

## FMLA: DOL PROPOSES RULE UPDATES

On February 11, the DOL published a long-awaited "Notice of Proposed Rulemaking" to update rules under the FMLA. The proposed updates include:

- when an employer fails to designate FMLA leave, an employee must show "individualized harm" for an employer to be liable (complies with the U.S. Supreme Court's 2002 *Ragsdale* decision);
- an employee voluntarily performing a light duty assignment is *not* on FMLA leave;
- waivers of FMLA rights (w/o court or DOL approval) are allowed retroactively, but not prospectively;
- for a serious health condition involving 3+ days of incapacity, "two visits to a health care provider" must occur within 30 days; "periodic visits" (for chronic conditions) means at least two visits per year;
- running FMLA leave concurrently with paid leave applies to all forms of paid leave, not just sick leave;
- "perfect attendance" awards may be denied to employees on FMLA leave if treated same as others;
- employers have five days (not two) to send employees eligibility and designation notices;
- a revised Certification of Health Care Provider (Form WH-380); permitting limited direct contact between employers and health care providers;
- an employee must be given at least seven calendar days' written notice to correct medical certification that is incomplete or insufficient;
- recertification is allowed at the beginning of the new leave year for conditions lasting longer than a year, and every six months for conditions lasting a lifetime (or whose duration is unknown);
- absent unusual circumstances, an employer may require that all employees follow established notice (call-in) procedures for reporting absences; and
- employers may require that "fitness-for-duty" medical certification address the employee's ability to perform the essential function of the job.

DOL seeks comments by April 11 on these issues as well as any arising from the recent FMLA amendments granting military family leave. A DOL Fact Sheet is at [www.dol.gov/esa/regs/compliance/whd/whdfs\\_FMLA\\_NPRM.pdf](http://www.dol.gov/esa/regs/compliance/whd/whdfs_FMLA_NPRM.pdf). Stay tuned – we will present a special seminar when the updates are finalized.

## LEADERSHIP EXPECTATIONS

When it comes to expectations, the first thing we think of is: *What is expected of employees?* But we should also ask: *What do employees expect from leaders?* We often hear that employees don't generally leave their jobs for more money – they usually leave because of their supervisor. Understanding what employees expect from their supervisors is one key in reducing costly turnover. Consider these: Employees want to work for a leader who is empathetic, yet focused on results. Employees also want to be involved and know the facts. Effective communication from leaders greatly improves morale. Employees desire an environment where they can learn which helps them improve productivity and develop more skill. Employees prefer leaders who have a positive attitude which inspires them to have a positive attitude as well. Making efforts to understand what employees expect from supervisors, and then acting on them, can create a more positive working environment which improves employee retention.

## "PEOPLE LIKE ME"

When it comes to benefits, employees are interested in receiving information geared to their stage in life – i.e., geared to "people like me." According to MetLife's 2007 *Open Enrollment Trends Survey*, 59% of employees surveyed would like benefits suggestions that would be appropriate for someone in their stage of life. Of the workers liking such suggestions, 84% say they would be willing to share personal information (i.e., age, marital status, number of children, income) with their employer's benefits manager to allow an insurer or benefits provider to offer customized guidance on appropriate life stage benefits. Also, 22% of employees surveyed say guidelines or instructions for "people like me" would improve their overall open enrollment experience. When you hold open enrollment meetings, consider educating employees on how your benefits package will help them, based on their particular stage of life. For example, a person over age 50 might want to be educated on "catch-up" retirement plan contributions. Taking the time to relate your benefits package to your current workforce demographics may help your employees feel more satisfied with their benefits package and their employment as a whole.

THE  
**EMPLOYERS**  
*Council*

CONSUMER PRICE INDEX (CPI) AND  
 OTHER LABOR MARKET INFORMATION  
 February 29, 2008

<b>Unemployment Rate - Seasonally Adjusted</b>				
			<b>Utah</b>	<b>National</b>
<b>2007</b>	Oct.		2.8%	4.7%
	Nov.		2.8%	4.7%
	Dec.		3.2%	5.0%
<b>2008</b>	Jan.		3.3%	4.9%
<b>2007</b>	Jan.		2.6%	4.6%

Source: Utah Dept. of Workforce Serv., Labor Market Information Division and US Dept. of Labor, Bureau of Labor Statistics

<b>Job Growth Rate - Percentage of Change From One Year Ago</b>				
			<b>Utah</b>	<b>National</b>
<b>2007</b>	Oct.		4.3%	1.2%
	Nov.		4.0%	1.0%
	Dec.		3.6%	0.9%
<b>2008</b>	Jan.		2.8%	0.7%

Source: Utah Dept. of Workforce Serv., Labor Market Division

<b>U.S. Dept of Labor Consumer Price Index</b>							
<i>CPI-W Urban Clerical &amp; Wage Earners - 1982-84=100</i>				<i>CPI-U All Urban Consumers - 1982-84=100</i>			
		<b>Index for</b>	<b>Change</b>	<b>Change</b>	<b>Index for</b>	<b>Change</b>	<b>Change</b>
		<b>Month</b>	<b>from prior</b>	<b>from Prior</b>	<b>Month</b>	<b>from prior</b>	<b>from Prior</b>
			<b>Month</b>	<b>Year</b>		<b>Month</b>	<b>Year</b>
<b>2007</b>	Aug.	203.199	-0.2%	1.8%	207.917	-0.2%	2.0%
	Sep.	203.199	3.0%	2.8%	208.490	0.3%	2.8%
	Oct.	204.338	0.2%	3.7%	208.936	0.2%	3.5%
	Nov.	205.891	0.8%	4.6%	210.177	0.6%	4.3%
	Dec.	205.777	-0.1%	4.3%	210.036	-0.1%	4.1%
<b>2008</b>	Jan.	206.744	0.5%	4.6%	211.080	0.5%	4.3%

Source: U.S. Dept. of Labor, Bureau of Labor Statistics (not seasonally adjusted)

<b>ACCRA Cost of Living Index</b>			
<b>3rd Quarter 2007</b>			
		<b>Utah</b>	<b>National Average</b>
	Salt Lake City	100.9	100
	Provo - Orem	no data	
	Cedar City	92.7	
	Logan	88.9	
	St. George	98.8	

Source: American Chamber of Commerce Researchers Association

<b>Average Earnings</b>			
		<b>Utah</b>	<b>National</b>
<b>January-08</b>			
	Average Weekly Hours - Manufacturing	41.1(p)	41.1(p)
	Average Hourly Earnings -Manufacturing	\$17.50 (p)	\$17.51(p)

Source: U.S. Bureau of Labor Statistics (p=preliminary) (seasonally adjusted)  
 Utah Dept. of Workforce services (p=preliminary)

<b>Job Absence &amp; Turnover Rate - Median Average Rate</b>				
			<b>Absence</b>	<b>Turnover</b>
National	3rd quarter 2007		0.9%	1.2%
Local	4th quarter 2007		n/a	1.5%

Source: National - BNA Bulletin to Management  
 Local - The Employers Council Quarterly Turnover Report (median for quarter - all employers)

Note: Contact Holly Engar, 801.364.8479 or hollye@ecutah.org, if you are interested in historical data