



ALERT

Changes in New York's Insurance, Labor and Human Rights Laws Affecting Employers Become Effective

By Bennett Pine

New York State Governor David Paterson has signed into law four pieces of legislation amending New York's Insurance, Labor and Human Rights Laws which impose significant additional burdens on New York employers. The legislation:

- extends continuation coverage of health insurance for up to 36 months due to loss of employment;
- allows continued dependent coverage for unmarried children under a parent's policy up to age 29;
- requires employers to provide newly hired employees with written notice of certain wage-hour rights;
- extends the anti-discrimination protection of the New York State Human Rights Law to victims of domestic violence; and
- imposes civil fines and penalties for discriminatory acts.

New York State Insurance Law Changes Extend COBRA Coverage For Up to 36 Months; Continuation Coverage for Single Children to Age 29

Amendments to the New York State Insurance Law now require commercial insurers offering group health policies, as well as not-for-profit corporations and health maintenance organizations (HMO's) offering group contracts, to extend the duration of health coverage from 18 months to 36 months following a loss of coverage due to termination of employment or a reduction in work hours. The continuation requirements apply both to employers subject to the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) to the extent that individuals have exhausted their coverage under the federal COBRA provisions, and smaller employers (fewer than 20 employees) subject to New York State "mini-COBRA" coverage. Employers, regardless of their size, must allow employees to extend their health insurance continuation from 18 to 36 months in the event of loss of coverage due to termination of employment or reduction in work hours. The law is effective for insurance contracts issued, modified or renewed on or after July 1, 2009.

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The second significant amendment to the New York State Insurance Law now requires commercial insurers offering individual and group health policies, and not-for-profit corporations and HMO's offering group health contracts, to extend an option to allow continued coverage for unmarried children under a parent's policy up to the age of 29, providing that certain requirements are met.

The requirements for qualification for the extension of coverage are that:

1. the children are unmarried;
2. they do not have other employer-sponsored health coverage;
3. they live, work or reside in New York State or in the service area of the insurer; and
4. they are not eligible for Medicare.

The option to allow extension of coverage is effective for insurance contracts issued, renewed, modified, amended or altered on or after September 1, 2009. Employers are not required to cover the cost of the extended dependent coverage.

Changes to New York State Labor Law Mandate Written Notice of Rate of Pay, Pay Days and Overtime Eligibility to New Hires

The New York State Labor Law was amended to require that employers provide all employees hired on or after October 26, 2009, with written notice of their rate of pay and the employer's regular pay days. "Non-exempt" employees who are eligible for overtime must be given written notice of both their regular hourly pay rate and their overtime rate of pay. Employers are also required to obtain a written acknowledgement of the receipt of the required notice from each new employee.

New York State Human Rights Law Modified to Ban Discrimination Against Victims of Domestic Violence

The New York State Human Rights Law has been amended to include victims of domestic violence as a class that is protected against discrimination. Effective July 7, 2009, employers are prohibited from refusing to hire or otherwise to discriminate against an individual in compensation or other terms of employment because the individual is a victim of domestic violence. The amended statute defines "domestic violence victim" as an individual who is a victim of a family offense under the New York State Family Court Act, including:

- disorderly conduct;
- harassment;
- stalking; and
- reckless endangerment, or assault between spouses, or former spouses, or between parent and child, or between members of the same family or household.

Civil Fines and Penalties Imposed for Unlawful Discrimination Under Human Rights Law

The New York State Human Rights Law also has been amended to provide for civil fines and penalties to be paid to the state of up to \$50,000 for unlawful discriminatory acts, and of up to \$100,000 for willful, wanton or malicious discrimination occurring on or after July 6, 2009. The fines or penalties may be assessed in all cases of discrimination, including employment discrimination, and are in addition to any compensatory damages or other payments available under the law. Employers with fewer than 50 employees may be ordered to pay the fines or penalties in

installments, with interest. Prior to the amendments, civil fines were only available in cases of housing discrimination. The New York State Human Rights Law does not provide for recovery of punitive damages, although the New York City Human Rights Act does allow for punitive damages for claims brought under it.

Conclusion

The above amendments to New York's Insurance, Labor and Employment Laws impose additional obligations with which New York employers must comply in order to avoid liability.

Please contact the author if you have any questions or require additional information.▲

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