



THE STATE OF FLORIDA
JUSTICE ADMINISTRATIVE COMMISSION

227 North Bronough Street, Suite 2100
Tallahassee, Florida 32301



Alton L. "Rip" Colvin, Jr.
Executive Director

(850) 488-2415
FAX (850) 488-8944

www.justiceadmin.org

COMMISSIONERS

Brad King, Chair
State Attorney
Diamond R. Litty
Public Defender
Kathleen A. Smith
Public Defender
Brian Haas
State Attorney

MEMORANDUM HR13-2020

TO: Agency Administrators
FROM: Carolyn Horwich, Esq., Director of Human Resources
THROUGH: Rip Colvin, Executive Director
SUBJECT: Optional FMLA Forms
DATE: July 17, 2020

Below please find information directly from the U.S. Department of Labor, Wage and Hour Division.

Information regarding five DOL optional-use FMLA certification forms posted on JAC's HR>FMLA tab.

Certification of Healthcare Provider for a Serious Health Condition

- **Employee's serious health condition, form WH-380-E** – use when a leave request is due to the medical condition of the employee.
- **Family member's serious health condition, form WH-380-F** – use when a leave request is due to the medical condition of the employee's family member.

Certification of Military Family Leave

- **Qualifying Exigency, form WH-384** – use when the leave request arises out of the foreign deployment of the employee's spouse, son, daughter, or parent.
- **Military Caregiver Leave of a Current Servicemember, form WH-385** – use when requesting leave to care for a family member who is a current service member with a serious injury or illness.
- **Military Caregiver Leave of a Veteran, form WH-385-V** – use when requesting leave to care for a family member who is a covered veteran with a serious injury or illness.

Questions and Answers about FMLA Forms

1. The Department revised the optional-use FMLA forms in June 2020. Can I still use the old DOL forms?

Yes. The FMLA does not require the use of any specific form or format. Although the Department revised the FMLA forms in June 2020 to make them easier to understand for employers, leave administrators, healthcare providers, and employees seeking leave, the revised forms convey and collect the same information, which can be provided in any format.

2. Can my employer require me to provide a new certification, using the revised form, when I have already provided the required FMLA information using the old certification form?

No. You can provide the required information contained on a certification form in any format. If you used the old certification forms to provide your employer with the required FMLA information, you do not have to provide your employer with the same FMLA information using the revised certification forms.

3. Can my employer make changes to the FMLA forms?

Your employer may use the WHD prototype forms or create their own version of the forms containing the same basic information. However, an employer that requests a medical certification may request only information that relates to the serious health condition for which the current need for leave exists, and no information may be required beyond that specified in the FMLA regulations.

See [29 CFR 825.306](#), [29 CFR 825.307](#), and [29 CFR 825.308](#).

4. Do I have to use my employer's certification forms?

Employers must accept a complete and sufficient certification, regardless of the format. The employer cannot reject a certification that contains all the information needed to determine if the leave is FMLA-qualifying. The employer cannot refuse:

- A fax or copy of the certification;
- A certification that is not completed on the employer's standard company form; or
- Any other record of the medical documentation, such as a communication on the letterhead of the healthcare provider.

5. The expiration date of the DOL forms has passed, are they still effective?

Yes. The content of the information contained within the optional-use DOL form is still applicable, regardless of the expiration date. The expiration date on the DOL forms is related to the collection of information as required by the Office of Management and Budget (OMB), and not relevant to the content of the required information.

6. **Where do I send the completed certifications or notices?**

Do not send any completed certifications or forms to the U.S. Department of Labor, Wage and Hour Division. The employer should provide the required notices to the employee seeking leave. Completed certification forms should be given to the employee to provide to the employer, as it is the employee's responsibility to provide the employer with the completed certification.

7. **Do these forms have any applicability to the Families First Coronavirus Response Act (FFCRA)?**

No. The FFCRA has different documentation requirements which can be found at [29 CFR 826.100](#) or www.dol.gov/agencies/whd/pandemic/ffcra-questions. Please see [question & answer items #15 and #16](#) for more information. **(This document is posted at JAC's Covid-19 tab.)**