



FMLA Regs May Soon Get Revamped To Ease Employer Burdens

Insights

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If the Department of Labor has anything to say about it, employers may soon get a bit of a reprieve when it comes to dealing with the administrative and compliance difficulties associated with the Family and Medical Leave Act. In a May 21 announcement, the agency's spring regulatory agenda – highlighting its plans for the coming year and beyond – contained a noteworthy entry calling for information to help revise the statute's regulations to help “reduce administrative and compliance burdens on employers.” What do employers need to know about this impending development, and how might they influence this process to their benefit?

Agency Will Call For Information From Stakeholders

Yesterday's announcement was short but sweet. The U.S. Department of Labor's semi-annual regulatory agenda announced that the agency wants to gather information from employers and the worker community to assist in improving procedures under the FMLA. “In this Request for Information,” it reads, “the Department will solicit comments on ways to improve its regulations under the FMLA to: (a) better protect and suit the needs of workers; and (b) reduce administrative and compliance burdens on employers.”

Officially, the Request for Information (RFI) is still in the pre-rule stage, meaning that we have several steps to go before we enjoy a revamped and streamlined compliance process. The only timetable noted in the announcement places April 2020 as the date by which we can expect some progress. If the USDOL sticks with this plan, we can expect to see more detail by then regarding the specific provisions of the regulations that are up for possible revision—and possibly some indication of what kinds of revisions may be proposed.

What Can We Expect?

At this stage of the game, it is too early to know the specific regulatory provisions that could be up for review. However, according to an article in today's HR Dive, a USDOL official recently informed attendees at a legal conference “that the agency is looking at ways to make FMLA forms easier to use, including reducing the demand they place on physicians.”

The article notes that we could also see a greater number of options to choose from when checking boxes on the forms. Finally, the official noted that revised physician certifications could enable FMLA administrators to more quickly determine if the employee's condition is an actual “serious health condition” eligible for FMLA leave.

What Should Employers Do?

We are still approximately one year out from the expected announcement from the USDOL soliciting input from employers and others about the changes to the FMLA regulations they would like to see. How can you make this time valuable to the process? You should spend this time compiling a wish list of revisions that would ease your administrative and compliance burdens. Take time to think through the challenges you have faced when dealing when processing typical (and unique) FMLA leave requests, and pay attention to the difficulties that arise with future leave requests.

But don't stop there. Compile a list of realistic and reasonable fixes that would make life easier for both you and your employees. That way, you will be in a good position to contribute substantive suggestions to the agency once it opens up the floor for specific feedback.

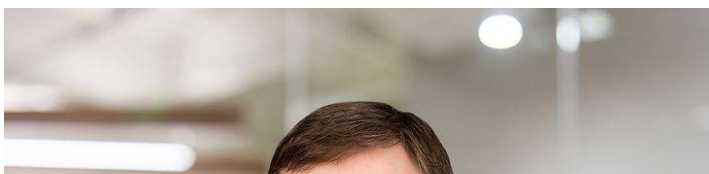
In the meantime, we will continue to monitor further developments and provide updates as the Request for Information is readied and eventually released, so you should ensure you are subscribed to [Fisher Phillips' alert system](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney.

This Legal Alert provides an overview of specific federal regulatory developments. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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