

# HR & Benefits Newsletter

January 2009 - New year, new changes in the law

Brought to you by: **Brooks Jucha & Associates**



## New FMLA Poster Required for 2009

A revised [Family and Medical Leave Act \(FMLA\) poster](#), reflecting the recently published final rule, is now available for viewing and downloading. Every employer covered by the FMLA is required to post and keep posted on its premises, in conspicuous places where employees are employed, a notice explaining the Act's provisions. (RIN 1215-AB35).

The Department has provided optional forms for use by employers and employees during the FMLA process. The Department has revised its Certification of Health Care Provider form (WH-380), and divided it into two separate forms as follows:

- [Employee's Serious Health Condition \(WH-380E\)](#)
- [Family Member's Serious Health Condition \(WH-380F\)](#)

The Department has also revised its [Notice of Eligibility and Rights and Responsibilities form \(WH-381\)](#). In addition, the Department has added the following new forms:

- [Designation Notice to Employee of FMLA Leave \(WH-382\)](#)
- [Certification of Qualifying Exigency for Military Family Leave \(WH-384\)](#)
- [Certification for Serious Injury or Illness Covered Service member for Military Family Leave \(WH-385\)](#)

The poster and forms become effective on January 16, 2009. Additional compliance assistance materials are also available on FMLA Final Rule Web site at [www.dol.gov/esa/whd/fmla/finalrule.htm](http://www.dol.gov/esa/whd/fmla/finalrule.htm).

The [Final Regulations \(PDF\)](#) implement the following two important new military family leave entitlements for eligible specified family members:



- (1) Up to 12 weeks of leave for certain qualifying exigencies arising out of a covered military member's active duty status, or notification of an impending call or order to active duty status, in support of a contingency operation, and
- (2) Up to 26 weeks of leave in a single 12-month period to care for a covered servicemember recovering from a serious injury or illness incurred in the line of duty on active duty. Eligible employees are entitled to a combined total of up to 26 weeks of all types of FMLA leave during the single 12-month period.

## Minimum Wage Rates Change in 11 States

As of January 1, 2009, the state minimum wage rates have increased in the following states:

- [Arizona](#) - will rise from \$6.90 to \$7.25 per hour, which will exceed the federal minimum wage until July 24, 2009, when the federal minimum wage will rise to \$7.25 per hour.
- [Colorado](#) - will increase from \$7.02 per hour to \$7.28 per hour.
- [Connecticut](#) - will rise from \$7.65 per hour to \$8.00 per hour.
- [Florida](#) - will rise from \$6.79 per hour to \$7.21 per hour, which will exceed the federal minimum wage until July 24, 2009, when the federal minimum wage will rise to \$7.25 per hour; employers will be required to increase their minimum wage to reflect the federal rate.
- [Missouri](#) - will increase from \$6.65 per hour to \$7.05 per hour.
- [Montana](#) - will rise from \$6.55 per hour to \$6.90 per hour. When the federal minimum wage is raised on July 24, 2009, the states employers will be required to pay the higher federal rate.
- [New Mexico](#) - will rise from \$6.50 per hour to \$7.50 per hour.
- [Ohio](#) - will rise from \$7 per hour to \$7.30 per hour. For employers who gross \$267,000 or less the minimum wage they are required to pay will be \$6.55 per hour until the federal rate rises on July 24, 2009, when the federal rate increases to \$7.25 per hour.
- [Oregon](#) - will increase from \$7.95 to \$8.40 per hour.
- [Vermont](#) - will increase from \$7.68 to \$8.06 per hour.
- [Washington](#) - will rise from \$8.07 to \$8.55 per hour.



To view current minimum wage rates in your state, please [click here](#).



## New changes to the ADA

The **Americans with Disabilities Act Amendments Act of 2008** ("ADA Amendments Act" or "Act") became effective on January 1, 2009. The Act makes several important changes to the [Americans with Disabilities Act](#) (ADA).

Specifically, it amends the definition of the term "disability" by rejecting the holdings in several Supreme Court decisions and portions of EEOC's ADA regulations. The Act retains the ADA's basic definition of "disability" as an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an

impairment. However, it changes the way that these statutory terms should be interpreted in several ways. For more information, see:

- [ADA Amendments Act of 2008](#)
- [Questions and Answers: Promoting Employment of Individuals with Disabilities in the Federal Workforce](#)
- [Applying Performance And Conduct Standards To Employees With Disabilities](#)
- [Veterans with Service-Connected Disabilities in the Workplace and the ADA](#)
- [Veterans with Service-Connected Disabilities in the Workplace and the ADA-A Guide for Employers](#)
- [The ADA: A Primer for Small Business](#)
- [Your Responsibilities as an Employer](#)
- [Job Applicants and the ADA](#)
- [Small Employers and Reasonable Accommodation](#)
- [Work At Home/Telework as a Reasonable Accommodation](#)

## Many State Benefits Programs have Changed for 2009

Coverages, limitations, qualifications and the like have changed for many state benefit programs (such as [Medicaid](#)) due to federal and state budget cuts, as well as cost-of-living (COLA) rate adjustments. Check benefit details and eligibility requirements for your [state's programs here](#).

### 2009 Social Security Changes; Cost-of-Living Adjustments (COLA)

Based on the increase in the Consumer Price Index (CPI-W) from the third quarter of 2007 through the third quarter of 2008, Social Security and Supplemental Security Income (SSI) beneficiaries will receive a 5.8 percent COLA for 2009. Other important [2009 Social Security information is available here](#).

## IRS Announces Pension Plan Limitations for 2009

The IRS has announced cost of living adjustments applicable to dollar limitations for pension plans and other items for tax year 2009.

Many of the pension plan limitations will change for 2009 because the increase in the cost-of-living index met the statutory thresholds that trigger their adjustment. However, for others, the limitation will remain unchanged. For example, the limitation under Section 402(g)(1) on the exclusion for elective deferrals described in Section 402(g)(3) is increased from \$15,500 to \$16,500. This limitation affects elective deferrals to Section 401(k) plans and to the federal government's Thrift Savings Plan, among other plans.

Effective Jan. 1, 2009, the limitation on the annual benefit under a defined benefit plan under Section 415(b)(1)(A) is increased from \$185,000 to \$195,000. For participants who separated from service before Jan. 1, 2009, the limitation for defined benefit plans under Section 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2008, by 1.0530.

The limitation for defined contribution plans under Section 415(c)(1)(A) is increased from \$46,000 to \$49,000.

The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the dollar limitation of Section 415(b)(1)(A).

For additional information, see [IR-2008-118](#), Oct. 16, 2008..

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