



LEGAL AND LEGISLATIVE UPDATE: JANUARY 2007

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THE DOL WANTS YOUR INPUT ON THE FMLA

On December 1, 2006, the Wage and Hour Division of the U.S. Department of Labor (“DOL”) published an interesting Request for Information. Specifically, the DOL is looking for public input as it reviews the FMLA and its regulations.

Over the last few years, the DOL had been promising to revise its FMLA regulations, but new regulations never materialized. Now, the DOL is apparently changing its strategy by first seeking commentary from various stakeholders concerning their experiences with the 13-year old FMLA. Many employers have complained that the regulations and related DOL guidance are vague, conflicting and confusing, making compliance difficult and time-consuming.

The Request for Information specifically seeks commentary on 12 key FMLA issues, including the definition of serious health condition and handling of intermittent leave, particularly in those situations where the leave is unscheduled. Because of the multitude of problems that compliance with the FMLA creates, interested employers who would like to share their concerns about the current regulations are encouraged to do so. The Human Resource Professionals of Central PA is already gathering comments from its membership and members are encouraged to prepare relevant commentary for submission to the DOL through Kevin Gold at HRP. Written comments that HRP members wish to submit should be sent to Mr. Gold by Friday, January 26, 2007, as they must be received by the DOL by 5 p.m. EST on February 2, 2007.

Although it was widely anticipated that the release of the Request for Information would ultimately result in new regulations, the DOL has not guaranteed that any changes will be made, noting that it is only seeking information and new input and that there are no definitive plans for any rule changes. In addition, any substantive changes could be met with political opposition by Congress, as many key Democrats are trying to expand, rather than restrict, the scope of FMLA and its coverage. Employers should continue to administer the FMLA as written, as any substantive changes, whether regulatory or legislative, are probably remote until late 2007, at the earliest.

For more specific information on the Request for Information and the topics for which input is sought, or to submit commentary in conjunction with the ongoing efforts of the Human

Resource Professionals of Central PA, please contact Mr. Gold at (717) 237-6702 or by email at kgold@rhoads-sinon.com.