**Checklist: FMLA Compliance**

**GENERAL**

Is the employer covered by the FMLA?

Is the FMLA poster displayed in an area frequented by employees and applicants?

Is there a written FMLA policy included in the employee handbook or otherwise distributed?

Is the 12-month period used to calculate FMLA leave defined in the written policy?

Is there a method for tracking employee use of FMLA leave and remaining leave entitlement?

Have the FMLA forms from the U.S. Department of Labor been downloaded or have similar internal forms been created?

Is training provided to managers on the FMLA, including information about how to identify a leave request that may be FMLA-qualifying and how to comply with anti-retaliation rules?

Are procedures in place and communicated to employees regarding requests for FMLA leave and consequences for failing to provide proper notice?

**LEAVE REQUESTS**

Is the employee’s request for leave due to an FMLA-qualifying reason?

Is the employee eligible for FMLA leave?

Is the Notice of Eligibility and Rights & Responsibilities form (WH-381) provided within five days of learning of the need for leave that may be FMLA-qualifying?

Is a medical certification necessary? If yes:

Is the appropriate certification form provided to the employee?

Is the employee given at least 15 calendar days to return the certification form?

Are the consequences for not returning the certification form communicated?

Is the certification form returned complete and sufficient without missing information or sections left blank or vague?

Is the employee given at least seven days to submit a corrected certification form, if necessary?

Is the Designation Notice (WH-382) provided within five days of receipt of the medical certification?

If no medical certification is required, is the employee provided with the Designation Notice (WH-382) with the Notice of Eligibility and Rights & Responsibility form (within five days of learning of the need for FMLA leave)?

Are key employees identified and notified of their status as such with an explanation of their limited reinstatement rights?

**DURING LEAVE**

Is coverage under the group health plan maintained at the same level and under the same conditions as would be maintained had the employee not taken leave, including employer contributions?

Is there a process to collect premium payments for health insurance from employees during periods of unpaid FMLA?

Do internal policies indicate how other benefits are impacted by an FMLA absence, such as paid-time-off accruals, life insurance, etc.

Are requirements for the employee to provide periodic updates to the employer during leave communicated?

**RETURN TO WORK**

Is a release to work from a health care provider required before returning to work?

Is the employee reinstated to the same or an equivalent position?

Is there a process to collect outstanding insurance premiums owed by the employee?

Are records of the employee’s FMLA leave retained for a minimum of three years, separate from the employee’s personnel file?