

**SUPPORTING STATEMENT
THE FAMILY AND MEDICAL LEAVE ACT OF 1993
REGULATIONS, 29 C.F.R. PART 825
OMB CONTROL NO. 1235-0003**

The Department is renewing its information collection request (ICR) related to the Family and Medical Leave Act (FMLA). In doing so, information collection burden estimates have been updated resulting in a change in the number of responses to certain collections of information as well as to hours and cost burdens covered by the ICR; however, the information collection requirements and instruments are unchanged. The Department is submitting this ICR as an extension without change.

A. Justification

1. Circumstances Necessitating Information Collection

The Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. 2601, et seq., requires private sector employers who employ 50 or more employees, all public and private elementary schools, and all public agencies to provide up to 12 weeks of unpaid, job-protected leave during any 12-month period to eligible employees for certain family and medical reasons (i.e., for the birth of a son or daughter and to care for a newborn child; for the placement with the employee of a son or daughter for adoption or foster care; to care for the employee's spouse, son, daughter, or parent with a serious health condition; because of a serious health condition that makes the employee unable to perform the functions of the employee's job; to address qualifying exigencies arising out of the deployment of the employee's spouse, son, daughter, or parent to covered active duty in the military), and up to 26 workweeks of unpaid, job-protected leave during a single 12-month period to an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member for the employee to provide care for the covered service member with a serious injury or illness. FMLA section 404 requires the Secretary of Labor to prescribe such regulations as necessary to enforce this Act. 29 U.S.C. 2654.

The Department's authority for the collection of information and the required disclosure of information under the FMLA stems from the statute and/or the implementing regulations. These third-party disclosures ensure that both employers and employees are aware of and can exercise their rights and meet their respective obligations under FMLA. The required disclosures are listed below.

A. Employee Notice of Need for FMLA Leave [29 U.S.C. 2612(e); 29 CFR 825.100(d), 825.301(b), 825.302, 825.303]. An employee must provide the employer at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member, or

planned medical treatment for a serious injury or illness of a covered service member. If 30 days' notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable under the facts and circumstances of the particular case. When an employee seeks leave for the first time for a FMLA-qualifying reason, the employee need not expressly assert rights under the FMLA or even mention the FMLA. The employee must, however, provide sufficient information that indicates that leave is potentially FMLA-qualifying and the timing and anticipated duration of the absence. Such information may include that a condition renders the employee unable to perform the functions of the job, or if the leave is to care for a family member, that the condition renders the family member unable to perform daily activities, or that the family member is a covered servicemember with a serious injury or illness, and whether the employee or the employee's family member is under the continuing care of a health care provider. Sufficient information for leave due to a qualifying family member's call (or impending call) to covered active duty status may include that the military member is on or has been called to covered active duty and that the requested leave is for one of the categories of qualifying exigency leave. Note that the 30-day leave notice requirement does not apply to qualifying exigency leave. An employer, generally, may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave.

B. Notice to Employee of FMLA Eligibility and Rights and Responsibilities Notice [29 CFR 825.219 -.300(b)]. When an employee requests FMLA leave or when the employer acquires knowledge that an employee's leave may be for a FMLA-qualifying reason, the employer must notify the employee—within five business days, absent extenuating circumstances—of the employee's eligibility to take FMLA leave and any additional requirements for taking such leave. The eligibility notice must provide information regarding the employee's eligibility for FMLA leave, and, if the employee is determined not to meet the eligibility criteria, provide at least one reason why the employee is not eligible. The employer must also provide a rights and responsibilities notice, which details the specific rights and responsibilities of the employee, and explain any consequences of a failure to meet these responsibilities. If an employee provides notice of a subsequent need for FMLA leave during the applicable 12-month period due to a different FMLA-qualifying reason, the employer does not have to provide an additional eligibility notice if the employee's eligibility status has not changed. If the employee's eligibility status has changed, then the employer must notify the employee of the change in eligibility status within five business days, absent extenuating circumstances. The rights and responsibilities notice must be provided to the employee each time the eligibility notice is provided to the employee. Optional-use Form WH-381 allows an employer to satisfy the regulatory requirement to provide employees with specific information concerning eligibility status and with written notice detailing specific rights,

as well as expectations and obligations of the employee and the consequences of failure to meet these obligations. See § 825.300(b) and (c).

C. Employee Certifications – Serious Health Condition of Employee or Employee’s Family Member, Recertification, Fitness for Duty, Leave for a Qualifying Exigency, and Leave to Care for a Covered Servicemember.

1. Medical Certification and Recertification [29 U.S.C. 2613, 2614(c)(3); 29 CFR 825.100(d), 825.305 -.308]. An employer may require that an employee’s leave due to the employee’s own serious health condition that makes the employee unable to perform one or more essential functions of the employee’s position, or to care for the employee’s spouse, son, daughter, or parent with a serious health condition, be supported by a certification issued by the health care provider of the eligible employee or of the employee’s family member. In addition, an employer may request recertification under certain conditions. The employer must provide the employee at least 15 calendar days to provide the initial certification, and any subsequent recertification, unless the employee is not able to do so despite his or her diligent good faith efforts. An employer must advise an employee whenever it finds a certification incomplete or insufficient and state in writing what additional information is necessary to make the certification complete and sufficient and must provide the employee seven calendar days (unless not practicable under the particular circumstances despite the employee’s diligent good faith efforts) to cure any identified deficiency. The employer may contact the employee’s health care provider for purposes of clarification and authentication of the medical certification (whether initial certification or recertification) after the employer has given the employee an opportunity to cure any identified deficiencies. An employer, at its own expense and subject to certain limitations, may also require an employee to obtain a second and third medical opinion. Certain managers for an employer, but not the employee’s immediate supervisor, may contact a health care provider for purposes of clarifying and authenticating a fitness-for-duty certification. Optional-use Form WH-380-E allows an employee requesting FMLA leave for his or her own serious health condition to satisfy the statutory requirement to furnish, upon the employer’s request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the employee’s own serious health condition. See § 825.305(a). Optional-use Form WH-380-F allows an employee requesting FMLA leave for a family member’s serious health condition to satisfy the statutory requirement to furnish, upon the employer’s request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the family member’s serious health condition. See § 825.305(a).

