

2009 FMLA Changes

A number of the changes to the FMLA regulations that go into effect January 16, 2009, favor the employer. These changes and clarifications were made after the U.S. Department of Labor received comments from employers and input from groups such as the Society of Human Resource Management.

Under the 2009 FMLA regulations, employees are still permitted to give less notice than usual under special circumstances, as when an employee has a heart attack on the way to work. However, in the absence of those special circumstances, the employee must comply with the employer's notice and procedural requirements. This includes following the employer's usual procedure for reporting an absence, even an FMLA absence. If the employee fails to follow the employer's usual policy, the FMLA leave can be denied or delayed.

A major change under the new regulations establishes that employers can deny bonuses, awards or other payments to workers who have not met a specific goal due to FMLA leave.

The new regulations also address a few specialized situations encountered by the U.S. Department of Labor. For example, they permit employers to charge an entire missed shift to FMLA even when the employee is absent for only a few minutes – but only in cases where it is physically impossible for the employee to begin the shift late. The example the U.S. Department of Labor uses is when a flight attendant misses the departure of an airplane due to FMLA.

Additionally, the new regulations also permit employers to distribute FMLA notification materials online – something that was not even dreamed of when the law went into effect in 1993.

The new regulations established coverage changes for leave under the military family leave act.