

HRS/TND ASSOCIATES, INC.

Your HR and Benefits Specialists

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Please feel free to talk to any of our consultants for clarification of any information provided and visit our website for details about HRS at www.hrstndassociates.com



New Family Leave and ADA Regulations-January begins

The Department of Labor published final regulations recently, updating the Family and Medical Leave Act (FMLA) regulations and defining new rules for military family leave. The final rules incorporate expanded job-protected FMLA leave for military families as required by the National Defense Authorization Act, signed into law in January 2008. The regulations take effect on January 16, 2009, and employers must take action to update their leave policies, procedures, and forms before that time. Here are some highlights of changes:

- Clarifying the definitions of "serious health condition"
- Prohibiting supervisors from contacting the employee's health care provider about medical certification
- Stopping employers from charging FMLA time to employees who return but can only perform light-duty work

- Allowing family members of wounded military personnel to take up to six months to care for recovering relatives
- Handling "qualifying exigency leave" during active duty

ADA rules also are changing in ways that affect ALL employers and, while few in number, the changes will have broad impact on day to day operations.

The HRS guru on these matters is Mike Krepps, SPHR and he will gladly discuss the details as they apply to your business. [Email Mike for more information.](#) You can also call 610.371.9505 ext 22.

COBRA CORNER

Your qualifying event notice just went out, now what?

As covered in our last newsletter, you have up to 44 days to send out a qualifying event notice. (Missed our last newsletter? It's still available on our website, www.hrstndassociates.com.) Now the election period begins.

A COBRA qualifier has 60 days from the later of the benefits termination date or the date of your notification. This means that if you waited the full 44 days from the date benefits were lost to send out the notice, the COBRA qualifier still has an additional 60 days to elect COBRA. That's 104 days!

Conversely, even if you send out a qualifying event notice before the date benefits were lost, the COBRA qualifier would still have 60 days from the date benefits were lost. For example, if someone is termed December 3rd and keeps coverage through the end of the month, but you sent their notice December 4th, the COBRA qualifier would still have 60 days from December 31 to elect COBRA. Still, 88 days is better than 104.

In our next newsletter, we'll go over premium payments.

Questions? Feel free to email cobra@hrstndassociates.com for more information.

Foundation survey points to health insurance concerns of small business

Making health care more affordable is a top concern of U.S. small business (under 50 employees) leaders, who rank health care cost as the primary issue confronting their businesses. Thirty six percent of small business owners indicate rising costs are likely to cause them to cut some portion of health insurance benefits for their employees, according to the Robert Wood Johnson Foundation.

The surveyed small business leaders, who pay for some portion of their employees' health care coverage, believe that health benefits remain a powerful inducement to retain good employees. But the companies struggle to keep up with unpredictable increases in the cost of offering insurance to their employees. They look to Congress and the new president to help address their concerns; with nearly half of small business owners (42 percent) saying that "making health care more affordable" is the idea Washington should address first. Forty percent of the leaders feared government mandates on providing coverages would hurt their businesses.

HRS knows first hand through its administration of client benefits of this urgent problem. We have assisted many employers in saving money and maximizing benefits through prudent strategies and coverage purchasing. If you would like to discuss the best course for your company [contact Tom Dondore, SPHR.](#)

Social Security "Redefining" Retirement Age

Technical regulatory changes reflect increase in retirement age from age 65 to age 67. The Social Security Administration has finalized, without change, proposed amendments to regulations that define "closely approaching retirement age." Prior to the rules change, this phrase was defined to include those who are age 60-64. This definition was used as part of the disability determination process when it was necessary to consider vocational factors, such as a claimant's age. The older regulatory definition was appropriate at a time when full retirement age was at age 65 and disability determinations were made only for individuals under age 65. However, now that the retirement age is gradually increasing to age 67, the SSA is sometimes evaluating disability claims for individuals at age 65 and above. Accordingly, the amendments redefine "closely approaching retirement age" as

HRS/TND Associates just keeps growing, thanks to our terrific clients! We appreciate these new clients:

- ◆ **Energys, Inc.**
- ◆ **Manufacturer's Resource Center**
- ◆ **Gregory F. Mezol, LLC.**
- ◆ **American Polarizers, Inc.**
- ◆ **RPA Engineers, Inc.**
- ◆ **Dillon Floral Corp.**
- ◆ **Aydin Displays**
- ◆ **LAM Systems, Inc.**
- ◆ **Magnum Real Estate Group**

IRS Announces Pension Plan Limitations for 2009

The IRS has announced cost-of-living adjustments applicable to dollar limitations for pension plans and other items for tax year 2009.

Many of the pension plan limitations will change for 2009 because the increase in the cost-of-living index met the statutory thresholds that trigger their adjustment. However, for others, the limitation will remain unchanged. For example, the limitation under Section 402(g)(1) on the exclusion for elective deferrals described in Section 402(g)(3) is increased from \$15,500 to \$16,500. This limitation affects elective deferrals to Section 401(k) plans and to the federal government's Thrift Savings Plan, among other plans.

Effective Jan. 1, 2009, the limitation on the annual benefit under a defined benefit plan under Section 415(b) (1)(A) is increased from \$185,000 to \$195,000. For participants who separated from service before Jan. 1, 2009, the limitation for defined benefit plans under Section 415(b) (1) (B) is computed by multiplying the participant's compensation limitation, as adjusted through 2008, by 1.0530.

The limitation for defined contribution plans under Section 415(c)(1)(A) is increased from \$46,000 to \$49,000.

The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the dollar limitation of Section 415(b) (1)(A). For additional, detailed information, see this IRS publication [IR-2008-118](#).

HRS Seminars

Thank you to everyone who attended our very successful November 11th Seminar.

Our next Seminar is scheduled for February 3 at Cabela's in Hamburg. The tentative topics that will be discussed are FMLA and ADA changes for 2009 as they pertain to Operation and Supervisor Responsibilities. We will also have a special guest speaker. More details will follow in a few weeks.

IRS Changes mileage reimbursement rates for 2009

The Internal Revenue Service issued the 2009 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical, or moving purposes.

Beginning on January 1, 2009, the standard mileage rates for the use of a car (also vans, pickups, or panel trucks) will be:

- 55 cents per mile for business miles driven
- 24 cents per mile driven for medical or moving purposes
- 14 cents per mile driven in service of charitable organizations

FMLA Finer Points

As you may well be aware from a lot of different sources there are big changes in FMLA regulations. I want to talk to you about some of the more subtle changes. The forms used to reply to the employees have undergone some revisions of their own.

The DOL has split the Certificate of Health Care Provider into two versions, one for an employee's own serious illness (WH-380-E) and the other for that of a family member (WH-380-F).

The old Employer Response to Request for FMLA Leave has also been split. The new forms are the Notice of Eligibility and Rights & Responsibilities (WH-381) and a Designation Notice (WH-382). In the first document you inform the employee that you have received their request and if they are eligible for FMLA Leave. This document is also where you inform them of any additional information they may need to supply to back up their request. The second document is where you inform the employee of the status of their request (approved with total time being counted and any paid leave or return to work certification stipulations, denied with reason indicated, or more information required with what is needed). Over-all, these two forms should help some of the confusion employers and employees encountered under the old response form.

Next time I will discuss Job Descriptions and their more prominent place in the new regulations and forms as well as why you should have current descriptions to supply to doctors. Please contact [Bob Werkheiser](#) with any questions.

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