

Legislative Update

May 2015

Additional information will be forthcoming related to any required change in Matrix's process, practice, written or verbal employee communications as a result of these new laws.

Supreme Court Decision Could Have Significant Impact on Employers – Obergefell v. Hodges

Same-Sex Marriage Update

The United States Supreme Court recently heard arguments in the case of Obergefell v. Hodges, with the decision potentially impacting almost all employers and society at large with respect to the issue of same-sex marriage. The Court limited oral arguments to two profound issues. First, whether the Fourteenth Amendment requires a state to license a marriage between two people of the same sex? Second, whether the Fourteenth Amendment requires a state to recognize a marriage between two people lawfully licensed and performed out of state?

The decision could impact nearly every employer in the nation, and could increase the propensity for greater claims of interference or retaliation under the FMLA. The decision could also possibly lead to the inclusion of marital status and/or sexual orientation to become protected classes under Title VII. A decision could occur by June 2015. Employers would be wise to monitor developments in the case.

For more information from the Supreme Court:

<http://www.supremecourt.gov/search.aspx?filename=/docketfiles/14-556.htm>

See also

<http://www.lgwmlaw.com/the-supreme-courts-decision-in-obergefell-will-impact-employers.php>

http://www.scotusblog.com/2015/04/no-clear-answers-on-same-sex-marriage-in-plain-english/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+scotusblog%2FpFXs+%28SCOTUSblo

[g%29](http://www.scotusblog.com/2015/04/no-clear-answers-on-same-sex-marriage-in-plain-english/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+scotusblog%2FpFXs+%28SCOTUSblog%29)

IMPACT TO YOUR PROGRAM WITH MATRIX: No impact until the decision has been confirmed.

Plan Ahead – California Healthy Workplaces, Healthy Families Act Effective July 2015

The California Healthy Workplaces, Healthy Families Act will take effect July 01, 2015. The law will require most employers to provide one hour of paid sick leave for every 30 hours of work, with employees earning up to three (3) days per year. The new law applies to almost all employers, with exceptions for those operating under a collective bargaining agreement or covered under the Railway Labor Act.

For more specific information <http://gov.ca.gov/news.php?id=18690>

IMPACT TO YOUR PROGRAM WITH MATRIX: No impact to Matrix programs. Matrix does not currently manage paid sick leave.

Reminder! Philadelphia, PA – Paid Sick Leave Bill to Go into Effect This Month

The Promoting Healthy Families and Workplaces Bill, providing for paid sick leave for approximately 200,000 employees in Philadelphia, will become effective May 13, 2015. Covered employees will receive the accrual of one (1) hour of paid sick leave for every forty (40) hours worked.

The ordinance also extends to leave for issues related to domestic violence. Employers with less than ten (10) employees must also grant leave, but the leave can be unpaid for these small employers. The ordinance also provides for notice and posting requirements.

For more information or to review the text of the ordinance:

<https://phila.legistar.com/LegislationDetail.aspx?ID=2101250&GUID=5D12D54D-B1A7-4446-B646-95BE528F771C&Options=ID|Text|&Search>

IMPACT TO YOUR PROGRAM WITH MATRIX: No impact to Matrix programs. Matrix does not currently manage paid sick leave, or city ordinances.

Florida – Proposed Legislation to State Civil Rights’ Act

With House Bill 625, Florida is considering proposed legislation to make pregnancy a protected class under the Florida Civil Rights’ Act. The proposal would prohibit employment discrimination on the basis of pregnancy, childbirth, or related medical conditions. The intention is to bring state law more consistent with protections afforded in the United States Civil Rights Act. The 2014 decision in *Delva v. Continental Group, Inc.* by the Florida Supreme Court was the catalyst for the proposal.

The most current version of the proposed legislation can be found at:

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=53694>

See also

<http://news.wfsu.org/post/state-civil-rights-act-could-soon-include-pregnancy-protections> . The *Delva* decision can be viewed at: <http://www.floridasupremecourt.org/decisions/2014/sc12-2315.pdf>

IMPACT TO YOUR PROGRAM WITH MATRIX: No impact to Matrix programs. This is a discrimination law, not a leave law.

