Family and Medical Leave Act Certification of a Serious Health Condition

Help for Health Care Providers

The Family and Medical Leave Act (FMLA) provides critical protections to help workers balance the demands of the workplace with the needs of their families and their own health. The FMLA provides eligible employees the right to take up to **12 workweeks** of unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

Health care providers can be important allies in helping employees obtain the necessary job protections afforded by the FMLA by timely and accurately completing requests for certification.

This flyer outlines what health care providers need to know about FMLA and the steps they can take to make sure patients' and family caregivers' employment is protected during serious illness.

What You Should Know About FMLA Leave

- FMLA leave may be taken for a variety of reasons, including when the employee is unable to work because of **their own serious health condition and to care for their spouse, child or parent who has a serious health condition**.

- FMLA leave may be taken all at once or **intermittently or on a reduced leave schedule** if there is a medical necessity.

- Eligible employees can take up to 12 weeks of FMLA leave within a single 12-month period, or **leave year** (e.g., calendar year, fiscal year, employee anniversary date).

- An employer may require an employee seeking FMLA leave due to a serious health condition (their own or a family member's) to submit a **medical certification to verify the employee's need for time off**. The employer may not request a certification for leave to bond with a newborn child or a child placed for adoption or foster care.

Supporting FMLA Leave for Your Patient or Their Family Caregiver

Your patient or your patient's family caregiver might request one or more of the following to support their need for FMLA leave:

- **Medical certification** of whether your patient has a serious health condition and that your patient, or their family caregiver, may need FMLA leave (e.g., for treatment, recovery, or caregiving)

- **Recertification** of your patient's serious health condition during the same leave year, which an employee may need to obtain no more often than every 30 days for a short-term condition, after six months for a longer-term condition, or sooner if, for example, the medical circumstances have changed significantly

- **New medical certification** in new leave years if an employee's need for FMLA leave due to a serious health condition continues

- **Second or third medical opinions** if an employer has received a complete and sufficient certification but has a reason to doubt that it is valid

- **Fitness-for-duty certification** showing that your patient is able to resume work

You may be asked for additional information if the medical certification or recertification is incomplete or if there is a need to clarify some of the information.

An employer might request that you—

- **Authenticate or clarify information received.** Once an employer has received a complete and sufficient medical certification, they may not request that an employee seek additional information from a health care provider. However, the employer may contact you to authenticate or clarify the information provided.

  - You may be contacted by the employer's human resources staff, a leave administrator, or other staff. Under the FMLA, the employee's direct supervisor may not contact you.

- **Verify leave needs.** In certain situations, an employer may provide you with a record of the employee's absences from work and ask you if your patient's needs for leave or care are consistent with the leave taken.

Protecting Your Patient's Privacy

- When an employer requires a certification, the certification does not need to provide the patient's diagnosis but does need to state appropriate medical facts that indicate the employee needs leave due to an FMLA-protected health condition.

- The FMLA **does not require employees to sign a release of their medical information**. It is an employee's choice whether to sign a release of medical information or authorization, or waiver allowing the employer to communicate directly with you.

- Under the FMLA, you only need to provide information about your patient's health as it relates to their or their family member's need for leave from work.

- Some **state or local laws may prohibit disclosure of private medical information** about your patient's serious health condition, such as providing a diagnosis and/or course of treatment.

- **Do not** include any information about genetic tests, genetic services, or the manifestation of disease or disorder in the employee's family members.

What a Certification Must Include

If your **patient is seeking FMLA leave**, a complete and sufficient certification includes:

- Contact information of the health care provider, including name, address, telephone number, fax number, and type of medical practice/specialty;

- When the serious health condition began and how long it is expected to last;

- Whether the employee is unable to work (unable to perform one or more essential job functions);

- If unable to work, for how long;

- A description of appropriate medical facts regarding the serious health condition;

If your **patient's family member** is seeking FMLA leave, a complete and sufficient certification includes:

- Contact information of the health care provider, including name, address, telephone number, fax number, and type of medical practice/specialty;

- When the serious health condition began and how long it is expected to last;

- A description of appropriate medical facts regarding the serious health condition;

- Whether the family member needs care;

- An estimate of the frequency and duration of the required care for the family member;

AND if the employee's need for leave is intermittent or on a reduced leave schedule:

- An estimate of how much time the employee will need for each absence,

- How often the employee will be absent, and

- Information establishing the medical necessity for taking such intermittent or reduced schedule leave.

You also may, but are not required to, provide other appropriate medical facts, including diagnosis, symptoms, or any regimen of continuing treatment such as the use of specialized equipment.

As a health care provider, you are expected to provide only your best-informed medical judgment when *estimating* your patient's need for leave or care if the need is unpredictable. The FMLA does not require that you provide an exact schedule of your patient's health care needs when you are providing such an estimate.

How to Provide a Certification

- A certification may be provided in any format, such as on your letterhead, as long as it contains all the required information.

- The U.S. Department of Labor also has free, optional-use forms that may be used to certify an employee's own serious health condition or an employee's family member's serious health condition.

  - [These forms, including instructions,](#) can be found along with more information..

- You should provide the medical certification or information to the patient (the employee or the employee's family member). The employee provides the medical certification or information to the employer.

- The employee or employee's family may also authorize you to provide the certification directly to the employer.

- **Do not** send certifications or forms to the U.S. Department of Labor**.**

When a Certification Is Needed

When the employer requires a medical certification, the employee is responsible for providing a complete and sufficient certification or recertification, generally within 15 calendar days after the employer's request.

Who Pays the Cost of a Certification

The employee is responsible for paying the cost of the certification or recertification. The employer is responsible for paying for the second and third opinions, including any reasonable travel expenses for the employee or family member.