

FMLA Step –By-Step Procedures

When an employee either formally requests FMLA, or has a situation that might be appropriate for FMLA:

1. Talk to the employee, in confidence, to gather information regarding the circumstances. Remember, an employee does NOT have to specifically ask for FMLA; your awareness of a potential FMLA situation is enough for you to start the FMLA process.

NOTE: *Missed time due to Workers’ Comp should always trigger the FMLA leave process (Workers’ Comp time and FMLA leave run concurrently), as should an employee absence that exceeds more than a few days, or your maximum number of allowable consecutive sick days. In a Workers’ Comp situation, you may already have the necessary medical certifications, and there’s no need to ask for additional medical certifications unless additional information is needed.*

 - If you need to refresh your memory on FMLA and VT Parental and Family Leave, review the following documents:
 - VT DOL Comparison of FMLA to VPFL
<http://www.dol.gov/why/state/fmla/vt.htm>
 - FMLA Special Rules That Apply To Schools

2. Once you determine the nature of the leave, use the chart below to determine the notices and forms to give the employee (must be sent within 1-2 business days of becoming aware of the employee’s need for leave). If none of the qualifying reasons below applies, then the employee is NOT eligible for FMLA, but you should check the Vermont Parental and Family Leave provisions (Comparison of FMLA to VPFL) to see if the employee qualifies for VPFL. Or, the employee may qualify for a personal leave based on your organization’s policies.

| Qualifying Reason for Leave | Forms to Give to Employee |
|---|--|
| Birth or adoption of a child, or placement of a child with employee for adoption or foster care | WH-381, Notice of Eligibility and Rights & Responsibilities – be sure to complete all relevant employer information in both Sections A and B |
| Employee’s own serious health condition | WH-381, Notice of Eligibility and Rights & Responsibilities – be sure to complete all relevant employer information in both Sections A and B <i>If eligibility requirements are met:</i> WH-380E, Certification of Health Care Provider for Employee’s Serious Health Condition – complete Employer Section 1 |
| Needed to care for spouse, child or parent’s serious health condition | WH-381, Notice of Eligibility and Rights & Responsibilities – be sure to complete all relevant employer information in both Sections A and B |

| | |
|---|---|
| | <p><i>If eligibility requirements are met:</i> WH-380F, Certification of Health Care Provider for Family Member’s Serious Health Condition – complete Employer Section 1</p> |
| <p>Qualifying exigency arising from a spouse, son or daughter, or parent being on active duty status as a member of the National Guard or Reserves</p> | <p>WH-381, Notice of Eligibility and Rights & Responsibilities – be sure to complete all relevant employer information in both Sections A and B</p> <p><i>If eligibility requirements are met:</i> WH-384, Certification of Qualifying Exigency for Military Family Leave – complete Employer Section 1</p> |
| <p>Employee is the spouse, son or daughter, parent, or next of kin of a covered service member with a serious injury or illness</p> | <p>WH-381, Notice of Eligibility and Rights & Responsibilities – be sure to complete all relevant employer information in both Sections A and B</p> <p><i>If eligibility requirements are met:</i> WH-385, Certification of Serious Injury or Illness of Covered Service Member</p> |
| <p>Employee is the spouse, son or daughter, parent, or next of kin of a covered veteran with a serious injury or illness</p> | <p>WH-381, Notice of Eligibility and Rights & Responsibilities – be sure to complete all relevant employer information in both Sections A and B</p> <p><i>If eligibility requirements are met:</i> WH 385V, Certification of Serious Injury or Illness of Covered Veteran</p> |

3. Make copies of the forms and mail them “return receipt requested” to the employee, or email forms and request a “read” receipt. If the forms are handed directly to the employee, make a note of that, as well as the date, on your copies. Keep documentation of any payroll calculations used in determining eligibility.
4. When the employee returns the forms, complete form WH-382, Designation Notice to Employee of FMLA Leave, and give it to the employee within 5 business days.
5. Keep track of any significant dates to follow up on additional certification forms, etc. Mark your calendar to touch base with the employee 1-2 weeks prior to the estimated return date. This is not necessary, but is a good practice as it keeps lines of communication open and shows concern for the employee’s well-being.