2. Fitness-for-Duty Medical Certification [29 U.S.C. 2614(a)(4); 29 CFR 825.312].

As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, an employer may have a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health care provider that the employee is able to resume work. The employee has the same obligations to participate and cooperate in providing a complete and sufficient certification to the employer in the fitness-for-duty certification process as in the initial certification process. An employer may require that the fitness-for-duty certification specifically address the employee's essential job functions if the employer has provided the employee with a list of those essential functions and notified the employee of the need for a fitness-for-duty certification in the designation notice. Certain managers for an employer, but not the employee's immediate supervisor, may contact a health care provider for purposes of clarifying and authenticating a fitness-for-duty certification. An employer is not entitled to a fitness-for-duty certification for each absence taken on an intermittent or reduced leave schedule; however, an employee may be required to furnish a fitness-for-duty certificate no more often than once every 30 days if an employee has used intermittent leave during that period and reasonable safety concerns exist.

3. Certification for Leave for a Qualifying Exigency [29 CFR 825.309]. An employer may require an employee who requests FMLA leave due to a qualifying exigency to certify the need for leave. In addition, the first time an employee requests leave for a qualifying exigency related to a qualifying family member's active duty status, an employer may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military that indicates the military member is on covered active duty. Optional-use Form WH-384 allows an employee requesting FMLA leave based on a qualifying exigency to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification to support leave for a qualifying exigency.

4. Certification for Leave to Care for Covered Servicemember [29 CFR 825.310]. An employee who requests FMLA leave to care for a covered servicemember (either a current servicemember or a veteran) may be required by his or her employer to certify the need for leave. An employee requesting FMLA leave based on a covered servicemember's serious injury or illness may satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider with optional-use Form WH-385 for a current servicemember and Form WH-385-V for a covered veteran. An employer must accept as sufficient certification of leave to care for a current servicemember an invitational travel order

or invitational travel authorization (ITO or ITA) issued to the employee or to another family member in lieu of optional-use Form WH-385 or the employer's own form.

D. Notice to Employees of FMLA Designation [29 CFR 825.300(c) -.301(a)]. When the employer has enough information to determine whether the leave qualifies as FMLA leave (after receiving a medical certification, for example), the employer must notify the employee within five business days of making such determination whether the leave has or has not been designated as FMLA leave and the number of hours, days or weeks that will be counted against the employee's FMLA leave entitlement. If it is not possible to provide the hours, days or weeks that will be counted against the employee's FMLA leave entitlement (such as in the case of unforeseeable intermittent leave), then such information must be provided upon request by the employee but not more often than once every 30 days if leave is taken during the 30-day period. If the employer requires paid leave to be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, this designation also must be made at the time of the FMLA designation. In addition, if the employer will require the employee to submit a fitness-for-duty certification, the employer must provide notice of the requirement with the designation notice. Optional-use Form WH-382 allows an employer to meet its obligation to designate leave as FMLA-qualifying. See 29 CFR 825.300(d).

E. Notice to Employees of Change of 12-Month Period for Determining FMLA Entitlement [29 CFR 825.200(d)(1)]. An employer generally must choose a single uniform method from four options available under the regulations for determining the 12-month period for FMLA leave reasons other than care of a covered servicemember with a serious injury or illness (which is subject to a set single 12-month period). An employer wishing to change to another alternative is required to give at least 60 days' notice to all employees.

F. Key Employee Notification [29 U.S.C. 2614(b)(1)(B); 29 CFR 825.217-.219 and 825.300(c)(1)(v)]. An employer that believes that it may deny reinstatement to a key employee must give written notice to the employee at the time the employee gives notice of the need for FMLA leave (or when FMLA leave commences, if earlier) that he or she qualifies as a key employee. At the same time, the employer must also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employer should determine that substantial and grievous economic injury to the employer's operations would result if the employer were to reinstate the employee from FMLA leave. If the employer cannot immediately give such notice, because of the need to determine whether the employee is a key employee, the employer must give the notice as soon as practicable after receiving the employee's notice of a need for leave (or the commencement of leave, if earlier). If an employer fails to provide such timely notice it loses its right to deny restoration, even if substantial and grievous economic injury will result from reinstatement.

As soon as an employer makes a good faith determination—based on the facts available—that substantial and grievous economic injury to its operations will result if a key employee who has given notice of the need for FMLA leave or is using FMLA leave is reinstated, the employer must notify the employee in writing of its determination, including that the employer cannot deny FMLA leave and that the employer intends to deny restoration to employment on completion of the FMLA leave. The employer must serve this notice either in person or by certified mail. This notice must explain the basis for the employer’s finding that substantial and grievous economic injury will result, and, if leave has commenced, must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

An employee may still request reinstatement at the end of the leave period, even if the employee did not return to work in response to the employer’s notice. The employer must then again determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. If the employer determines that substantial and grievous economic injury will result from reinstating the employee, the employer must notify the employee in writing (in person or by certified mail) of the denial of restoration.

G. Periodic Employee Status Reports [29 CFR 825.300(b)(4)]. An employer may require an employee to provide periodic reports regarding the employee’s status and intent to return to work.

H. Notice to Employee of Pending Cancellation of Health Benefits [29 CFR 825.212(a)]. Unless an employer establishes a policy providing a longer grace period, an employer’s obligation to maintain health insurance coverage ceases under FMLA if an employee’s premium payment is more than 30 days late. In order to drop the coverage for an employee whose premium payment is late, the employer must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease and advise the employee that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date.

I. Documenting Family Relationship [29 CFR 825.122(k)]. An employer may require an employee giving notice of the need for FMLA leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child’s birth certificate, a court document, etc. The employer is entitled to examine documentation such as a birth certificate, etc., but the employee is entitled to the return of the official document submitted for this purpose.

J. General FMLA Recordkeeping [29 U.S.C. 2616; 29 CFR 825.500]. The FMLA provides that employers shall make, keep, and preserve records pertaining to the FMLA in accordance with the recordkeeping requirements of Fair Labor Standards Act section 11(c), 29 U.S.C. 211(c), and regulations issued by the Secretary of Labor. This statutory authority provides that no employer or plan, fund, or program shall be required to submit books or records more than once during any 12-month period unless the Department has reasonable cause to believe a violation of the FMLA exists or is investigating a complaint.

