



COMMONWEALTH of VIRGINIA

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April 29, 2002

Mr. John Morrall
Office of Information and Regulatory Affairs
Office of Management and Budget
NEOB, Room 10235
725 17th Street, NW
Washington, D.C. 20503

Dear Mr. Morrall:

This is to recommend that the regulations developed by the Department of Labor to implement the Family and Medical Leave Act (FMLA) be revised, and opinion letter #86 be rescinded. The definition of a "serious health condition" is too broad. Also, because of the 1996 opinion letter, leaves of absence due to a cold, the flu, or a headache can be covered by the FMLA, if other regulatory conditions are satisfied. This leads to a presumption that the intent of the act is to cover brief and temporary illnesses, and causes confusion for employers as to when, or when not, to apply the FMLA.

I also recommend that the Department of Labor revise the regulations to clarify that the FMLA is not intended to apply in situations where the illness or injury is only temporary with an expected recovery period to be of short duration.

Sincerely,

Roberta Hudgins Turner
SPHR, IPMA-CP
HR Consultant