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## U.S. Department of Labor proposes new FMLA regulations

The U.S. Department of Labor's (DOL) Wage and Hour Division has proposed regulations that will implement and interpret new statutory amendments to the Family Medical Leave Act (FMLA). Among other changes, these regulations serve to expand military family leave provisions and incorporate a special eligibility provision for airline flight crew employees. The Sedgwick absence/leave practice team has prepared the summary of the regulations provided below, as well as [this document](#) which contains a more thorough description of and commentary on the regulations.

The DOL will continue to receive comments on the regulations through April 16, 2012. Sedgwick anticipates that most of the regulatory changes will be adopted as presented in the DOL draft, but ***e-bulletin* readers are encouraged to provide feedback to the DOL before April 16 on any items of concern.** A complete copy of the regulations and instructions for submitting comments are available [here](#). As outlined in the attached document, Sedgwick plans to submit comments to the DOL on several different areas of the provisions.

Clients are encouraged to reach out to their Sedgwick representative of choice to discuss the implications of the proposed FMLA regulations for their program. All *e-bulletin* readers may direct questions about the proposed changes to Sedgwick Absence Practice Lead Bryon Bass at 505-508-4338 or [bryon.bass@sedgwickcms.com](mailto:bryon.bass@sedgwickcms.com).

### Summary of the proposed regulations

#### *Military caregiver: Serious illness or injury of a covered servicemember*

1. Veterans who have separated from active duty status within the last five years will be added to the definition of a covered servicemember;
2. "Covered military member" will be changed to "military member" and "active duty" to "covered active duty";
3. Coverage will be expanded to cover aggravation of a preexisting condition for both active duty and covered veterans;
4. A more flexible, three-part definition for serious injury or illness of a veteran will be added;

5. The group of health care providers who can complete the certification for a serious illness or injury will be expanded beyond those affiliated with the Department of Defense or TRICARE;
6. Clarification will be added regarding how the 26-week entitlement for military caregiver leave applies.

#### *Military exigency leave*

1. A requirement will be added that the military member be deployed to a foreign country or international waters and that it be a federal call to duty;
2. Clarification will be added around what relationships are covered;
3. Rest and recuperation, which were previously limited to five days, will be extended to up to 15 days;
4. The short-notice deployment leave time may be changed;
5. Funeral arrangement leave time will be added to post-deployment activities.

#### *Airline flight crew amendments*

1. Special hours of service eligibility requirements for airline flight crew employees will be implemented;
2. Specific provisions for calculating the amount of FMLA leave used by airline flight crew employees will be added.

#### *Other FMLA proposed amendments*

1. Potentially reverting back to pre-2009 changes by requiring employers to track FMLA using the smallest increment used by their payroll systems;
2. Added language to reflect an employer's obligations under the Genetic Information Nondiscrimination Act (GINA);
3. Model forms to be removed from within the regulations;
4. The physical impossibility provision may be removed.

For more, see the DOL's Wage and Hour Division website devoted to the proposed FMLA regulatory changes at <http://www.dol.gov/whd/fmla/NPRM>.

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