

Legislative Impact on HR

Possible Steps to Take

April 6, 2009

Passed Legislation

“Start of what many see as the most intense Capitol Hill activity on HR issues in a generation”

- Lilly Ledbetter Fair Pay Act
- Children’s Health Insurance Program Reauthorization Act (CHIPRA)
- American Recovery and Reinvestment Act (ARRA)

Lilly Ledbetter Fair Pay Act

- Amends deadline for bringing pay discrimination claims under Title VII, the Age Discrimination Act, the Americans with Disabilities Act and the Rehabilitation Act
- Allow claims brought within 180 days of receiving any paycheck affected by a discriminatory pay decision, no matter how far in the past an act of discrimination allegedly began
- Retroactive to May 28, 2007

Children's Health Insurance Program Reauthorization Act (CHIPRA)

- Expands HIPAA Special Enrollment Rules – effective April 1, 2009
- Allows states to subsidize premiums for employer-provided group health coverage for eligible children
- Also imposes requirements on Plan Sponsors:
 - Notify employees of a new special enrollment opportunity by April 1st
 - Provide subsidy notices to employees in states with subsidy by January 2011
 - Provide disclosure to state agencies as requested

American Recovery and Reinvestment Act (ARRA)

- COBRA
 - Provides temporary government subsidies toward COBRA premium for individuals who experience a qualifying event because of “involuntary termination” between 9/1/08 and 12/31/09
- Increases weekly unemployment benefits by \$25

American Recovery and Reinvestment Act (ARRA) (cont.)

- May expand state unemployment law if state accepts this portion of funds
 - Provides an extension of the temporary emergency unemployment compensation program (which provides up to 33 weeks of extended benefits) through December 2009
 - Provides unemployment compensation to workers who leave an employer for “compelling family reasons”
 - Provides unemployment compensation to part time employees

Proposed Legislation

- Employee Free Choice Act
- Family Friendly Workplace Act
- Healthy Families Act
- Family and Medical Leave Act expansion
- Pharmacy Benefit Changes (Court case)

Employee Free Choice Act

- Would effectively eliminate secret ballot elections
- Provides new, mandatory, interest arbitration procedures to ensure that employers and unions reach an initial collective bargaining agreement

Employee Free Choice Act (cont.)

- Increases the employer's liability - fines and penalties – for those who commit unfair labor practices during union organizing campaigns
- Almost passed in 2008 (passed House, not Senate)

Creates a more favorable landscape for union organizing

Family-Friendly Workplace Act

- Would amend the Fair Labor Standards Act (FLSA) to permit employers to offer employees the choice of receiving paid time off in lieu of overtime wages
- Would limit accrual of paid time off
- Would require annual payment of accrued and unused paid time off

Consider impact on timekeeping systems

Healthy Families Act

- Would require employers with 15 or more employees to provide seven days of paid sick leave each year to employees working more than 30 hours per week. Pro-rated for those working less than 30 hours per week .
- Could be used to care for either the employee or a relative of the employee.
- As proposed, would not allow employers to modify existing leave policies to compensate for additional leave requirements.

Could impact productivity and profitability

Expanding the FMLA

- To cover businesses with 25 or more employees – down from 50
- Provide leave for elder care
- Would expand reasons for leave to include:
 - Up to 24 hours leave to participate in children's academic school activities
 - To care for individuals who reside in their home for six months or more
 - To address domestic violence and sexual assault

Expands law already difficult to administer

Changes to Pharmacy Benefits

- Settlement in national class action suit against First Databank, Inc. and McKesson Corporation
- Defendants “engaged in a racketeering enterprise to fraudulently increase the published ‘average wholesale price’ (AWP) of over 400 drugs”
- Settlement requires defendants to roll back the mark-up on price on AWP off of the wholesale acquisition cost (WAC)
- Could be an opportunity for savings

Carefully review your pharmacy contract

Potential Effects on HR

- Significant increases in HR administrative duties – record keeping and auditing
- Compliance with new laws and tougher oversight from the Department of Labor
- Greater liability for non-compliance
- Less time and money, but greater need, to train employees
- Challenge of effectively communicating new laws with variety of employees
- HR Information Systems – Disruption to HRIS and Payroll
- Less time for strategic HR planning

HR Information Systems

- Data field level changes
- Report Writing
- Vendor support and cost
- Timeliness

What Can HR Do?

- Meet with Senior Management to:
 - Educate as to the administrative impact of the passed and proposed legislation
 - Alert to the potential financial impact of employment-related legislation
- Evaluate your company's strategies to prepare for legislation such as the Healthy Families Act and the Employee Free Choice Act
- Review policies and procedures – update as needed
- Review employee notices and posters – update as needed

What Can HR Do?

- Ensure that the right partnerships are in place to support you through changes – minimize risk, leverage your strategic focus
 - Legal
 - Benefits
 - HRIS
 - Training