

LABOR RELATIONS

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November 22, 1995

MANAGERS, HUMAN RESOURCES (AREA)

SUBJECT: Family and Medical Leave Act

This is to remind you that there are several issues of concern regarding the Postal Service's implementation of the Family and Medical Leave Act (FMLA). Postal policies and programs are not being revised or changed because of the FMLA. However, the following issues require clarification:

1) There have been reports of Department of Labor (DOL) Investigators making unannounced visits to postal facilities to gather information concerning FMLA violation complaints.

The Law allows DOL officials to investigate compliance with FMLA and postal managers should cooperate with them and provide relevant information upon request. However, we are not aware of any legal obligation that the Postal Service must allow employees to meet with DOL investigators for interviews on-the-clock, although we may do so as a courtesy.

2) Some American Postal Workers Union (APWU) members are concerned that health care providers may provide restricted medical information when filling out the DOL Form WH-380 for the employee.

The DOL WH-380 form does not require medical information that directly violates the employee's right to privacy. However, we realize health care providers may give more detail than requested on the form (i.e., prognosis and diagnosis) and that employees may not want to provide this information to their immediate supervisors. Therefore, to address the union's concern, the Postal Service reviewed and approved APWU and NALC FMLA forms that, when properly filled out by the health care providers, provide enough information is provided to certify that the absence qualifies as a covered condition under the FMLA.

Employees do not need to use the WH-380 or the union forms, they only need to provide the required information as listed on Publication 71. It is the employees' responsibility to provide enough information to their immediate supervisor, or to the person who normally

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approves and disapproves leave so the absence can be designated as qualifying or non-qualifying under the FMLA. If the employee does not provide enough information and the supervisor does not know the reason for the leave, the absence is not designated as covered under the FMLA.


3) Postal Service regulations do not require employees to submit a diagnosis/prognosis when requesting sick leave for themselves or for their dependents. However, in cases where employees voluntarily provide this information, supervisors have a responsibility to protect the employees' and dependents' privacy. Therefore, all restricted information is to be submitted to the medical unit to be filed in the employee's medical file, returned to the employee, or destroyed after necessary review.

4) Procedures for light duty and limited duty assignments have not changed. Follow the applicable collective bargaining agreements and postal policy for light and limited duty assignments.

5) COP and OWCP procedures have not changed except for the requirement to notify affected employees when such absences will be counted towards their 12 weeks of FMLA leave entitlement. With regards to the Privacy Act, Postal Service regulations provide that information (including medical records) concerning postal employees may be reviewed by those officers and employees of the Postal Service who have a need for such information in the performance of their duties. Accordingly, it is clear that managers and supervisors who process OWCP claims must have access to appropriate medical information and OWCP forms.

The FMLA specifically provides that when the worker's compensation absence and FMLA leave are running concurrently, the provisions of the workers' compensation statute permit the Postal Service or its representative to have direct contact with the employee's health care provider.

Attached are additional questions and answers for your information. Should you have any questions concerning this matter, please call Corine T. Rodriguez at (202) 268-3823.


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