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BLOGS

Archives; Contracts & Agreements; Department of Labor; Leave

Federal Agencies Update FMLA and FCRA Forms

If you are an FMLA-covered employer or you conduct employment-related background checks, you'll want to take note that federal agencies have issued updated forms that may need to be incorporated into your practices. In September 2018, the U.S. Department of Labor (DOL) issued new model Family and Medical Leave Act (FMLA) certification forms and, that same month, the federal Consumer Finance Protection Bureau (CFPB) updated its Summary of Rights form for use in conducting background checks falling under the federal Fair Credit Reporting Act (FCRA).

New Model FMLA Certification Forms

Many FMLA-covered employers maintain policies that require employees seeking FMLA leave to support their leave request with medical provider or military certification forms. In addition, the FMLA requires that certain notices be issued to employees by the employer during the FMLA approval process. In early September, the DOL released new model certification and notice forms for use by employers. While employers are not required to use the DOL's model forms, doing so ensures that an employer's forms will be viewed as lawful by the DOL.

The new model FMLA forms, which are valid until August 31, 2021, are available for download on the [agencys website](#) and include the following:

- WH-380-E Certification of Health Care Provider for Employees Serious Health Condition
- WH-380-F Certification of Health Care Provider for Family Members Serious Health Condition
- WH-381 Notice of Eligibility and Rights & Responsibilities
- WH-382 Designation Notice
- WH-384 Certification of Qualifying Exigency for Military Family Leave
- WH-385 Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave
- WH-385-V Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave

Notably, the DOL did not make any substantive changes to its model forms. Instead, only the expiration date has changed. Nevertheless, employers that use the DOL's model forms should begin using the updated forms immediately.



FCRA Model Disclosure Notice

FCRA governs employment-related background checks that an employer acquires through an outside vendor for a fee. On September 12, 2018, the CFPB issued an updated Summary of Your Rights Under the Fair Credit Reporting Act notice that can be found on the [CFPB's website](#). Employers must provide a copy of this form to the subject of a background check before taking any adverse action against that individual based in whole or in part on the FCRA-covered background check. Employers that conduct FCRA-covered background checks should download the updated Summary of Your Rights form to ensure that the updated form is used going forward.