Covered employers who have eligible employees must maintain basic payroll and identifying employee data, including name, address, and occupation; rate or basis of pay and terms of compensation; daily and weekly hours worked per pay period; additions to or deductions from wages; total compensation paid; and dates FMLA leave is taken by FMLA eligible employees (available from time records, requests for leave, etc., if so designated). Leave must be designated in records as FMLA leave and leave so designated may not include leave required under State law or an employer plan which is not also covered by FMLA; if FMLA leave is taken by eligible employees in increments of less than one full day, the hours of the leave; copies of employee notices of leave furnished to the employer under FMLA, if in writing, and copies of all eligibility notices given to employees as required under FMLA and these regulations; any documents (including written and electronic records) describing employee benefits or employer policies and practices regarding the taking of paid and unpaid leaves; premium payments of employee benefits; records of any dispute among the employer and an eligible employee regarding designation of leave as FMLA leave, including any written statement from the employer or employee of the reasons for the designation and for the disagreement.

Covered employers with no eligible employees must maintain the basic payroll and identifying employee data already discussed. Covered employers that jointly employ workers with other employers must keep all the records required by the regulations with respect to any primary employees, and must keep the basic payroll and identifying employee data with respect to any secondary employees.

If FMLA-eligible employees are not subject to FLSA recordkeeping regulations for purposes of minimum wage or overtime compliance (*i.e.*, not covered by, or exempt from, FLSA), an employer need not keep a record of actual hours worked (as otherwise required under FLSA, 29 C.F.R. 516.2(a)(7)), provided that: eligibility for FMLA leave is presumed for any employee who has been employed for at least 12 months; and with respect to employees who take FMLA leave intermittently or on a reduced leave schedule, the employer and employee agree on the employee's normal schedule or average hours worked each week and reduce their agreement to a written record.

Employers must maintain records and documents relating to any medical certification, recertification or medical history of an employee or employee's family member created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files. Employers must also maintain such records in conformance with any applicable Americans with Disabilities Act (ADA) and Genetic Information Nondiscriminatory Act (GINA) confidentiality requirements; except that: supervisors and managers may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations; first aid and safety personnel may be informed, when appropriate, if the employee's physical or medical condition might require emergency treatment; and government officials investigating compliance with the FMLA, or other pertinent law, shall be provided relevant information upon request.

The FLSA recordkeeping requirements, contained in Regulations 29 CFR part 516, are currently approved under OMB control number 1235-0018; consequently, this information collection does not duplicate their burden, despite the fact that for the administrative ease of the regulated community this information collection restates them.

2. Purpose and Use

The regulations require employers and employees to make third-party disclosures. The FMLA third-party disclosures ensure that both employers and employees are aware of and can exercise their rights and meet their respective obligations under FMLA. With these regulations in mind, the WHD created the following optional-use forms:

WHD Publication 1420, WH-380-E, WH-380-F, WH-381, WH-382, WH-384, WH-385, and WH-385-V to assist employers and employees in meeting their FMLA third-party notification obligations. WHD Publication 1420 allows employers to satisfy the general notice requirement. See § 825.300(a). Form WH-380-E allows an employee requesting FMLA leave for his or her own serious health condition to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the employee's own serious health condition. See § 825.305(a). Form WH-380-F allows an employee requesting FMLA leave for a family member's serious health condition to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the family member's serious health condition. See § 825.305(a). Form WH-381 allows an employer to satisfy the regulatory requirement to provide employees taking FMLA leave with written notice detailing specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. See § 825.300(b) and (c). Form WH-382 allows an employer to meet its obligation to designate leave as FMLA-qualifying. See § 825.301(a). Form WH-384 allows an employee requesting FMLA leave based on a qualifying exigency to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification to support leave for a qualifying exigency. See § 825.309.

Form WH-385 allows an employee requesting FMLA leave based on an active duty covered servicemember's serious injury or illness to satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider; Form WH-385-V allows an employee requesting FMLA leave based on a covered veteran's serious injury or illness to satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider. See § 825.310.

The recordkeeping requirements are necessary in order for the Department to carry out its statutory obligation under FMLA section 106 to investigate and ensure employer compliance. The WHD uses these records to determine employer compliance.

3. Information Technology

The regulations prescribe no particular order or form of records. See § 825.500(b). The preservation of records in such forms as microfilm or automated word or data processing memory is acceptable, provided the employer maintains the information and provides adequate facilities to the Department for inspection, copying, and transcription of the records. In addition, photocopies of records are also acceptable under the regulations.

Aside from the general requirement that all third-party notifications be in writing, there are no restrictions on the method of transmission. Respondents may meet many of their notification obligations by using Department-prepared publications available on the WHD website, www.dol.gov/whd. These forms are in PDF, fillable format for downloading and printing. Employers may maintain records in any format, including electronic, when adhering to the recordkeeping requirements covered by this information collection.

4. Minimizing Duplication

The FMLA information collections do not duplicate other existing information collections. In order to provide all relevant FMLA information in one set of requirements, the recordkeeping requirements restate a portion of the records employers must maintain under the FLSA. Employers do not need to duplicate the records when basic records maintained to meet FLSA requirements also document FMLA compliance. With the exception of records specifically tracking FMLA leave, the additional records required by the FMLA regulations are records that employers ordinarily maintain in the usual and ordinary course of business. The regulations do impose, however, a three-year minimum time limit that employers must maintain the records. The Department minimizes the FMLA information collection burden by accepting records maintained by employers as a matter of usual or customary business practices to the extent those records meet FMLA requirements. The Department also accepts records kept due to requirements of other governmental requirements (e.g., records maintained for tax and payroll purposes). The Department has reviewed the needs of both employers and employees to determine the frequency of the third-party notifications covered by this collection to establish

frequencies that provide timely information with the least burden. The Department has further minimized the burden by developing prototype notices for many of the third-party disclosures covered by this information collection.

5. Small Entities

This information collection does not have a significant impact on a substantial number of small entities. The Department minimizes the FMLA information collection burden by accepting records maintained by employers as a matter of usual or customary business practices. The Department also accepts records kept due to requirements of other governmental requirements (e.g., records maintained for tax and payroll purposes). The Department has reviewed the needs of both employers and employees to determine the frequency of the third-party notifications covered by this collection to establish frequencies that provide timely information with the least burden. The Department has further minimized burden by developing prototype notices for many of the third-party disclosures covered by this information collection and giving the text employers must use, in accordance with FMLA section 109 (29 U.S.C. 2619), in providing a general notice to employees of their FMLA rights and responsibilities, in addition to the prototype optional-use forms.

