



## Reminder – New FMLA Notice Requirements Take Effect January 16

1/6/2009

This is a reminder that, beginning January 16, 2009, employers will be required to comply with the new Family and Medical Leave Act (FMLA) regulations issued by the Department of Labor in November 2008. As previously discussed, among numerous other changes, the new regulations change the employer's FMLA notice obligations by requiring employers to provide employees:

- (1) **General Notice** about the FMLA, which the employer must provide either in an employee handbook or in other written materials concerning benefits and leave or, if the employer does not have such materials, at the time of hire;
- (2) **Eligibility Notice**, which the employer must provide within five business days of the date an employee requests FMLA leave, or the employer acquires knowledge that an employee's leave may be FMLA-qualifying. This Notice addresses whether the employee meets the statutory requirements of the FMLA (that is, employment by the employer for 12 months; 1,250 hours of service in the 12-month period immediately preceding the request for leave; and employment at a worksite where 50 or more employees are employed within 75 miles);
- (3) **Rights and Responsibilities Notice**, which the employer must provide simultaneously with the Eligibility Notice and which provides detailed information to the employee about his or her rights and responsibilities under the FMLA; and
- (4) **Designation Notice**, which requires the employer to notify the employee whether a leave of absence will be designated as FMLA leave. The employer must provide this notice within five business days, absent extenuating circumstances, of when the employer has sufficient information to determine whether the leave is being taken for an FMLA-qualifying reason.

The new regulations also revised the medical certification requirements for leave taken because of the employee's own serious health condition or the serious health condition of a family member and set forth requirements for certification supporting leave for a qualifying exigency and military caregiver leave.

Employers should ensure that their FMLA forms meet the requirements of the new regulations, either by using the model forms the DOL provided when it issued the new regulations or ensuring that their forms contain the same information as the model forms. If you have questions regarding the new regulations or need assistance reviewing and revising your policies or

implementing the new notice procedure, please contact the Ford & Harrison attorney with whom you usually work.