

Important Changes to Family and Medical Leave Regulations Will Impact Employers

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Significant changes have been made to the regulations governing employers' obligations under the Federal Family and Medical Leave Act (FMLA). To avoid inadvertent violations that could expose them to liability under the FMLA, employers should become familiar with the new regulations, which will go into effect on Friday, March 8, 2013.

Generally, the FMLA mandates that covered employers grant an eligible employee a period of unpaid leave to deal with certain types of family or medical events or issues. For example, employers must grant an eligible employee a period of leave when the employee is unable to work because of a serious health condition, for the birth and care of a newborn child, for placement with the employee of a child for adoption or foster care, or to care for an immediate family member with a serious health condition.

In 2010, amendments to the FMLA created two new types of military family leave: leave to care for a family member in the service who incurs a serious injury or illness in the line of active duty (Military Caregiver Leave) and leave for certain family exigencies that arise in connection with various active duty deployments and assignments of a family member in the military service (Qualifying Exigency Leave). The amendments also changed the definition of what constitutes a "serious health condition" that would permit an employee to take leave either for his/her own condition or to care for a family member.

The new regulations become effective on March 8, and employers will be responsible for compliance as of that date. The regulations require employers to include information relating to Military Caregiver Leave and Qualifying Exigency Leave in their handbooks and FMLA postings, and also modify the procedure employers must follow when employees request FMLA leave.

Recommendation: Employers must bring their employee handbooks and FMLA policies up to date. Employers should also be aware of the details regarding the newly created military leave entitlements and of the new procedural requirements when employees request FMLA leave.

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