6. Agency Need

The Department is assigned a statutory responsibility to ensure employer compliance with the FMLA. The Department uses records covered by this information collection to determine compliance, as required of the agency by FMLA section 107(b)(1). 29 U.S.C. 2617(b)(1). Without the third-party notifications, employers and employees would have difficulty knowing their FMLA rights and obligations.

7. Special Circumstances

Because of the unforeseeable and often urgent nature of the need for FMLA leave, notice and response times must be of short duration to ensure that employers and employees are sufficiently informed and can exercise their FMLA rights and obligations. Section 1 discusses the details of when employers and employees must provide certain notices.

Employers must maintain employee medical information they obtain for FMLA purposes as confidential medical records in separate files/records from the usual personnel files. Employers must also maintain such records in conformance with any applicable Americans with Disabilities Act and Genetic Information Nondiscrimination Act confidentiality requirements, except that: supervisors and managers may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations; first aid and safety personnel may be informed (when appropriate) if the employee's physical or medical condition might require emergency treatment; and government officials investigating compliance with FMLA (or other pertinent law) shall be provided relevant information upon request.

8. Public Comments

The Department published a notice in the Federal Register on October 20, 2017, inviting public comments on the proposed renewal of the information collection. The Department received no comments.

9. Payments or Gifts

The Department makes no payments or gifts to respondents completing these information collections.

10. Confidentiality

The Department makes no assurances of confidentiality to respondents. Much of the information covered by this information collection consists of third-party disclosures. As explained in Section 1-J, employers generally must maintain records and documents relating to any medical certification, recertification or medical history of an employee or employee's family members as confidential medical records in separate files/records from usual personnel files. Employers must also generally maintain such records in conformance with any applicable ADA and GINA confidentiality requirements. As a practical matter, the Department would only disclose agency investigation records of materials subject to this collection in accordance with the provisions of the Freedom of Information Act, 5 U.S.C. 552, and the attendant regulations, 29 C.F.R. part 70, and the Privacy Act, 5 U.S.C. 552a, and its attendant regulations 29 C.F.R. part 71.

11. Sensitive Questions

The FMLA authorizes employers to require their employees to submit a medical certification, including a second or third opinion and subsequent recertifications, to substantiate the need for FMLA leave. These records may contain sensitive information because of the personal and delicate nature of a request for FMLA leave; however, as noted in Section 1-J, the regulations specify how employers must limit access to such information.

12. Burden Hours Estimates

The Department estimates that there are 87.2 million FMLA eligible workers. The Department also estimates that 392,127 employers respond to the FMLA collections. These 392,127 employers consist of 290,304 (= $392,127 \times .74033172415$) private businesses, and 101,823 (= $392,127 - 290,304$) government entities. Of the government entities, 101,731 (= $392,127 \times .2594333834$) are assumed to be state, local, or tribal governmental employers, and 92 (=

392,127 x .0002348951) are assumed to be Federal government employers.¹ The Department estimates that the number of respondents (i.e. employees who work for covered employers, who are FMLA eligible, and who actually take FMLA leave) to be approximately 6,889,489.²

A. Employee Notice of Need for FMLA Leave.

While employees normally will provide general information regarding their absences, the regulations may impose requirements for workers to provide their employers with more detailed information indicating that the leave is potentially FMLA-qualifying. The Department estimates that providing this additional information will take an employee approximately 2 minutes per employee notice of the need to take FMLA leave.

As explained above, the Department has estimated that there are 6,889,489 respondents. To determine the number of valid responses the Department applied the average number of responses per type of leave respondent. This calculation is as follows:

$$\text{Traditional FMLA leave respondents: } 6,719,336^3 \times 1.5 \text{ responses}^4 = \underline{\underline{10,079,004}}$$

¹ The Department assumes the following proportional response burden among the employer entities: private, 74.033172415 percent; state, local, and tribal governments, 25.94333834 percent; and federal, 0.02348951 percent.

Within each information collection, the respondents, responses, and burden estimates are rounded to the nearest whole number.

² This number is derived by multiplying 87.2 million FMLA eligible workers by the ratio of 7,182,916 respondents in the 2015 ICR to 91.1 million FMLA eligible workers in the 2015 ICR. That is: $87,200,000 \times \frac{7,182,916}{91,100,000} = 87,200,000 \times .079 = 6,888,800$ respondents. This number needed to be disaggregated by employer type (see footnote 3). Due to rounding, when the disaggregated totals were summed the product yielded 6,889,489 (= 6,719,336+135,020+28,244+6,889).

³ The disaggregated number of respondents was determined as follows: Total respondents x 2015 percent of respondent type of total 2015 respondents. Accordingly, Traditional FMLA, $6,888,800 \times .9754 = 6,719,336$; Exigency, $6,888,800 \times .0196 = 135,020$; Military caregiver active duty, $6,888,800 \times .0041 = 28,244$; Military caregiver veteran, $6,888,800 \times .0010 = 6,889$. The 2015 percent of respondent type of total respondents was calculated as follows: Traditional FMLA $7,005,950/7,182,916 = 97.54\%$; Exigency $140,900/7,182,916 = 1.96\%$; Military caregiver active duty $29,100/7,182,916 = 0.41\%$; and Military caregiver veteran $6,966/7,182,916 = 0.1\%$

⁴ The 1.5 traditional FMLA leave requests per year per respondent number are from a 2012 DOL survey. The Department estimates that there are 13 qualifying exigency leave requests per year per respondent, 44 military caregiver- active duty leaves per year per respondent, and 51 military caregiver- veteran leaves per year per respondent.

The Family and Medical Leave Act of 1993, as amended
OMB control number 1235-0003
April 2018

Qualifying Exigency leave respondents: 135,020 x 13 responses =	1,755,260
Military Caregiver (active-duty) leave respondents: 28,244 x 44 responses =	1,242,736
Military Caregiver (veteran) leave respondents: 6,889 x 51 responses =	351,339
<i>Total responses:</i>	<u>13,428,339</u>

The Department also anticipates the additional submission of 2,200,000 invalid responses where either the employer was not covered or the employee was not eligible for leave.

