§ 825.311 Intent to return to work. 

(a) An employer may require an employee on FMLA leave to report periodically on the employee’s status and the employee’s intent to return to work. Where the employee’s FMLA leave is based on the serious health condition of a family member, the employer may require periodic certification of the employee’s own serious health condition as well.

(b) The employee shall provide such certification to the employer in writing. The certification shall include:

(1) The expected date of the employee’s return to work;

(2) The name and telephone number of the employee’s health care provider;

(3) Copy of the employee’s health insurance certificate or any other document that reflects the employer’s obligations to the employee;

(4) Any other information as requested by the employer.

(c) The employer shall keep the certification and any other information provided by the employee in confidence, except as required by law.

(d) If the employee fails to provide certification within 15 days of the employer’s request, the employer may require the employee to submit a new certification and may change the employee’s leave status to administrative leave.

(e) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(f) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(g) The employer shall provide the employee with a copy of the certification and any other information provided by the employee in confidence, except as required by law.

(h) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(i) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(j) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(k) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(l) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(m) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(n) The employer shall provide the employee with a copy of the certification and any other information provided by the employee in confidence, except as required by law.

(o) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(p) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(q) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(r) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(s) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(t) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(u) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(v) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(w) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(x) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(y) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(z) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(aa) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(bb) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(cc) The employee shall provide any certification in a timely manner unless the employee has a reasonable excuse for the delay. If the employee has a reasonable excuse, the employer shall accept the certification.

(dd) The employer shall keep a record of the employee’s certification and any other information provided by the employee in confidence, except as required by law.

(3) If the employee does not provide the requested certification, the employer may continue to provide the employee with the benefits provided for in section 12101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612 et seq.).
§ 825.312 Fitness-for-duty certification.

(a) As a condition of restoring an employee whose FMLA leave was occasioned by the employee’s own serious health condition that made the employee unable to perform the employee’s job, an employer may have a uniformly-applied policy or practice that requires all similarly-situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee’s health care provider that the employee is able to resume work. The employee has the same obligations to participate and cooperate (including providing a complete and sufficient certification or providing sufficient authorization to the health care provider to provide the information directly to the employer) in the fitness-for-duty certification process as in the initial certification process. See §825.305(d).

(b) An employer may seek a fitness-for-duty certification only with regard to the particular health condition that caused the employee’s need for FMLA leave. The certification from the employee’s health care provider must certify that the employee is able to resume work. Additionally, an employer may require that the certification specifically address the employee’s ability to perform the essential functions of the employee’s job. In order to require such a certification, an employer must provide an employee with a list of the essential functions of the employee’s job no later than with the designation notice required by §825.300(d), and must indicate in the designation notice that the certification must address the employee’s ability to perform those essential functions. If the employer satisfies these requirements, the employee’s health care provider must certify that the employee can perform the identified essential functions of his or her job. Following the procedures set forth in §825.307(a), the employer may contact the employee’s health care provider for purposes of clarifying and authenticating the fitness-for-duty certification. Clarification may be requested only for the serious health condition for which FMLA leave was taken. The employer may not delay the employee’s return to work while contact with the health care provider is being made. No second or third opinions on a fitness-for-duty certification may be required.

(c) The cost of the certification shall be borne by the employee, and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

(d) The designation notice required in §825.300(d) shall advise the employee if the employer will require a fitness-for-duty certification to return to work and whether that fitness-for-duty certification must address the employee’s ability to perform the essential functions of the employee’s job.

(e) An employer may delay restoration to employment until an employee submits a required fitness-for-duty certification unless the employer has failed to provide the notice required in