


§ 2613. Certification, 29 USCA § 2613

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 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

[United States Code Annotated](#)

[Title 29. Labor](#)

[Chapter 28. Family and Medical Leave \(Refs & Annos\)](#)

[Subchapter I. General Requirements for Leave \(Refs & Annos\)](#)

29 U.S.C.A. § 2613

§ 2613. Certification

Effective: October 28, 2009

[Currentness](#)

**(a) In general**

An employer may require that a request for leave under [subparagraph \(C\) or \(D\) of paragraph \(1\) or paragraph \(3\) of section 2612\(a\)](#) of this title be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee, or of the next of kin of an individual in the case of leave taken under such paragraph (3), as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

**(b) Sufficient certification**

Certification provided under subsection (a) shall be sufficient if it states--

- (1) the date on which the serious health condition commenced;
- (2) the probable duration of the condition;
- (3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

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(4)(A) for purposes of leave under [section 2612\(a\)\(1\)\(C\)](#) of this title, a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent; and

(B) for purposes of leave under [section 2612\(a\)\(1\)\(D\)](#) of this title, a statement that the employee is unable to perform the functions of the position of the employee;

(5) in the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;

(6) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under [section 2612\(a\)\(1\)\(D\)](#) of this title, a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and

(7) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under [section 2612\(a\)\(1\)\(C\)](#) of this title, a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

**(c) Second opinion**

**(1) In general**

In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under [subparagraph \(C\) or \(D\) of section 2612\(a\)\(1\)](#) of this title, the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b) for such leave.

**(2) Limitation**

A health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employer.

**(d) Resolution of conflicting opinions**

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**(1) In general**

In any case in which the second opinion described in subsection (c) differs from the opinion in the original certification provided under subsection (a), the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

**(2) Finality**

The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

**(e) Subsequent recertification**

The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis.

**(f) Certification related to covered active duty or call to covered active duty**

An employer may require that a request for leave under [section 2612\(a\)\(1\)\(E\)](#) of this title be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the employer.

**CREDIT(S)**

([Pub.L. 103-3, Title I, § 103](#), Feb. 5, 1993, 107 Stat. 11; [Pub.L. 110-181](#), Div. A, Title V, § 585(a)(3)(E), Jan. 28, 2008, 122 Stat. 130; [Pub.L. 111-84](#), Div. A, Title V, § 565(a)(1)(C), Oct. 28, 2009, 123 Stat. 2310.)

[Notes of Decisions \(57\)](#)

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Current through P.L. 116-91. Some statute sections may be more current, see credits for details.

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