Response burden grand total: 15,628,339 responses (13,428,339 + 2,200,000).
Hours Burden: 520,945 hours (15,628,339 responses x 2 minutes per response / 60 minutes per hour).

Total burden requested for requirement A: 15,628,339 responses and 520,945 employee hours burden.

B. Notice to Employee of FMLA Eligibility and Rights and Responsibilities Notice.

The Department assumes that, in response to each employee notice of need for FMLA leave, all covered employers with eligible employees will notify their employees of their FMLA leave eligibility. Covered employers with eligible employees are in this instance the respondents and are estimated to be 290,304 private, 101,731 state, local, and tribal, and 92 federal employers, as discussed above (see footnote 1). The Department estimates that each written notice to an employee of FMLA eligibility and notice of rights and responsibilities takes an employer approximately 10 minutes.

Responses and hours burden requirement B:

Private (74.03317215%): 11,570,155 responses (=15,628,339 total responses from above x .7403317215) and 1,928,359 hours (= 11,570,155 x 10 minutes / 60 minutes per hour)
State, local, tribal (25.943338%): 4,054,513 responses (= 15,628,339 x .25943338) and 675,752 hours (= 4,054,513 responses x 10 minutes / 60 minutes per hour)
Federal (0.02348951%): 3,671 responses (15,628,339 x .0002348951) and 612 hours (3,671 x 10 minutes/60 minutes per hour)

Total burden requested for requirement B: 15,628,339 responses and 2,604,723 employer hours

C. Employee Certifications: Employee Certifications–Serious Health Condition Certification, Recertification, and Fitness-for-Duty Certification; Certification of Qualifying Exigency Due to Call to Military Active Duty; Covered Servicemember’s Serious Injury or Illness Certification.

1. Medical Certification and Recertification.

The Department estimates that 72.8 percent of employees who take FMLA leave will do so for a serious health condition of their own or that of a family member. *See Family and Medical Leave in 2012: Technical Report* at pp. 69-70, <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>. The Department estimates that employers will require 92 percent of these employees to provide medical certification of the serious health condition. The Department further estimates that second or third opinions and recertifications add 15 percent to the total number of medical certifications, and that both employees and health care providers spend an average of 20 minutes in obtaining and completing each certification.

Responses and hours burden requirement C-1:

Responses: 6,719,336 traditional FMLA leave respondents x 1.5 average responses per respondent x 0.728 percentage serious health condition as FMLA leave reason x 0.92 percentage of employees' with this leave reason asked for medical certification x 1.15 original certification plus second/third opinion recertification rate = 7,763,091 responses burden

Hours: 7,763,091 responses x 20 employee minutes/60 minutes per hour = 2,587,697 hours burden

Total burden requested for requirement C-1: 7,763,091 responses and 2,587,697 hours

2. Fitness-for-Duty Medical Certification.

The Department estimates that 54.6 percent of traditional FMLA leave is taken for an employee's own serious health condition. *See Family and Medical Leave in 2012: Technical Report* at pp. 69-70. The Department further estimates that 10 percent of employees taking FMLA leave for their own serious health condition must submit one fitness-for-duty medical certification, 5 percent of intermittent leave users will be asked to present an average of 3 such certifications because of reasonable safety concerns, and that both employees and health care providers spend an average of 10 minutes completing the fitness-for-duty certification. The Department does not associate an employer paperwork burden with the portion of this information collection that employers complete since – even absent the FMLA – similar information would customarily appear in their internal instructions requesting a medical certification or recertification.

Responses and hours burden requirement C-2:

Responses

6,719,336 traditional FMLA leave respondents x 1.5 average responses per respondent x 0.546 rate of taking leave for one's self x 0.10 *non-intermittent* fitness-for-duty certification response

The Family and Medical Leave Act of 1993, as amended
OMB control number 1235-0003
April 2018

request rate x 1 frequency rate = 550,314
6,719,336 traditional FMLA leave respondents x 1.5 average responses per respondent x 0.546
rate of taking leave for one's self x 0.05 *intermittent* fitness-for-duty certification response
request rate x 3 frequency rate = 825,470
Total responses: 1,375,784

Hours:

1,375,784 responses x 10 minutes / 60 minutes per hour = 229,297 hours

Total burden requested for requirement C-2: 1,375,784 responses and 229,297 hours

3. Certification of Qualifying Exigency for Military Family Leave.

The Department estimates that it will take approximately 20 minutes for a Human Resources Assistant to request, review, and verify the employee's certification papers.

Responses and hours burden requirement C-3

Responses:

135,020 qualifying exigency respondents x 1.5 average responses per respondent x 0.92
percentage of employees' with this leave reason asked for medical certification = 186,328
responses.

Hours:

186,328 responses x 20 minutes / 60 minutes per hour = 62,109 hours

Total burden requested for requirement C-3: 186,328 responses and 62,109 hours

4. Certification for Leave Taken to Care for Covered Servicemembers – Current
Servicemembers
and Covered Veterans.

The Department estimates that it will take a health care provider 20 minutes to complete the military caregiver certification papers. Time spent by the Human Resources Assistant in review and verification of the certification papers is captured under item D below: *Notice to Employees of FMLA Designation.*

Responses and hours burden requirement C-4:

Responses:

35,133 military caregiver respondents x 1.5 average responses per respondent x 0.92 percentage
of employees' with this leave reason asked for medical certification = 48,484 responses

The Family and Medical Leave Act of 1993, as amended
OMB control number 1235-0003
April 2018

Hours:

48,484 responses x 20 minutes / 60 minutes per hour = 16,161 hours

Total burden requested for requirement C-4: 48,484 responses and 16,161 hours

Total Burden Requested for Requirement C

Total Responses: 9,373,687 (C-1: 7,763,091 + C-2: 1,375,784 + C-3: 186,328 + C-4: 48,484)

Total Hours: 2,895,264 (C-1: 2,587,697 + C-2: 229,297 + C-3: 62,109 + C-4: 16,161)

D. Notice to Employees of FMLA Designation.

The Department estimates that each written FMLA designation notice takes employers approximately 10 minutes to complete.

