

DOL issues long-awaited final rule on mandatory paid sick leave for federal contractors



David Schelberg | Friday, October 7, 2016

Last week, the United States Department of Labor (“DOL”) issued its highly anticipated final rule governing sick leave for federal contractors. The final rule puts into effect President Barack Obama’s September 7, 2015, Executive Order 13706, requiring federal contractors to provide applicable employees with up to seven days (or 56 hours) of paid sick leave per year.

Does the final rule apply to your business?

The final rule applies to most contracts with the federal government that involve performance within the United States and were awarded, renewed, extended, or amended after January 1, 2017. Employees covered under the final rule include those who directly perform work called for by a federal contract. Employees who merely perform work “in connection with” a federal contract are also covered, but may be exempted under certain circumstances.

How may covered employees use their paid sick leave?

Of significance, the final rule provides covered employees with a broader range of permissible uses for their sick leave compared to the Family Medical Leave Act (“FMLA”). For example, covered employees may utilize their paid time off to care for “family members” or “close friends” who are not necessarily related to the employee biologically or legally. In addition, the DOL specifically provides that paid sick granted under the final rule may be used for relatively minor medical conditions, such as a common cold, ear infection, upset stomach, or headache.

Can you require covered employees to provide documentation?

The final rule permits employers to require supporting documentation from employees only if the medical leave lasts for three or more consecutive work days. Employers must also request the supporting documentation before an employee returns from leave.

How do employees accrue paid sick leave?

Employers must implement one of the following methods for granting paid sick leave to covered employees: (1) They may provide employees with the full 56 hours of paid leave at the beginning of each accrual year; or (2) They must allow employees to accrue at least one hour of paid sick leave for every 30 hours worked. Importantly, employers may cap the amount of sick leave an employee can accrue in a given year to 56 hours, but employers must allow covered employees to carry over unused paid sick leave to subsequent accrual years.

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The new obligations for employers imposed under the final rule take effect on January 1, 2017. The final rule includes detailed requirements that could serve as traps for employers. If you are a federal contractor and believe the DOL's final rule may impact your business, we encourage you to contact a McDonald Hopkins attorney for guidance.



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