

■ THE HR PRO

Top HR Issues for 2016



Employee health a major human resource challenge BY BETH RATTIGAN

From the evolution of employee sick leave to an increase in disability claims, from changing workplace demographics to overtime expansion, human resource professionals are facing a variety of new and developing challenges this year. This month's column will address four health-related topics. Next month, we'll look at four workplace and employment issues.

PAID SICK LEAVE

The paid sick leave revolution is upon us. As of today, four states and more than 20 municipalities have enacted paid sick leave laws and there are numerous paid sick leave bills pending in various jurisdictions for 2016.

Vermont's legislature recently passed a paid sick leave law, and it is awaiting the governor's signature as of this writing. Under the pending law, companies must give workers three days off for sick leave for the first two years of the law and then five days in year three and thereafter.

New Hampshire employers that have employees working in Vermont likely will have to comply with the law.

Likewise, employers in Vermont or New Hampshire with employees whose "primary place of work" is Massachusetts

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will have to comply with Massachusetts' paid sick leave law, which passed last year. It requires employers with more than 10 employees to provide one hour of guaranteed sick leave for every 30 hours worked, up to 40 hours per year.

And beginning in 2017, federal contractors must provide one hour of paid sick leave for every 30 hours an employee works.

AFFORDABLE CARE ACT

In 2016, Affordable Care Act penalties will go into full effect. Individuals who don't have health insurance will be fined \$695, which is much greater than the \$95 penalty in 2014.

Effective this year, companies with 100 or more employees will need to be insured, and companies with 50 to 99 employees will have to insure full-time workers.

Through the first half of 2016, employers will continue to focus on the employer shared responsibility provisions of the ACA, tackle the new reporting requirement, and begin planning for the "Cadillac" plan tax.

Employers subject to reporting requirements in 2016 have been

given extra time to provide employees with forms (March 31) and file them with the IRS (May 31 or June 30, depending on paper or electronic filing).

WELLNESS EVOLUTION

A 2015 survey of more than 400 employers by the Society for Human Resource Management found that 80 percent of respondents currently offer some sort of wellness program, while 5 percent plan to offer the benefit in the next year.

Employers that already offer wellness programs are becoming more sophisticated in those offerings. The trend is toward total employee well-being — not just physical wellness, but also things like mental health and financial wellness.

Many employers have found that the return on this investment — including reduced insurance costs as a result of wellness problems — is elusive. More employers now are looking at wellness programs as a vital component in employee engagement.

In addition, while the ACA allows employers to impose penalties on individuals who do not participate in wellness programs, the Equal Employment Opportunity Commission takes a dim view of this and has published proposed regulations regarding the need to ensure that wellness programs remain voluntary and in compliance with the Americans with Disabilities Act and the Genetic Information Nondiscrimination Act.

ADA CLAIMS ON THE RISE

Disability discrimination claims under the Americans with Disabilities Act have seen a rapid rise, which is expected to continue. The EEOC reported a substantial spike in these cases during 2015 and, over the past several years, the EEOC itself has filed more ADA lawsuits than any other type of discrimination claim.

What is driving this spike? Employers should closely consider these factors during 2016:

- Employers with inflexible leave policies will continue to face a high risk of claims.

- Employers that fail to engage in an interactive process in handling requests for reasonable accommodation will be vulnerable to potential litigation.

- Employers that fail to recognize the overlap between a serious health condition and a disability claim can make it easy for employees to pair a Family and Medical Leave Act claim with an ADA claim.

One way to reduce the risk of disability discrimination claims is to train managers on how to recognize when the ADA may be relevant and how to address requests for accommodations.

In next month's ENTERPRISE: A look at the use and misuse of independent contractors, shifts in workplace demographics, the expansion of overtime eligibility and more. **E**



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