointments or reduced work schedule. Right now they often put the same answer in two or three different sections of the form and it causes confusion.
- HCP section B5: Clarify that this item IS NOT related to their answers for prescheduled medical appointments or flare-ups. Right now they often put the same answer in two or three different section of the form and it causes confusion.
- HCP section C: It would be helpful if inability to perform essential job functions was broken down into categories such as:
 - Inability to perform the following job functions during continuous leave: _____
 - Inability to perform the following job functions during flare ups: _____
 - Inability to perform the following job functions resulting in a reduced work schedule: _____
- It seems unlikely that the health care provider will reference the definitions if they are located at the back of the document.

Draft Form WH-380-F (Certification of Health Care Provider for Serious Health Condition of the Family Member)

- The form is increasing from 4 pages to 6 pages. Many physicians charge per page to complete such documentation. The increased number of pages will put an additional financial burden on many employees.
- Some ongoing things we run into with medical certifications that is not addressed by the proposed updates:
 - Information not written legibly by health care provider, which requires a follow up to understand what was written
 - Multiple colors of pen and/or handwriting, which requires a follow up with the health care provider to authenticate the document
 - Document completed by an administrative support person and signed by the health care provider, which often leads to follow up questions/confusion
- Employer Instructions should be located BEFORE the section the employer has to fill out.

- In Section I – Employer, it would be helpful to have a spot for the employer to write the relationship and/or name of the family member for whom the employee indicated they need FMLA.
- Health Care Provider Instructions should be located BEFORE the section the health care provider has to fill out.
- In the HCP section A4, it would be easier for them to fill out if given check boxes similar to that question in the employee's section.
- HCP sections 5b, 6a: Clarify that the health care provider should provide **dates** in those spaces.
- HCP section B2: Include a 2nd example besides prenatal appointments so they don't skip it if the person isn't pregnant.
- HCP section B4: Clarify that they should fill in one item for each category. Right now we get very confusing responses in this area such as "2 hours per week per month." Force them to select one per category. Also, clarify that this item IS NOT related to the need for prescheduled medical appointments. Right now they often put the same answer in two or three different section of the form and it causes confusion.
- It seems unlikely that the health care provider will reference the definitions if they are located at the back of the document.

Draft Form WH-382 (Designation Notice)

- The form is increasing from 1 page to 4 pages. This is not ideal and it would be great if the form could be shorter.
- It would be helpful if everything related to "approval" is kept together on the form and everything related to "pending/denied" is kept together on the form. To say that someone is approved on page 1 and then expect the reader to jump to page 3 for additional information about the approval will result in confusion.
- In some of these sections, it would be helpful to have an open comment line if we need to provide additional context. For example, in Section III(3), we may require substituting use of paid SICK leave, but not paid VACATION leave and there is nowhere for us to provide that clarification.

Thank you for your consideration.

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