

FMLA Checklist

- 1. **Is the employer a public agency? Note: Public agencies are covered regardless of numbers of employees. The State is one employer.**

- 2. **Is the employee eligible?**
 - Has the employee worked for the State at least 12 months prior to the FMLA request? (The 12 months doesn't need to be consecutive.)
 - Has the employee physically worked at least 1250 hours during the 12 months immediately preceding the FMLA request?

- 3. **Does the employee's absence qualify under the FMLA entitlement? (See agency policy or Regs.)**
 - Is the absence for the birth of a child and/or to care for the newborn child (up to 12 months after birth.)
 - Is the absence for any medical reason related to child birth or prenatal care which renders the employee unable to work?
 - Is the absence for the placement of a child for adoption or foster care?
 - Is the absence to care for an employee's spouse, child or parent with a serious health condition. (For definition of Spouse, child or parent see agency policy or Regs.)
 - Is the absence for the serious health condition of the employee?

- 4. **Does the serious health condition qualify under the FMLA entitlement?**

- 5. **Is the employee entitled to intermittent leave (i.e. does it involve a serious health condition or prenatal care)? Did the employer obtain certification regarding duration and medical necessity of leave?**

- 6. **Has the employee attempted to schedule leave in a way that will avoid disrupting the employer's daily operations? Agency can recommend if this is a possibility.**

- 7. **Will a reduced leave schedule be appropriate, per agency policy?**

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- 8. **Can the employer reassign the employee to another position better suited to accommodate the leave at the same rate of pay and benefits (not necessarily same duties and/or shift)?**
 - Can the employer reassign the employee to another position better suited to accommodate the leave at the same rate of pay and benefits (not necessarily same duties)?**
- 9. **Is the need for leave foreseeable and has the employee given the requisite 30 days notice?**
 - Can the employer reassign the employee to part-time status which does not require the employee to take more leave than is necessary?*
- 10. **Has the employee been told that the leave will qualify as FMLA leave? Has the Form been sent out or given to the employee within a reasonable time (within one or two business days if feasible)?**
 - Does the employee understand his/her duty to maintain health benefits during the leave?
- 11. **Has the Physician Certification form been sent to the employee, along with information on where they can find a copy of the agencies policy on FML?**
 - Will the employer send in addition to the Physician Certification a copy of the job description and/or statement of duties?
- 12. **If the employer has not been able to confirm FMLA leave, has it made a preliminary designation? (Note: Written notice must be given if it is later learned that the leave was not qualifying).**
- 13. **Are circumstances present that would allow the employer to deny leave?**
 - Has the employee failed to give timely advance notice? (*Employer may delay taking of leave until 30 days after the date of employee provides the employer with notice.*)
 - Has the employee failed to timely provide medical certification to substantiate the need for leave?
 - Has the employee failed to follow agency policy?

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- 14. **Does the employer understand its obligations to reinstate to the same or equivalent position?**
- 15. **Will a fitness-for-duty certificate be required? Has the employee received notice of this prior to commencement of the leave? (*Employees must be notified of this prior to*)**
- 16. Can the employer deny reinstatement?
 - Had the employee failed to provide a requested Physician Certification form?
 - Would the employee still be employed had leave not been taken?
 - Did the employee unequivocally advise the employer of his/her intent not to return to work?
 - Was the leave obtained by fraudulent means?
 - Did the employee abide by the requirements set out in the FMLA policy.

Employee Name: _____

FMLA Coordinator: _____

Date: _____