



December 28, 1993

FMLA-23

Dear *Name*\*,

This is in response to your letter to *Name*\* of my staff regarding the requirement for employers to pay employees' health care premiums under the Family and Medical Leave Act of 1993 (FMLA).

The FMLA and its implementing regulations, 29 CFR Part 825, require that employers maintain an "eligible" employee's coverage under any group health plan during any period of FMLA leave on the same conditions as coverage would have been provided if the employee had worked continuously during the leave. This means that, if an employer normally pays a portion of an employee's group health plan premiums prior to the employee taking FMLA leave, the employer must continue to pay the employer share of the premiums during the FMLA leave at the same rate, i.e., as if the employee continued to work instead of taking the leave. The employer cannot require an employee who takes FMLA leave to pay more for maintaining group health insurance during the FMLA leave than the employee normally pays when working.

Any policy adopted before FMLA became effective by employers that are subject to FMLA which required employees on unpaid leave to pay the entire premium for health insurance in such cases must be revised to comply with this requirement of the FMLA. Section 825.210(c)(4) of the FMLA regulations addresses the employer's right to collect the employee's portion of health plan premiums during a period of FMLA leave, but at the same rate that the employee would normally pay while working as required by the other sections of the regulations.

Sincerely,

J. Dean Speer  
Director, Division of Policy and Analysis

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