

Workers Not Yet Eligible for FMLA are Protected from Interference and Retaliation, Federal Court Rules

The federal Family and Medical Leave Act protects an employee's pre-eligibility request for post-eligibility leave. The Eleventh Circuit in Atlanta recently held that because the FMLA requires advance notice to the employer of any foreseeable future leave and consistent with the purpose of the law, "employees are protected from interference prior to the occurrence of a triggering event, such as the birth of a child."

NLRB Approves Scaled-Down Version of 'Quickie' Union Election Rule

The National Labor Relations Board (NLRB) on Dec. 21, 2011, approved a set of sweeping revisions to the rules governing union election procedures. The change was designed to speed up union representation votes and possibly make it easier for organized labor to recruit and gain new members.

President Signs Two-Month Payroll Tax Cut Extension

A payroll tax cut extension through February 2012 was passed by Congress and signed by President Barack Obama on Dec. 23, 2011.

The Temporary Payroll Tax Cut Continuation Act of 2011 extends the 2 percentage point payroll tax cut for employees, continuing the reduction of their Social Security tax withholding rate from 6.2 percent to 4.2 percent of wages paid through Feb. 29, 2012.

According to the IRS, Employers should implement the new payroll tax rate as soon as possible in 2012 but not later than Jan. 31, 2012. They continued to say that for any Social Security tax over-withheld during January employers should make an offsetting adjustment in workers' pay as soon as possible but not later than March 31, 2012.

EEOC Steps Up Enforcement

Agency cracking down on violators under the Amended Americans with Disabilities Act (ADAAA)

The Equal Opportunity Commission is flexing its muscle to enforce Congress's broadening of the definition of disability under the ADA.

Although it's been rather slow in coming, many observers have forecast a huge jump in disability discrimination cases following the passage of the ADAAA. As an example, the EEOC has recently filed lawsuits against several large companies such as Eckerd Drugstores, Comfort Suites, Fisher, Collins & Carter and IPC Print Services, all alleging violations of discrimination against qualified individuals with such disabilities as diabetes, cancer and severe arthritis.

In addition, the EEOC is now treading new territory with its recent filing of a suit on behalf of an obese worker who was terminated due to her overweight condition.

Up to this point, many courts have ruled that obesity does not fall into the category of disability under the ADA, finding that obesity needs to be caused by some underlying psychological condition (such as a musculoskeletal, cardiovascular or respiratory ailment). But with the passage of the ADA Amendments Act, the definition of disability has been substantially widened.

It's clear the EEOC is standing firm behind its belief that all employees with severe obesity qualify as disabled under the ADA, regardless the reason, using the new amendments to bolster its argument.

It has been suggested that with the ADA Amendments Act, which so broadened the official definition of disability, it's pretty likely everybody in your company suffers from some kind of condition that could require accommodation, which is all the more reason to examine claims of disability carefully before making decisions regarding employment or accommodation.

For more information please contact our HR Client Services Group at 866-691-7757 or email us at support@myhrws.com.