



COMPLIANCE BULLETIN

DOL's Model FMLA Forms Expire in 2018

HIGHLIGHTS

- The DOL's model FMLA forms currently contain an expiration date of June 30, 2018.
- The expiration date relates to a regulatory approval process; it does not relate to the forms' actual content.
- Employers may continue to use the DOL's model forms until new ones are provided.

IMPORTANT DATES

May 31, 2018

The DOL's model FMLA forms expired (based on a three-year regulatory approval process).

June 30, 2018

The expiration date on the DOL's model FMLA forms was extended by one month, until June 30, 2018.

Provided By:

S.S. Nesbitt & Co., Inc.

OVERVIEW

The Department of Labor (DOL) maintains model forms to help employers meet their notification obligations under the Family and Medical Leave Act (FMLA). Employers are not required to use the DOL's model forms; they can customize the model forms or create their own FMLA forms.

Every three years, the DOL must submit its model FMLA forms to the federal [Office of Management and Budget](#) (OMB) for approval for continued use. The OMB's approval for the current FMLA forms expires in 2018. This expiration date is included on the model forms in the upper right corner. The DOL has [requested](#) that the OMB reauthorize the model FMLA forms for another three-year period, until 2021, without proposing any substantive changes to the forms.

ACTION STEPS

Employers may continue to use the DOL's current model forms until new ones are released. The updated model forms are expected to be the same as the current forms, except they will have a 2021 expiration date in the upper right corner.

Employers that use the model FMLA forms can monitor the DOL's [FMLA webpage](#) for updated model forms.



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CONFIDENCE IN TOMORROW.

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Model FMLA Forms

To administer FMLA leaves, employers must provide certain notices to employees. Employers may also require that employees provide certifications to substantiate their eligibility for certain types of FMLA leave.

The DOL has provided **model notices and certifications** to help employers administer FMLA leaves. The DOL's model FMLA forms are optional; employers may customize the DOL's model forms or create their own FMLA forms.

Employers that use the DOL's model FMLA forms may continue to use the current model forms with the 2018 expiration date. The DOL will likely issue new model forms with a 2021 expiration date in the near future.

The DOL's model FMLA forms include:

- A notice of FMLA eligibility and rights and responsibilities ([Form WH-381](#));
- An FMLA designation notice ([Form WH-382](#));
- A health care provider's certification form for an employee's serious health condition ([WH-380-E](#));
- A health care provider's certification form for a family member's serious health condition ([WH-380-F](#));
- A certification of qualifying exigency for military family leave ([WH-384](#));
- A certification for serious injury or illness of a covered service member ([WH-385](#)); and
- A certification for serious injury or illness of a veteran for military caregiver leave ([WH-385-V](#)).

Expiration of Model FMLA Forms

The current model FMLA forms originally had an expiration date of May 31, 2018, in the upper right corner. This date is linked to the requirement that the DOL submit its FMLA forms to the OMB for approval every three years. The DOL recently [submitted](#) its model FMLA forms to the OMB for a three-year extension, without proposing any substantive changes to the model forms. The model forms automatically receive a month-to-month extension while they undergo review by the OMB. Based on this process, the model forms' expiration date was recently extended by one month, until June 30, 2018.

It is expected that the OMB will approve the extension and that the DOL will issue new model FMLA forms with an expiration date in 2021. In the meantime, employers may continue to use the DOL's model forms with the June 30, 2018 expiration date. The DOL will continue to update this expiration date on a month-to-month basis while waiting for the OMB's approval. Once the DOL receives approval from the OMB and updates its model forms for a 2021 expiration date, employers should begin using the updated versions.