**Checklist: FMLA Compliance**

**GENERAL**

[ ]  Is the employer covered by the FMLA?

[ ]  Is the FMLA poster displayed in an area frequented by employees and applicants?

[ ]  Is there a written FMLA policy included in the employee handbook or otherwise distributed?

[ ]  Is the 12-month period used to calculate FMLA leave defined in the written policy?

[ ]  Is there a method for tracking employee use of FMLA leave and remaining leave entitlement?

[ ]  Have the FMLA forms from the U.S. Department of Labor been downloaded or have similar internal forms been created?

[ ]  Is training provided to managers on the FMLA, including information about how to identify a leave request that may be FMLA-qualifying and how to comply with anti-retaliation rules?

[ ]  Are procedures in place and communicated to employees regarding requests for FMLA leave and consequences for failing to provide proper notice?

**LEAVE REQUESTS**

[ ]  Is the employee’s request for leave due to an FMLA-qualifying reason?

[ ]  Is the employee eligible for FMLA leave?

[ ]  Is the Notice of Eligibility and Rights & Responsibilities form (WH-381) provided within five days of learning of the need for leave that may be FMLA-qualifying?

[ ]  Is a medical certification necessary? If yes:

[ ]  Is the appropriate certification form provided to the employee?

[ ]  Is the employee given at least 15 calendar days to return the certification form?

[ ]  Are the consequences for not returning the certification form communicated?

[ ]  Is the certification form returned complete and sufficient without missing information or sections left blank or vague?

[ ]  Is the employee given at least seven days to submit a corrected certification form, if necessary?

[ ]  Is the Designation Notice (WH-382) provided within five days of receipt of the medical certification?

[ ]  If no medical certification is required, is the employee provided with the Designation Notice (WH-382) with the Notice of Eligibility and Rights & Responsibility form (within five days of learning of the need for FMLA leave)?

[ ]  Are key employees identified and notified of their status as such with an explanation of their limited reinstatement rights?

**DURING LEAVE**

[ ]  Is coverage under the group health plan maintained at the same level and under the same conditions as would be maintained had the employee not taken leave, including employer contributions?

[ ]  Is there a process to collect premium payments for health insurance from employees during periods of unpaid FMLA?

[ ]  Do internal policies indicate how other benefits are impacted by an FMLA absence, such as paid-time-off accruals, life insurance, etc.

[ ]  Are requirements for the employee to provide periodic updates to the employer during leave communicated?

**RETURN TO WORK**

[ ]  Is a release to work from a health care provider required before returning to work?

[ ]  Is the employee reinstated to the same or an equivalent position?

[ ]  Is there a process to collect outstanding insurance premiums owed by the employee?

[ ]  Are records of the employee’s FMLA leave retained for a minimum of three years, separate from the employee’s personnel file?