Responses and hours burden requirement D:

Private (74.03317215%): 11,570,155 responses (=15,628,339 total responses from above x .7403317215) and 1,928,359 hours (= 11,570,155 x 10 minutes / 60 minutes per hour)

State, local, tribal (25.943338%): 4,054,513 responses (= 15,628,339 x .25943338) and 675,752 hours (= 4,054,513 responses x 10 minutes / 60 minutes per hour)

Federal (0.02348951%): 3,671 responses (15,628,339 x .0002348951) and 612 hours (3,671 x 10 minutes/60 minutes per hour)

Total burden requested for requirement D: 15,628,339 responses and 2,604,723 employer hours

E. Notice to Employees of Change of 12-month period of determining FMLA eligibility.

The Department estimates that annually ten percent of FMLA-covered employers choose to change their 12-month period for determining FMLA eligibility and must notify their employees of the change. Total number of employers is estimated to be 290,304 private, 101,731 state, local, and tribal, and 92 federal employers, as discussed above (see item 12 on page 11). Also, the Department assumes that employers who change their 12-month period for determining FMLA eligibility employ ten percent of the 87.2 million workers (8,720,000) covered by the FMLA. These notifications can be accomplished via e-mail or posting hard copies and they require approximately 10 minutes for the employer to notify their entire workforce.

Respondents by sector:

Private: 29,030 employers or respondents (= 290,304 x 0.10)

State, local, tribal: 10,173 employers or respondents (= 101,731 x 0.10)

Federal: 9 employers or respondents (= 92 x 0.10)

Responses and hours burden requirement E:

Private (74.03317215%): 6,455,693 responses (= 8,720,000 x .7403317215) and 4,838 hours (= 29,030 respondents x 10 minutes / 60 minutes per hour)

State, local, tribal (25.943338%): 2,262,259 responses (= 8,720,000 x .25943338) and 1,696 hours (= 10,173 respondents x 10 minutes / 60 minutes per hour)

Federal (0.02348951%): 2048 responses (= 8,720,000 x .0002348951) and 2 hour (= 9 respondents x 10 minutes / 60 minutes per hour)

Total burden requested for requirement E: 8,720,000 responses and 6,536 hours

F. Key Employee Notification.

The Department estimates that annually 10 percent of FMLA-covered employers notify one key employee of the intent not to restore the employee at the conclusion of FMLA leave. Total number of employers are estimated to be 290,304 private, 101,731 state, local, and tribal, and 92 federal employers, as discussed above. In addition, the Department estimates that half of these cases will require the employer to issue a second notice to address a key employee's subsequent request for reinstatement. The Department estimates each key employee notification takes the employer approximately 5 minutes to complete and issue.

Respondents by sector:

Private: 29,030 employers or respondents (= 290,304 x 0.10)

State, local, tribal: 10,173 employers or respondents (= 101,731 x 0.10)

Federal: 9 employers or respondents (= 92 x 0.10)

Responses and hours burden requirement F:

Private: 43,545 responses (= 29,030 employers x 1.5 key employee notice) and 3,629 hours (= 43,545 x 5 minutes / 60 minutes per hour)

State, local, tribal: 15,260 responses (= 10,173 employers x 1.5 key employee) and 1,272 hours (= 15,260 x 5 minutes / 60 minutes per hour)

Federal: 14 responses (9 employers x 1.5 key employee notices) and 1 hour (14 x 5 minutes / 60 minutes per hour)

Total burden requested for requirement F: 58,819 responses and 4,902 hours.

G. Periodic Employee Status Reports.

The Department estimates that employers require periodic reports from 25.5 percent of FMLA leave takers, which is based on the percentage of FMLA leave takers with absences lasting more than 30 days. The Department also estimates that a typical employee would normally respond to an employer's request for a status report; however, to account for any additional burden the regulations might impose, the Department estimates a 10 percent response rate and a burden of 2

minutes of employee time per response. The Department further estimates that each such respondent annually provides 2 periodic status reports. While the Department believes most employers would only seek these reports in accordance with customary business practices, the agency has accounted for any potential additional employer burden in the “Eligibility Notice.”

Responses and hours burden requirement G:

6,889,489 leave takers⁵ x 0.255 request rate x 0.10 response rate = 175,682 respondents
175,682 respondents x 2 responses per year = 351,364 responses
351,364 x 2 minutes / 60 minutes per hour = 11,712 hours

Total burden requested for requirement G: 351,364 responses and 11,712 hours.

H. Documenting Family Relationships.

As it did in the 2008 analysis, the Department estimates that approximately 50 percent of FMLA leave takers take leave for reasons related to family, such as caring for a newborn or recently adopted child or qualifying family member with a serious health condition. As such, the Department assumes that fifty percent of employees who take leave will take it for family reasons. As it did in the 2013 final rule, the Department estimates that employers may require additional documentation to support a family relationship in 5 percent of these cases, which would require an additional 5 minutes of employee time per case.

Responses and hours burden requirement H:

6,889,489 FMLA leave taker respondents x 0.05 required to provide additional documentation = 344,474 responses
344,474 responses x 5 minutes / 60 minutes per hour = 28,706 employee hours

Total burden requested for requirement H: 344,474 responses and 28,706 hours.

I. Notice to Employee of Pending Cancellation of Health Benefits.

Based on the number of employees indicating they have lost benefits, the Department estimates that half of FMLA-covered employers send one FMLA leave taker per year a notification of not having received health insurance premiums. Total number of employers is estimated to be 290,304 private, 101,731 state, local, and tribal, and 92 federal employers, as discussed above. For purposes of estimating the paperwork burden associated with this information collection, the Department estimates that unique respondents would send all responses, and each notification will take 5 minutes of employer time.

Respondents by sector

⁵ See page 11 of this document: “The Department ...estimates that the number of potential respondents (i.e. employees who work for covered employers, who are FMLA eligible, and who actually take FMLA leave) to be approximately 6,889,489.” See also footnote 2.

The Family and Medical Leave Act of 1993, as amended
OMB control number 1235-0003
April 2018

Private: 145,152 respondents (=290,304 x 0.50)
State, local, tribal: 50,866 respondents (=101,731 x 0.50)
Federal: 46 respondents (=92 x 0.50)

Responses and hours burden requirement I:

Private: 145,152 responses (=145,152 respondents x 1 notice) and 12,096 hours (=145,152 x 5 minutes / 60 minutes per hour)
State, local, tribal: 50,866 responses (=50,866 respondents x 1 notice) and 4,239 hours (=50,866 x 5 minutes / 60 minutes per hour)
Federal: 46 responses (=46 respondents x 1 notice) and 4 hours (=46 x 5 minutes / 60 minutes per hour)

Total burden requested for requirement I: 196,064 responses and 16,339 hours.

