



The GSH 60-Second Memo

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When employees come to work sick . . . What is the Healthy Families Act?

By Karin Zeigler, Esq.

The Healthy Families Act (HFA) is another federally-mandated employee benefit bill which has been introduced in the both the House (H.R. 2460) and Senate (S. 1152). The HFA is sponsored by Representative Rosa DeLauro (D-CT) and Senator Edward Kennedy (D-MA). The bill purports to require employers to provide employees with up to fifty-six (56) hours (or seven (7) eight-hour days) of *paid* sick leave.

The argument made in support of HFA is that paid sick days are good for both public health and business because, with sick pay leave, employees would be encouraged to protect the health of their co-workers by staying home when they suspect they might be contagious. Thus, so the argument goes, fewer employees would become infected at work, and the infections would not travel as quickly or as broadly. The legislation's preamble notes that nearly half (1/2) of private-sector workers and three-fourths (3/4) of low-wage workers do not receive paid sick days. As a result, employees feel compelled to go to work even when ill, because they fear being fired or at the very least losing a day's pay.

The HFA would require public and private employers with fifteen (15) or more employees to allow employees to accrue one (1) hour of paid sick leave for every thirty (30) hours worked. According to the bill, an employee would begin accruing the sick leave at the commencement of employment and would be able to begin using the leave after sixty (60) days. Much like the Family Medical Leave Act, paid sick leave could be used for the employee's own medical needs or to care for a child, parent, spouse, or any other blood relative, or for an absence resulting from domestic violence, sexual assault or stalking.

If passed, the HFA (as it has been offered in its current state) will further limit an employer's ability to offer any individual benefits package other than that required by law. In other words, employers will not be able to tailor benefits packages to their unique workforce. The result will be a cookie cutter program that may be significantly more expensive for employers, as well as eliminating certain specific benefits for employees who may prefer one type of benefit over another. For example, some employees would rather have a lower healthcare premium than paid sick leave. Others would like more paid "personal time off" than "sick leave."

What do you need to know?

The HFA would not supersede any state or local law that provides greater paid sick time or leave rights, *but* the sick leave required under the HFA would be *in addition* (running consecutively rather than concurrently) to any leave provided under the FMLA or state workers compensation laws. Furthermore, the HFA would prohibit an employer from counting any HFA leave as leave under an employer's absence control or no-fault attendance policy (again, consecutive rather than concurrent).

Some lawmakers have told the press that they see the bill as another step in their goal of universal health coverage.

San Francisco and the District of Columbia have passed laws guaranteeing paid sick days. The voters in Milwaukee overwhelmingly approved such a guarantee last November, although business groups obtained an injunction that kept it from taking effect, and the act has since been declared unconstitutional. Likewise, several state legislatures are debating similar measures.

For those with an opinion or strong feeling about this issue, now is the time to contact your Representatives and Senators to assert your "two cents" into the mix. If the bill is passed, employers will need to yet again tailor handbook policies and benefits packages to adhere to the changing landscape. We will continue to keep watch on this developing topic.

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