



Weston Hurd Employment Update - March 2013

AMENDMENTS TO THE FMLA BECOME EFFECTIVE

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On February 5, 2013, the Department of Labor (DOL) issued its final rule amending certain regulations related to the Family and Medical Leave Act ("FMLA"). As a result, those amendments became effective March 8, 2013. The amendments primarily seek to expand leave for military caregivers and for airline flight crews and attendants. In addition, the final rules require the use of new FMLA forms, and also require that a new poster be used. Links to the new forms and poster can be found at the end of this article.

The final rule was issued by the DOL to implement amendments to the military leave provisions of the Act made by the National Defense Authorization Act for Fiscal Year 2010, and to implement amendments to the hours of service requirements made by the Airline Flight Crew Technical Corrections Act ("AFCTCA"). The final rule also seeks to clarify existing regulatory provisions related to intermittent leave and includes other points of clarification.

The primary purpose of the amendments was to implement the following changes:

1. Expand the qualifying exigency leave provision to include leave for eligible family members of members of the Regular Armed Forces.
2. Add a foreign deployment requirement for both members of the Regular Armed Forces and the National Guard and Reserves.
3. Expand military caregiver leave to cover injuries or illnesses that existed prior to the service member's active duty and were aggravated in the line of duty while on active duty in the Armed Forces.
4. Further expand military caregiver leave to provide leave to eligible family members of certain veterans with a serious injury or illness who are receiving medical treatment, recuperation, or therapy, provided the veteran was a member of the Armed Forces at any time during the five year period preceding the date of the treatment, recuperation, or therapy.
5. Change the definition of "serious injury or illness" for a veteran.

The amendments relating to the AFCTCA relate to special hours of service eligibility requirements for airline flight crew members and flight attendants.

Thus, employers who are covered by the FMLA should take steps to insure that they are using the updated forms, and are using the updated poster, as issued by the DOL. In addition, these amendments will require that employers review their FMLA policies to insure that they are consistent with the latest amendments to the FMLA.

The labor and employment attorneys at Weston Hurd LLP are available to address your questions and concerns regarding the impact of these amendments to the FMLA on your business operations and on your FMLA policies. Please contact your Weston Hurd LLP lawyer for help updating your policies.

To view the new forms, click the links below:

[Form WH-385-V - Certification for Serious Injury or Illness for Military Caregiver](#)

[Form WH-385 Certification for Serious Injury or Illness of Military](#)

[Form WH-380-E - Certification of Health Care Provider](#)

[Form WH-380-F - Certification of Health Care Provider - Family Member](#)

[Form WH-381 - Notice of Eligibility](#)

To view the new poster, click the link below:

[Employee Rights and Responsibilities Under the Family and Medical Leave Act](#)



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