J. General Recordkeeping.

The Department estimates that the FMLA imposes an additional general recordkeeping burden on each FMLA-covered employer that equals 1.25 minutes for each FMLA instance of leave; thus, the number of responses equals the number of FMLA instances of leave.

Respondents by leave type:

Traditional FMLA leave respondents: 6,719,336
Qualifying Exigency leave respondents: 135,020
Military Caregiver leave respondents: 28,244 (active duty); 6,889 (veterans)

Responses and hours burden requirement J:

Responses:

Traditional FMLA: 10,079,004 responses (= 6,719,336 x 1.5 instances) +
Qualifying Exigency FMLA: 1,755,260 responses (= 135,020 x 13 instances) +
Military Caregiver FMLA: 1,594,075 responses (= (28,244 x 44 instances) + (6,889 x 51 instances)) = 13,428,339 total responses burden.

Hours:

279,757 employer hours (=13,428,339 total responses x 1.25 minutes / 60 minutes per hour)

Responses and hours burden for requirement J disaggregated by sector:

Private (74.03317215%): 9,941,425 responses (=13,428,339 x .7403317215) and 207,113 hours (= 279,757 x .7403317215)
State, local, tribal (25.943338%): 3,483,759 responses (= 13,428,339 x .25943338) and 72,578 hours (= 279,757 x .25943338)

The Family and Medical Leave Act of 1993, as amended
OMB control number 1235-0003
April 2018

Federal (0.02348951%): 3,154 responses (= 13,428,339 x .0002348951) and 66 hours (= 279,757 x .0002348951)

Total burden requested for requirement J: 13,428,338 responses and 279,757 hours.

CALCULATING TOTAL BURDENS ESTIMATES

Total Estimated Responses Burden for All Requirements

GRAND TOTAL ANNUAL RESPONSES = 79,357,763 (= requirement A: 15,628,339 + B: 15,628,339 + C: 9,373,687* + D: 15,628,339 + E: 8,720,000 + F: 58,819 + G: 351,364 + H: 344,474 + I: 196,064 + J: 13,428,338)

*C = sub-requirement c-1: 7,763,091 + c-2: 1,375,784 + c-3: 186,328 + c-4: 48,484

Total Estimated Hours Burden for All Requirements

Grand Total Hours = 8,973,607 (= requirement A: 520,945 + B: 2,604,723 + C: 2,895,264* + D: 2,604,723 + E: 6,536 + F: 4,902 + G: 11,712 + H: 28,706 + I: 16,339 + J: 279,757)

*C = sub-requirement c-1: 2,587,697 + c-2: 229,297 + c-3: 62,109 + c-4: 16,161


Total Estimated Burden Costs for All Requirements

Persons responding to the various FMLA information collections may be employees of any of a wide variety of businesses. Therefore, absent specific wage data regarding respondent employers, when calculating employer burden costs the Department used the median hourly wage for a non-supervisory Human Resources Assistant (Except Payroll and Timekeeping) for May 2016. The median hourly wage is \$18.76 plus 40 percent in fringe benefits, which results in a total hourly rate of \$26.26 (= (\$18.76 x 0.40) + \$18.76). See BLS Occupational Employment Statistics, Occupational Employment and Wages, May 2016 (<http://www.bls.gov/oes/current/oes434161.htm>).

Total Estimated Burden Costs:

\$235,646,920 (= 8,973,607 hours x \$26.26 per hour)

The Family and Medical Leave Act of 1993, as amended
 OMB control number 1235-0003
 April 2018

Data Collection	Number of Respondents	No. of Responses per Respondent	Total Responses	Average Burden per Response (in hours)	Total Burden Hours	Hourly Wage Rate and Total Cost Burden
A. Employee Notice of Need for FMLA Leave	Traditional: 6,719,336 Exigency leave: 135,020 Military caregiver-active duty: 28,244 Military caregiver-veteran: 6889 Total: 6,889,489	Traditional: 1.5 Exigency leave: 13 Military caregiver-active duty: 44 Military caregiver-veteran: 51	Traditional 10,079,004 Exigency: 1,755,260 Military caregiver-active duty: 1,242,736 Military caregiver-veteran 351,339 Total: 13,428,339 + 2,200,000 invalid	2 minutes/60 minute hour	520,945	

The Family and Medical Leave Act of 1993, as amended
 OMB control number 1235-0003
 April 2018

			responses = Grand Total: 15,628,339			
B. Notice to Employee of FMLA Eligibility and Rights and Responsibilities Notice			15,628,339 (see A)	10 minutes/60 minute hour	2,604,723	
C-1. Employee Medical Certification and Recertification	Traditional: 6,719,336	Traditional: 1.5/ respondent x .0728 % serious health condition x 0.92% asked for medical cert x1.15 original cert plus 2 nd /3 rd opinion	7,763,091	20 minutes/60 minute hour	2,587,697	
C-2. Employee Fitness-for-Duty Medical Certification	Traditional: 6,719,336	a) 1 fitness report: 1.5/respondent x 0.546 rate of taking leave x 0.10 response request rate x 1 frequency; b) 3 fitness reports: 1.5/respondent x 0.546 rate of taking leave x 0.05 response request rate x 3 frequency	a) 550,314 b)825,470 Total 1,375,784	10 minutes/60 minute hour	229,297	
C-3. Employee	135,020	1.5/respondent	186,328	20	62,109	

The Family and Medical Leave Act of 1993, as amended
 OMB control number 1235-0003
 April 2018

