Here We Go Again: HR and Benefits Compliance Update and Trends to Watch For

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Here We Go Again: HR and Benefits Compliance Update and Trends to Watch For

- Healthcare: Status of PPACA and what’s driving costs?
- Labor Laws: DOL FLSA decision
- Harassment Prevention #metoo
- Changing Employee Needs: The Push for Family Friendly Workplaces
- Paid Family Leave
- Recreational Marijuana

Learning Objectives:

Understand how legislative changes may impact your city
Learn what trends your city could consider to enhance attraction and retention efforts
The Repeal of PPACA?

Texas vs. United States

• 20 states filed a lawsuit on the premise that the repeal of the individual mandate tax penalty effectively eliminated the U.S. Supreme Court’s rationale for finding PPACA constitutional in 2012.

• Ruling on hold - California and other states are challenging the ruling

• What now? PPACA is still in effect, continue business as usual

• 5 justices who found PPACA constitutional in 2012 are still on the Court
Healthcare Costs are Complicated
Aging Population

An Aging Nation
Projected Number of Children and Older Adults

For the First Time in U.S. History Older Adults Are Projected to Outnumber Children by 2035

Projected percentage of population
- Adults 65+ 23.5%
- Children under 18 19.8%
- Projected number (millions)
  - 2016: 49.2
  - 2020: 73.6
  - 2030: 78.0
  - 2040: 76.4
  - 2050: 94.7
  - 2060: 79.8

Note: 2016 data are estimates not projections.

Source: National Population Projections, 2017
www.census.gov/programs-surveys/popproj.html
Aging Population

People age 55 and over account for over half of total health spending

Share of total health spending by age group, 2016

Share of Population

Share of Spending

Source: Kaiser Family Foundation analysis of Medical Expenditure Panel Survey • Get the data • PNG
What’s Ahead?

Pharmacy Rebates

Drug Price Controls

Increased Transparency

Individual Market Exit

Smart Devices

Primary Care Delivery

Market Disruptors

Medicare Capitation

Insurer Delivery

Alternative Payment Changes

Payment Model Changes

Health & Social Services

Medicare for All
Revised Overtime Rule Debate

Fair Labor Standards Act (FLSA)
• Governs minimum wage and overtime
• Sets strict criteria for which employees can be “exempt” from the law, i.e., denied overtime pay.
• Employee – role must “pass” both salary and duties test
• LMC Guide for FLSA job classifications

https://www.lmc.org/media/document/1/flsaexecptvsnonexempt.pdf?inline=true
Revived Overtime Rule Debate

• 2019 DOL proposal to raise the salary threshold to $679/week ($35,308) moving towards a resolution.
• Proposal subject to public comment period and anticipated to be effective January 2020.

One million U.S. Workers
Proposed changes expected to extend overtime coverage to 1 million U.S. workers
Revived Overtime Rule Debate

What should employers do?

• Revisit employee statuses to ensure everyone classified as exempt is correctly classified as such. Avoid “creativity” with job titles. Common errors:
  – Customer Service
  – “Engineer”
  – “Working” Supervisors
  – Office Managers

• Given potential range of new threshold, tentatively identify who will remain exempt with a salary increase and who will convert to non-exempt.
  – Generally must do by position, not person in the role
  – Consider impact on morale, overtime costs
  – Plan communication and training on tracking time
Sexual Harassment & the #metoo Movement

2019 proposed legislation for definition of sexual harassment

• “An intimidating, hostile, or offensive environment … does not require the harassing conduct or communication to be severe or pervasive.”

• Future sexual harassment claims in Minnesota would have fundamentally shifted — in favor of the #MeToo movement.
Sexual Harassment & the #metoo Movement

Common workplace risk factors

1. Homogenous workforce
2. Coarsened social discourse
3. Workplaces with high volume of younger employees
4. “High value” employees
5. Workplaces with significant power disparities
6. Monotonous or low-intensity work
7. Isolated workspaces
8. Tolerance or encouragement of alcohol consumption
9. Decentralized workplaces
Sexual Harassment & the #metoo Movement

What should employers do?

• Review policies, practices, and procedures.
  – LMC offers Respectful Workplace policy that is customizable
  – LMC offers resources on harassment prevention

• Provide training.
  – Increasing states with mandated requirements.
  – LMC offers Respectful Workplace Series online or onsite

• Create a reinforcing culture.

Educate ➔ Manage ➔ Lead

https://www.lmc.org/page/1/sexualharassmentprevention.jsp
Organizations struggle to successfully create a culture where employees can balance work and life.

- To attract and retain well-qualified people, employers need to walk the talk on family friendly culture while working with the limitations of public sector employment.

RETHINK SCHEDULES

RESPECT BOUNDARIES
Family Friendly Workplaces
Family Friendly Workplaces

Your Location + Public Sector Branding = Work Life Balance

☑ Promoting your city’s unique qualities and advantages
☑ Furthering the public good
☑ Valuable work experience
☑ Exposure to other practice areas
☑ Mentoring and networking opportunities
☑ Recognition
Leave Laws

Legislative Action 2019

- Employment standards preemption
- Paid leave laws
  - Minneapolis – July 2017
  - St. Paul – July 2017
  - Duluth – January 2020
Leave Laws

What should employers do?

• If you are in a city with family leave, medical leave, and/or sick pay laws, ensure existing policies meet the minimum standards.
  – Accrual rates
  – Reasons for use
  – Caps and carryover provisions

• Ensure leave policies include language that leaves run concurrent (to the extent permitted by law).

• Consider payout impact based on “type” of policy.
  – Separate sick leave policies do not have to be paid out upon termination; vacation and PTO policies might
Recreational Marijuana

Legislative Action 2019
Legalizing recreational marijuana?

“Prescribe by law a manner to license and regulate the cultivation, manufacturing, harvesting, processing, packaging, transporting, displaying, possessing, and selling of cannabis and cannabis-infused products for commercial purposes.”

Drug and Alcohol Testing Toolkit for the City Workplace
- Regularly review your policy with staff and train supervisors
- Utilize LMC resources for policies and training
Medical Marijuana

• Despite MN Medical Cannabis Act, use of any form of cannabis remains illegal under federal law

• Minnesota Law – DATWA
  – Cities that choose to conduct drug/alcohol testing for non-DOT employees and applicants must comply with written policies, notices including workplace poster and notices to individual prior to testing

• Testing for safety sensitive positions as defined and allowed by the statute

• In all cases, employers do not have to tolerate use, possession, or impairment during working time or on their premises
Medical Marijuana

• Minnesota Medical Cannabis Act protects employers since use on premises or during hours of employment is prohibited
  “All use of medical cannabis must occur during non-working hours and in such a manner that it does not result in impairment at a future time on the job.”

• Cities that receive federal grants or perform contract work under federal programs are subject to the Federal Drug-Free Workplace Act of 1988
  • These cities must be compliant with this law by maintaining a drug-free workplace with protection relative to claims of discrimination
What’s Next?

Labor Market and Employee Demands

• The “new normal” will be continued pressure on local, state and federal government to advance legislation:
  – Pre-emption
  – Work life balance and family-friendly leave laws
  – Available affordable health care

• Keep informed!
  – LMC legislative priorities, training and policies
What’s Next?

Attraction, Retention and Engagement

Regardless of legislation, what benefits, policies and programs should your city consider to meet its goals and objectives?
Thank you!

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