

DEPARTMENT OF LABOR**Wage and Hour Division****29 CFR Part 825**

RIN 1215-AA85

The Family and Medical Leave Act of 1993

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: This document provides the text of final regulations implementing the Family and Medical Leave Act of 1993, Public Law 103-3, 107 Stat. 6 (29 U.S.C. 2601 *et seq.*) (FMLA or Act). FMLA generally requires private sector employers of 50 or more employees, and public agencies, to provide up to 12 workweeks of unpaid, job-protected leave to eligible employees for certain specified family and medical reasons; to maintain eligible employees' pre-existing group health insurance coverage during periods of FMLA leave; and to restore eligible employees to their same or an equivalent position at the conclusion of their FMLA leave.

EFFECTIVE DATE: These rules are effective on February 6, 1995.

FOR FURTHER INFORMATION CONTACT: J. Dean Speer, Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3506, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 219-8412. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:**I. Paperwork Reduction Act**

Recordkeeping requirements contained in these regulations (§ 825.500) have been reviewed and approved for use through July 1996 by the Office of Management and Budget (OMB) and assigned OMB control number 1215-0181 under the Paperwork Reduction Act of 1980 (Pub. L. 96-511). No substantive changes have been made in this final rule which affect the recordkeeping requirements and estimated burdens previously reviewed and approved under OMB control number 1215-0181. Comments received regarding the estimate of public reporting burden for the information collection requirements contained in these regulations are discussed below in connection with § 825.500.

II. Background

The FMLA was enacted on February 5, 1993. In general, FMLA entitles an "eligible employee" to take up to a total

of 12 workweeks of unpaid leave during any 12-month period for the birth of a child and to care for such child, for the placement of a child for adoption or foster care, to care for a spouse or an immediate family member with a serious health condition, or when he or she is unable to work because of a serious health condition. Employers covered by the law are required to maintain any pre-existing group health coverage during the leave period and, once the leave period is concluded, to reinstate the employee to the same or an equivalent job with equivalent employment benefits, pay, and other terms and conditions of employment.

Title I of the Act applies to private sector employers of 50 or more employees, public agencies, and certain Federal employers and entities, such as the U.S. Postal Service and Postal Rate Commission. These regulations, 29 CFR Part 825, implement Title I of the FMLA. Similar leave entitlement provisions in Title II of the FMLA apply to most other Federal civil service employees who are covered by the annual and sick leave system established under 5 U.S.C. Chapter 63, plus certain employees covered by other Federal leave systems. The U.S. Office of Personnel Management (OPM) administers the regulations implementing Title II of the FMLA (see 5 CFR Part 630). Title III established a temporary "Commission on Leave," which is to conduct a comprehensive study and produce a report on existing and proposed policies on leave and the costs, benefits, and impact on productivity of such policies. Title IV contains miscellaneous provisions, including rules governing the effect of the Act on more generous leave policies, other laws, and existing employment benefits. Title V extended similar leave provisions to certain employees of the U.S. Senate and the U.S. House of Representatives.

Section 404 of the Act required the Department of Labor to issue regulations to implement Title I and Title IV of FMLA within 120 days of enactment, or by June 5, 1993, with an effective date of August 5, 1993. Title I of FMLA became effective on August 5, 1993, except where a collective bargaining agreement (CBA) was in effect on that date, in which case the provisions took effect on the date the CBA terminated or on February 5, 1994, whichever date occurred earlier.

To obtain public input and assist in the development of FMLA's implementing regulations, the Department published a notice of proposed rulemaking in the **Federal Register** on March 10, 1993 (58 FR

13394), inviting comments until March 31, 1993, on a variety of questions and issues. A total of 393 comments were received in response to the notice—from employers, trade and professional associations, advocacy organizations, labor unions, State and local governments, law firms and employee benefit firms, academic institutions, financial institutions, medical institutions, governments, Members of Congress, and others.

After consideration of the comments received, the Department issued an interim final rule on June 4, 1993 (58 FR 31794), which went into effect on August 5, 1993, and which invited further public comment on FMLA's implementing rules until September 3, 1993. On August 30, 1993, the Department further extended the public comment period until December 3, 1993 (58 FR 45433). The Department received more than 900 comments on the interim final rules during the extended comment period from advocacy groups and associations, Members of Congress, employers, union organizations, governmental entities and associations, law firms, management consultants, marriage and family counselors and therapists, clinical social workers, property management companies, temporary help and employee leasing companies, professional and trade associations, universities, and individuals. In addition to the substantive comments discussed below, many commenters submitted minor editorial suggestions, some of which were adopted and some were not. Finally, a number of other minor editorial changes have been made to better organize and simplify the regulatory text.

On December 29, 1994, a meeting was held at OMB with representatives of Consolidated Edison Company of New York pursuant to E.O. 12866.

The Department would like to point out that it has prepared a lengthy preamble to accompany these regulations in an attempt to be fully responsive to the numerous comments received. The Department would welcome additional comments regarding employers' experience with the implementation of the FMLA over the course of the next year or so. Such comments will be reviewed together with the results of the comprehensive study on existing and proposed leave policies to be conducted by the Commission on Leave to determine whether further revisions to these regulations will be appropriate in the future.