Certification of Qualifying Exigency for Military Family Leave		x 0.92% asked for medical certification		minutes/60 minute hour	
C-4. Employee Certification Care for Servicemembers /Veteran	35,133	1.5/respondent x 0.92 % asked for medical certification	48,484	20 minutes/60 minute hour	16,161
D. Employer Notice to Employees of FMLS Designation			15,628,339 (see A)	10 minutes/60 minute hours	2,604,723
E. Employer Notice to Employees of Change in 12-month Period	39,212	10% x total FMLA covered Employees= 87.2 million x 0.10 = 8,720,000	8,720,000	39,212 respondent employers x 10 minutes/60 minute hour	6,536
F. Employer Key Employee Notice	39,212	1.5/respondent	58,819 ⁶	5 minutes/60 minute hour	4,902
G. Employee Status Report	175,682	2/respondent	351,364	2 minutes/60 minute hour	11,712
H. Employee Documenting Family Relationship	6,889,489 FMLA leave takers	5% x leave taker respondents	344,474	5 minutes/60 minute hour	28,706
I. Employer Notice to Employee of Cancellation of Health Benefits	196,064	1/respondent	196,064	5 minutes/60 minute hour	16,339
J. General Recordkeeping	Traditional:	Traditional: 1.5/respondent	Traditional:	1.25 minutes/60 minute	279,757

⁶ Slight differences in numbers are a product of rounding and disaggregation to capture information on a sector basis in the report.

The Family and Medical Leave Act of 1993, as amended
 OMB control number 1235-0003
 April 2018

	6,719,336		10,079,004			
	Exigency Leave: 135,020	Exigency Leave: 13/respondent	Exigency Leave: 1,755,260			
	Military Caregiver-active duty: 28,244	Military Caregiver-active: 44/respondent	Military Caregiver-active: 1,242,736	hour		
	Military Caregiver-veteran: 6,889	Military Caregiver-veteran: 51/respondent	Military Caregiver-veteran: 351,339			
			Grand Total= 13,428,338			
Totals:			79,357,763		8,973,607	
Total Burden Cost (hours) x \$26.26						8,973,607x \$26.26= \$235,646,920

13. Other Respondent Cost Burdens (Maintenance and Operation)

Employees seeking FMLA leave for a serious health condition must obtain, upon their employer's request, a certification of the serious health condition from a health care provider.

Often the health care provider's office staff completes the form for the provider's signature. In other cases, the health care provider personally completes it. While most health care providers do not charge for completing these certifications, some do. The Department estimates completion of serious health condition certification to take about 20 minutes and a fitness-for-duty certification to require 10 minutes.

To determine operations and maintenance costs the Department calculated health care provider burden cost to capture the cost of time spent completing medical certifications. The Department used the median hourly wage for a Physician's Assistant of \$48.79 plus 40 percent in fringe benefits, which results in a total hourly rate of \$68.31 ($= (\$48.79 \times 0.40) + \48.79). See BLS Occupational Employment Statistics, Occupational Employment and Wages, May 2016, <https://www.bls.gov/oes/current/oes291071.htm>

C-1. Medical Certification and Recertification:

$7,763,091 \text{ responses} \times 20 \text{ health care provider minutes} / 60 \text{ minutes per hour} = 2,587,697 \text{ hours}$

C-2. Fitness-for-Duty Medical Certification:

$1,375,784 \text{ responses} \times 10 \text{ health care provider minutes} / 60 \text{ minutes per hour} = 229,297 \text{ hours}$

C-4. Certification for Leave Taken to Care for a Covered Servicemember (active duty and Veterans):

$48,484 \text{ responses} \times 20 \text{ health care provider minutes} / 60 \text{ minutes per hour} = 16,161 \text{ hours}$

Total health care provider hours burden: 2,833,155 hours (= 2,587,697 medical certification hours + 229,297 fitness-for-duty certification hours + 16,161 military caregiver certifications)

Total operations and maintenance costs:
\$193,532,818 (= 2,833,155 hours x \$68.31)

14. Federal Costs

The federal costs that the Department associates with this information collection relate to printing/duplicating and mailing the subject forms. The Department also estimates it will annually provide an average of one copy of each form covered by this information collection to each of the 392,127 FMLA-covered employers, and that the agency will mail all forms simultaneously to any given requestor. The Department further estimates information technology costs will offset some of the printing and duplicating costs in an equal amount; therefore, the agency is presenting only the costs of the latter:

The Family and Medical Leave Act of 1993, as amended
OMB control number 1235-0003
April 2018

392,127 Forms WH-380-E x 4 pages (or x 2 two-sided pages) = 1,568,508 pages

392,127 Forms WH-380-F x 4 pages (or x 2 two-sided pages) = 1,568,508 pages

392,127 Forms WH-381 x 2 pages (or x 1 two-sided pages) = 784,254pages

392,127 Forms WH-382 x 1 page (or x 1 two-sided pages) = 392,127 pages

392,127 Forms WH-384 x 3 pages (or x 2 two-sided pages) = 1,176,381 pages

392,127 Forms WH 385 x 4 pages (or x 2 two-sided pages) = 1,568,508 pages

392,127 Forms WH-385-V x 4 pages (or x 2 two-sided pages) = 1,568,508 pages

Total Forms = 2,744,899 (392,127 FMLA-covered employers x 7 forms)

Total pages = 8,626,794

Total printed (front and back) pieces of paper for one copy of each form = 12 (=2 + 2 + 1 + 1 + 2 + 2 + 2)

8,626,794 pages/2 for front and back printing x \$0.03 printing costs per page = \$129,402

392,121 mailings x \$1.43 (\$0.03 envelopes + \$1.40 postage to mail 1 flat envelope and 12 pages)
= \$560,733

Total Estimated Annual Federal Costs = \$690,135 (= \$129,402 + \$560,733)

15. Changes in Burden

There is a slight decrease in responses and burden hours due to a decrease in the estimated number of FMLA eligible workers. The decrease in estimated burden hours produced a slight decrease in total burden cost. There was a modest increase in total operations and maintenance cost which is attributed to a \$5.73 increase in the health care provider hourly wage rate applied to the slight reduction in health care provider burden hours. Lastly, Federal cost decreased slightly because printing costs were applied to only half of the total pages calculation to capture printing on the front and back of each page.

16. Publication

This information collection does not entail information that the Department will publish.

17. Displaying OMB Expiration Date

The Family and Medical Leave Act of 1993, as amended
OMB control number 1235-0003
April 2018

The Department will display the expiration dates for OMB clearances on the Department forms cleared under this information collection.

18. Certification Requirements

The Department does not seek an exception to OMB certification requirements.

B. Collections of Information Employing Statistical Methods

This information collection does not employ statistical methods.