

# Q&A

## HR Legal Compliance

Courtesy of Clarke & Company Benefits, LLC

### Q

**What are the recordkeeping requirements under the Family and Medical Leave Act (FMLA)?**

### A

Employers covered by the FMLA must make and keep records regarding their compliance obligations under the FMLA. These records must be preserved for a minimum of **three years**.

Covered employers who have FMLA-eligible employees must maintain records that disclose the following:

- Basic payroll and identifying employee data
- Dates that FMLA leave is taken
- Hours of FMLA leave that are taken, if taken in increments of less than a day
- All employee and employer FMLA notices provided
- Any documents describing employee benefits or employer practices or policies regarding paid and unpaid leave that is taken
- Premium payments of employee benefits
- Records of any disputes regarding the designation of leave

Covered employers that have no FMLA-eligible employees must still maintain basic payroll and identifying employee data.

Employee FMLA records relating to medical certifications, recertifications or medical histories of employees or their family members must be maintained as confidential medical records in separate files from employee personnel files. However, individuals such as managers, safety personnel or government officials investigating compliance may be informed of relevant FMLA medical information as necessary. In addition, these records may be subject to further confidentiality requirements under the Americans with Disabilities Act (ADA).

