

DOL releases updated FMLA forms

September 2018

DOL releases model FMLA forms that are good until 2021

The Department of Labor has released updated versions of its model FMLA certification and notice forms, carrying a new expiration date of Aug. 31, 2021.

Other than the new expiration date, the forms are identical to the previous versions, which officially expired in May 2018. After that, the DOL continued to extend the forms' expiration dates on a month-to-month basis. The Office of Management and Budget approved the new versions of the forms in August. A note reading "Expires: 8/31/2021" appears in the upper right corner of each of the newly updated forms.

Employers should begin using the new forms now to certify FMLA-covered serious health conditions and notify employees of their FMLA rights. Here are links to the newly extended forms:

- [WH-380-E Certification of Health Care Provider for Employee's Serious Health Condition \(PDF\)](#)
- [WH-380-F Certification of Health Care Provider for Family Member's Serious Health Condition \(PDF\)](#)
- [WH-381 Notice of Eligibility and Rights & Responsibilities \(PDF\)](#)
- [WH-382 Designation Notice \(PDF\)](#)
- [WH-384 Certification of Qualifying Exigency For Military Family Leave \(PDF\)](#)
- [WH-385 Certification for Serious Injury or Illness of Current Servicemember -- for Military Family Leave \(PDF\)](#)
- [WH-385-V Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave \(PDF\)](#)

Find more guidance and advice on FMLA compliance on the [DOL's FMLA web page](#).

April 2018

The official Family and Medical Leave Act (FMLA) forms issued by the U.S. Department of Labor in 2016 are scheduled to expire next month. The core suite of FMLA forms used by employers — doctors' certifications of serious health conditions, notices of rights and responsibilities and designation notices — carry an expiration date of May 31, 2018.

The DOL has yet to release updated versions. Until they do, use the links in the June 2015 article below to access the current FMLA forms. We will post links to the new versions here once the DOL releases them.

MAY 2016

DOL releases updated FMLA poster: Must you use the new version? The U.S. Department of Labor just issued a new version of the FMLA poster that covered employers are required to hang in their workplaces. You can

download the poster [here](#).

If you already have an FMLA poster in your workplace, must you display this new version? No, you don't have to use this new version as long as you're currently displaying a poster that includes the same information (which was most recently updated in 2013). This new 2016 update contains basically the same information as the 2013 poster, but the new poster is organized in a more reader-friendly format. It also adds more color to the poster and now highlights the DOL's contact information to file a complaint (not something your organization needs). The DOL stated, "The February 2013 version of the FMLA poster is still good and can be used to fulfill the posting requirement." ([Read more about the 2016 version of the poster.](#))

At the same time it released the poster, the DOL published a new version of its [Employer's Guide to The FMLA](#), a 75-page PDF book that helps new and experienced HR professionals navigate the complex law.

JUNE 2015

DOL issues updated FMLA forms that don't expire until 2018. The U.S. Department of Labor has finally gotten around to revising its official Family and Medical Leave Act (FMLA) forms on more than a month-by-month basis. The core suite of FMLA forms used by employers — doctors' certifications of serious health conditions, notices of rights and responsibilities and designation notices — now carry an expiration date of May 31, 2018.

The DOL had been revising the forms monthly since previous editions expired in February. In addition to a new expiration date, the new forms also include specific references to the Genetic Information Nondiscrimination Act, which limits collection of data on hereditary health conditions that could be used to discriminate against employees.

Download the forms here:

- [WH-380-E Certification of Health Care Provider for Employee's Serious Health Condition](#) (PDF)
- [WH-380-F Certification of Health Care Provider for Family Member's Serious Health Condition](#) (PDF)
- [WH-381 Notice of Eligibility and Rights & Responsibilities](#) (PDF)
- [WH-382 Designation Notice](#) (PDF)
- [WH-384 Certification of Qualifying Exigency For Military Family Leave](#) (PDF)
- [WH-385 Certification for Serious Injury or Illness of Covered Servicemember -- for Military Family Leave](#) (PDF)
- [WH-385-V Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave](#) (PDF)

MARCH / APRIL, 2015

Use updated FMLA forms

With almost no advance notice, the federal government has revised recently expired FMLA forms to reflect an updated effective date. The core suite of FMLA forms—doctors' certifications of serious health conditions, notices of rights and responsibilities and designation notices—expired on Feb. 28, 2015. (*See the expiration date in the top right corner of the forms.*)

The Department of Labor's FMLA Web page added links to forms carrying an updated expiration date, first March 30, then April 30.

Practical impact: Right now, probably none. If past practice holds true, using your recently expired FMLA forms you may have printed out will still suffice.

FEBRUARY, 2012



The U.S. Department of Labor has released new updated FMLA certification and notification forms that won't expire for three more years. These new forms carry an expiration date of Feb. 28, 2015 in the upper right corner. Employers can use these DOL forms directly in their organizations, or they can use the forms as models and create their own versions.

These "updated" versions, however, did not include any substantive changes from the ones employers have used for the past several years, only the expiration date. That was somewhat of a surprise because the DOL did not use this opportunity to fix a pair of key shortcomings on their FMLA forms. Those shortcomings (which will likely be addressed in newly updated FMLA forms released later) include:

- 1) Any references to the additional FMLA rights provided under the **2010 amendments for military family leave**.
- 2) Any reference to the "safe harbor" privacy language required under the **Genetic Information Nondiscrimination Act of 2008 (GINA)**. The law says that employers who request medical certifications from employees must instruct health care providers not to collect or provide any genetic information about the person.

For that reason, it's wise to add language to your FMLA medical certification forms. The EEOC has suggested that employers add this language to any form that requests health-related information from their employees:

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

If you provide this type of warning and follow the other GINA rules, the EEOC says, "any genetic information the entity acquires will be considered inadvertent." Thus, this wording attached to your FMLA forms helps create a "safe harbor" for employers.

DOL MODEL FMLA FORMS, updated with 2015 expiration date:

- [Certification of Health Care Provider for Employee's Serious Health Condition \(WH-380-E\)](#)
- [Certification of Health Care Provider for Family Member's Serious Health Condition \(WH-380-F\)](#)
- [Notice of Eligibility and Rights & Responsibilities \(WH-381\)](#)
- [Designation Notice \(WH-382\)](#)
- [Certification of Qualifying Exigency For Military Family Leave \(WH- 384\)](#)
- [Certification for Serious Injury or Illness of Covered Servicemember — for Military Family Leave \(WH-385\)](#)