



February 27, 1998

FMLA-94

This is in response to your letter to the U.S. Department of Labor (the Department) on behalf of **Name \***. **Name \*** is concerned that her employer, **Name \***, may have violated provisions of the Family and Medical Leave Act of 1993 (FMLA) by denying her time off to attend Care Conferences related to her mother's health condition.

The FMLA entitles eligible employees of covered employers to take up to 12 weeks of unpaid, job-protected leave each year -- with continued group health insurance coverage during the leave -- for specified family and medical reasons.

Private employers are covered under FMLA if they have employed at least 50 employees during 20 or more calendar workweeks in the current or preceding calendar year; all public employers are covered. Employees are eligible under FMLA if they have worked for a covered employer for at least 12 months, have worked at least 1,250 hours during the 12 months immediately preceding the start of leave, and are employed at a worksite where the employer employs at least 50 employees at the site or within 75 miles of the site. The 12 months the employee has to have worked do not have to be consecutive.

Unpaid leave must be granted to an eligible employee for any of the following reasons: (1) for the birth of a son or daughter, and/or to care for the newborn child within one year of birth; (2) for placement with the employee of a son or daughter for adoption or foster care, and/or to care for the newly placed child within one year of placement; (3) to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; and, (4) for a serious health condition that makes the employee unable to perform his/her job.

An employer may require that an employee's FMLA leave be supported by a certification issued by a health care provider. The Department has developed an optional form (Form WH-380) for use in obtaining medical certification. Form WH-380, or another form containing the same basic information, may be used by the employer; however, no additional information may be required. An employer may generally request subsequent re-certifications no more often than 30 days and only in connection with an absence by the employee. The FMLA Regulations, 29 CFR 825, provide guidelines for employer clarification of medical certifications and also for obtaining second and third medical opinions.

With regard to whether or not attending a Care Conference such as the one described by **Name \*** would be covered by FMLA as a part of providing care for her mother, it is our position that such an event would be covered. The legislative history clearly reflects the intent of the Congress that providing physical and psychological care and comfort to family members with serious health conditions would be a legitimate use of FMLA leave. A Care Conference, during which the individual's health care providers (nurses, dietitians, physical therapists, activity directors, doctors, etc.) discuss the individual's condition, immediate needs, incidents, and general well being, etc., is clearly essential to the employee's ability to provide appropriate physical or psychological care.

While we regret the delay in our response to **Name \*** inquiry, if she still has concerns about this matter she may contact the nearest office of the Wage and Hour Division for further assistance. This office is located at the **Name \***, telephone number \*\*\*\*\*.

Sincerely,

Michelle M. Bechtoldt  
Office of Enforcement Policy  
Family and Medical Leave Act Team

Enclosure

\* Note: The actual name(s) was removed to preserve privacy in accordance with 5 U.S.C. 552 (b)(7).