

February 2015

ALERT: The United States Department Of Labor Changes Its FMLA Definition of “Spouse”

As of March 27, 2015, the U.S. DOL will follow a new rule which will use the “place of celebration” standard for same-sex marriage. In other words, if the marriage was legal where it was celebrated (i.e. the state in which the couple was married), it will be recognized for the purpose of the FMLA. This new definition is not concerned with the legal status of same-sex marriage where the employee lives or works. With this change, as long as employee is legally married, the employee can take FMLA leave to care for his/her spouse or step-child. This new rule will also permit an employee to use FMLA leave to care for a step-parent who is the same-sex spouse of the employee’s parent.

As an example, if an employee lives and works in Ohio (which does not recognize same-sex marriage) but was married in Delaware (which does recognize same-sex marriage), under the new rule, that employee can take FMLA leave to care for his husband with a serious health condition.

If you have any questions about existing policies or contract language, please do not hesitate to contact us.

The materials provided in this communication are for informational purposes only. This communication is not intended to provide advice, create an attorney-client relationship or render a legal opinion. This communication does not necessarily reflect the opinion of Cleary, Josem & Trigiani LLP or any of its individual attorneys. Clients, of course please call any of the Cleary, Josem & Trigiani LLP attorneys if you have questions about the items reported on here.
