

American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Greg Bell, Director
Industrial Relations
1300 L Street, NW
Washington, DC 20005
(202) 842-4273 (Office)
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July 7, 2009

Via Facsimile and First Class Mail

Mr. John W. Dockins, Manager
Contract Administration
The United States Postal Service
475 L'Enfant Plaza SW, Room 9146
Washington DC 20260-4125

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Coordinator, Southern Region

Omar M. Gonzalez
Coordinator, Western Region

Re: Family and Medical Leave (FMLA) Certification Forms/Formats

Dear Mr. Dockins:

I am writing in response to your letter of June 26, 2009, in regard to the above-referenced subject. Thank you for calling to my attention the following sentence on the APWU website, "The Postal Service has stated that these forms (APWU forms) are acceptable for use by managers to approve or disapprove FMLA leave requests." As written, the sentence could be misinterpreted, specifically, since APWU forms are used by employees for FML documentation, not by managers.

In addition, regardless of what forms or format an employee uses for medical certification, if the certification is incomplete and insufficient, the Postal Service is required to explain to the employee in writing what additional information is necessary to make the certification complete and sufficient, and give the employee an opportunity to submit the additional required information. Moreover, once an employee has submitted an APWU form for FML documentation, or a certification in any other format, there is no need or requirement to use a different form/format to submit any additional required information. The employee may, for example, have their health care provider write the additional required information on their original certification, or have the health care provider attach a note containing the additional required information.

For your information, at a previous meeting between the parties, the APWU specifically asked, whether the Postal Service was instructing their field representatives and managers to reject APWU forms submitted by employees for FML certification. The Postal Service stated that they are not telling their managers to reject APWU forms submitted by employees for FML certification; however, FML documentation would be returned regardless of what forms or format is used if the certification is incomplete or insufficient.

Mr. John W. Dockins, Manager
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Enclosed you will find a copy of the Postal Service's revised "Service Talk for Craft Employees" that was provided to the APWU and given to employees. Please note that the following revision (highlighted in red) was made by the Postal Service at the request of the APWU to address the fact that it is an employee's right to use any format, including an APWU form, for FML certification: *"If information is received in support of a request or designation of FMLA which is not on the DOL Forms, it will be evaluated. If the information is found to be incomplete or insufficient; it will be returned to the employee for additional information."*

Accordingly, we have revised the APWU's website to reflect the fact that the APWU forms are used by employees for FML documentation, not by managers. We also made it clear that employees may submit their FML documentation in any format, including APWU FMLA Forms. If the employee's medical certification is incomplete or insufficient, the Postal Service is required to explain to the employee in writing what additional information is required. Once an employee has submitted an APWU FMLA form, or a FML certification in any other format, there is no need or requirement to use a different form/format to submit any additional required information.

During our recent telephone discussion regarding this matter, the APWU expressed a concern in regard to a statement made in your June 26, 2009 letter to APWU President William Burrus – specifically that, "APWU FMLA forms are not acceptable." We believe that your statement may inadvertently result in management refusing to accept APWU forms submitted as FML documentation, instead of reviewing FML documentation submitted on APWU forms, or in any format, as reflected in your revised service talk. You stated during our discussion that it was not your intent for managers to refuse to accept APWU FMLA forms, and that you would clarify your comment. We have subsequently received several complaints from our local unions that management has stated that they will not accept FML documents submitted on APWU forms based on your statement in your June 26, 2009 letter. As such, we again request that you clarify that statement in order to avoid further problems in the field.

Thank you for your cooperation in this matter. Should you have any questions concerning this matter, please contact me at (202) 842-4273.

Sincerely,


Greg Bell, Director
Industrial Relations

Enclosure

GB/PH:jm
OPEIU#2
AFL-CIO

Service Talk for Craft Employees

The U.S. Department of Labor (DOL) final rule to update the Family and Medical Leave Act (FMLA) regulations was effective January 16, 2009. The text of the final FMLA rule is available on the Department of Labor website.

Examples of these changes include:

Employer Notice Requirement – The final rule requires employers to notify employees of the amount of FMLA leave being charged and the employee's paid leave status.

Employee Notice – The new regulation requires employees to follow the employer's usual and customary call-in procedures for reporting an absence, absent unusual circumstances.

Employer Notice – The new regulation requires employers to notify employees if their certifications are incomplete or insufficient and give them the opportunity to cure any deficiency.

Employee Notice – **The new regulation requires employees who have approved FMLA cases to specifically reference their FMLA case at the time of a subsequent need for leave for that case.**

Health Care Providers – A Physician's Assistant is included in the list of Health Care Providers.

The DOL has prepared new, user-friendly forms for employees to document their need for both FMLA medical leave and qualifying exigency leave. The DOL forms meet the FMLA's certification requirements and the Postal Service will require employees to provide all the information sought on those forms. **If information is received in support of a request or designation of FMLA which is not on the DOL Forms, it will still be evaluated. If the information is found to be incomplete or insufficient; it will be returned to the employee for additional information.**

In order to ensure the Postal Service's compliance with newly imposed regulatory requirements and streamline the FMLA designation process, the fulfillment center discontinued the use of the PUB 71 and the WH-380 within the FMLA packet as of January 16, 2008. The WH-380 was replaced by the WH-380-E, "Certification of Health Care Provider for Employee's Serious Health Condition" or WH-380-F, "Certification of Health Care Provider for Family Member's Serious Health Condition," whichever is appropriate for the FMLA request. The PUB 71 was replaced by the DOL WH-381, "Notice of Eligibility and Rights & Responsibilities." However, due to technical issues, we will not be able to include the WH-381 in the FMLA packet until some time in late March. Consequently, we have notified the FMLA coordinators that they will be responsible for mailing out the WH-381 to employees during this interim period. The Coordinators will also mail out DOL Form WH-382, "Designation Notice" to comply with DOL's requirements to notify employees of their FMLA designation.

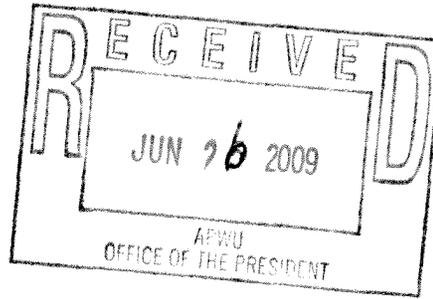
The WH-381, WH-382 as well as the WH-384, "Certification of Qualifying Exigency for Military Family Leave" and WH-385, "Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave" will be mailed directly from the local FMLA Office until eRMS and the Fulfillment Center are upgraded to provide the new forms.

LABOR RELATIONS



June 26, 2009

Mr. William Burrus
President
American Postal Workers Union,
AFL-CIO
1300 L Street NW
Washington, DC 20005-4128



Dear Bill:

It has come to my attention that the American Postal Workers Union (APWU) website contains incorrect information regarding Family and Medical Leave Act (FMLA) forms. Specifically the website contains the following language, "The Postal Service has stated that these forms (APWU forms) are acceptable for use by managers to approve or disapprove FMLA leave requests." That statement is incorrect.

As expressed in a June 9 letter (enclosed) to Greg Bell, the Postal Service has "determined that there are omissions that render the union's forms not equivalent to the Department of Labor (DOL) forms."

Please correct your website as the APWU FMLA forms are not acceptable. Also, please identify which Postal Service communication the website refers to in the sentence "The Postal Service has stated . . ."

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "John W. Dockins".

John W. Dockins
Manager
Contract Administration (APWU)

Enclosure

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-4100