New York, New York – Companies are Fined for Violating Paid Sick Leave Rights

American Girl Place Café, Best Buy, FedEx, the East Harlem Council for Human Services, Lismir Cards and Primo Cappuccino were all fined for violating employee paid sick leave rights. Although most of the fines were only a few hundred dollars, FedEx was fined \$33,600. The city has processed hundreds of complaints this year, with many resolved through mediation. Employers would be wise to pay attention to employee sick leave rights, as it appears that enforcement may be increasing.

For more information: <http://www.nydailynews.com/new-york/best-buy-fedex-fined-no-paid-sick-leave-article-1.2169079>

IMPACT TO YOUR PROGRAM WITH MATRIX: No impact to Matrix programs. Matrix does not currently manage paid sick leave.

Oregon – Paid Sick Time May Become Effective Statewide

The Senate Workforce Committee passed Senate Bill 454, requiring paid sick time for employees to care for themselves or family members. Under the version passed by the Committee, employees could earn up to forty (40) hours per year of paid leave. An employer is defined as, “any person that employs another person, the State of Oregon or a political subdivision of the state and any county, city, district, authority, public corporation or entity and any instrumentality thereof organized and existing under law or charter.” The federal government is exempt. The cities of Portland and Eugene have previously passed paid sick leave legislation.

Senate Bill 454 can be found at:

<https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB454/Senate%20Amendments>

IMPACT TO YOUR PROGRAM WITH MATRIX: No impact to Matrix programs. Matrix does not currently manage paid sick leave.

New Jersey – Workers’ Compensation May See Changes

New Jersey is considering cost of living adjustments (COLA) for all workers totally or permanently disabled after December 31, 1979, as well as for surviving dependents. The proposals are contained in Senate Bill 929 and Assembly Bill 1908. The change could increase costs for employers, with the Office of Legislative Services estimating the increase to reach \$58 million by 2018. The New Jersey Chamber of Commerce, the New Jersey Business Industry Association, and the New Jersey Food Counsel have opposed the proposal.

Senate Bill 929 can be found at: <https://legiscan.com/NJ/text/S929/id/924665>

Assembly Bill 1908 can be found at: <https://legiscan.com/NJ/text/A1908/id/1050011>

See also: <http://www.wgworkerscompensationlawblog.com/2014/06/13/nj-senate-bill-929-could-increase-costs-for-employers/>

IMPACT TO YOUR PROGRAM WITH MATRIX: If these bills are passed, workers’ compensation disability benefits within the state of New Jersey are likely to increase.

DMEC Spring Compliance Conference

Marti Cardi, Vice President – Product Compliance *attended the DMEC 2015 Compliance Conference last month and posted the following to our new blog, RelianceStandardInsights.com*

<http://reliancestandardinsights.com/2015/05/hot-stuff-from-d-c/#more-185>

Notable EEOC Disability News:

EEOC v. Liberty Chrysler, Jeep, Dodge, LLC . (ADA Claim) at: <http://www.eeoc.gov/eeoc/newsroom/release/4-28-15.cfm>

EEOC v. Helmerich and Payne, Inc. (ADA Claim) at: <http://www.eeoc.gov/eeoc/newsroom/release/4-22-15b.cfm>

EEOC's Digest of EEOC law now available at: <http://www.eeoc.gov/eeoc/newsroom/release/4-23-15a.cfm>

Notable Case

DOL Wage and Hour Division - FedEx Ground

The Sacramento Wage and Hour Division of the Department of Labor recently determined that FedEx Ground violated an employee's FMLA rights at the Fairfield, CA location. The employee was on approved leave to care for his ailing mother. The employee requested additional leave when his mother's condition worsened. The additional leave was approved through AETNA, the company's benefit provider handling FMLA matters. However, the additional leave approval was not communicated to the employer. As a result of the failure to communicate the additional leave, the employer terminated the employee for job abandonment.

After a Wage and Hour Division investigation, FedEx Ground acknowledged the miscommunication. The employee was reinstated and received \$35,000 in lost wages, benefits and vacation accrual. The Division's Assistant District Director stated, "The Family Medical Leave Act is intended to help workers balance the demands of work and family."

This case provides another example of the need for clear lines of communication between employers and benefit coordinators.

For more information: <http://www.dol.gov/opa/media/press/whd/WHD20150766.htm>

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What You Need to Do:

Reliance Standard and Matrix are committed to keeping our clients informed and in compliance. We will provide updates on meaningful changes - and how they may affect our clients – as necessary. In the interim, for more information on how to manage productivity in the face of this and other employee leave legislation, contact your sales representative or account manager.