Association of Minnesota Counties

FMLA Notice Checklist

☐ Post **Family and Medical Leave Act (FMLA) Poster (WH 1420).**

- The poster must be displayed in a conspicuous place where employees and applicants for employment can see it.
- The poster and its text must be large enough to be easily read and contain fully legible text.
- Electronic posting is permitted as long as it otherwise meets all the posting requirements.

☐ Provide General Notice to Employee - the general notice containing the same information that is in the poster.

- This may be done by including it in an employee handbook distributed to all employees (or other written guidance to employees concerning employee benefits or leave rights) OR
- Distribute a copy of the general notice to each new employee upon hire (distribution may be electronic).

☐ Once the Employer is on notice that an employee needs time off work for a reason that might be covered by FMLA, within five days provide the employee:

- An eligibility determination, which addresses whether they're a candidate for leave, and a notice of their rights and responsibilities. The Notice of Rights and Responsibilities (WH-381) will satisfy both of these requirements; and
- The relevant medical certification form. The form you select to send will be determined by the FMLA event that is occurring:
  - Employee's serious health condition WH-380-E;
  - Family member's serious health condition WH-380-F;
  - Qualifying exigency for military family leave WH-384;
  - Serious injury or illness of a current servicemember for military family leave WH-385; or
  - Veteran's serious injury or illness for military caregiver leave WH-385V.

☐ Within 15 days (assuming there are no extenuating circumstances), the employee returns the relevant medical certification form.

☐ Review the medical certification form provided for completeness (See Fact Sheet #28G)

- If the employer determines the information is incomplete / insufficient, the employer must issue the employee a written notice stating what additional information is necessary to make the certification complete and sufficient and;
- The employee must provide the additional information to the employer within seven calendar days, in most circumstances.
- If the employer determines the medical certification is complete, within five days, provide the Designation Notice (WH-382) and;
- If the employer is going to require a fitness-for-duty requirement, the employee must be informed at this point.
    - *As a condition of restoring an employee whose FMLA leave was due to 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 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 the fitness-for-duty certification process as in the initial certification process and is responsible for any associated costs.*

☐ When the leave nears its end, contact the employee about the fitness-for-duty exam and, as a best practice, provide a notice that the leave is coming to an end, and an invitation to contact you if assistance is needed.