

Service

Labor & Employment

Department of Labor Issues New Regulations on Family Medical Leave Act

The Federal Register today published the Department of Labor's final revised regulations for the Family Medical Leave Act. The regulations, which take effect on January 16, 2009, have been in the making for more than two years and signify the first regulatory update to the FMLA since the law was enacted in 1993. The regulations and comments total 750 pages and address a number of interpretive issues that have arisen since the law took effect, including the definitions of "serious health conditions," employee and employer notice obligations, the handling of medical certifications, the circumstances under which an employer may require a fitness for duty test for employees returning from intermittent leave, and the substitution of paid leave for FMLA leave, among others. In addition, the regulations implement the statutory amendments signed into law last January regarding military family leave under the FMLA, which provides an expanded 26 weeks of unpaid caregiver leave for relatives of seriously injured or ill service members and 12 weeks of leave for relatives of employees called to active duty in the National Guard or Reserves for "qualifying exigencies." The new regulations specifically define a "qualifying exigency" to include a variety of broad categories of activities and reasons, including short-notice deployment, military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities.

Husch Blackwell Sanders' Labor and Employment Department will provide a detailed analysis of the final revised regulations shortly. In the meantime, a full copy of the new regulations may be downloaded from the Federal Register's website at <http://www.gpoaccess.gov/fr/index.html>. Once on the

website, simply run a Quick Search of Volume 73 by typing in "Family Medical Leave" and download pages 67934 to 68133.

Should you have any questions or need additional information, please contact any of the 45 labor and employment attorneys.

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