



HOSPITALITY ALERT

GOVERNOR BROWN SIGNS S.B. 299 REQUIRING EMPLOYERS TO CONTINUE HEALTH BENEFITS FOR EMPLOYEES ON PREGNANCY DISABILITY LEAVE

On October 6, 2011, Governor Brown signed Senate Bill 299 (“S.B. 299”) which will require all California employers with more than 5 employees to continue group health insurance coverage for up to 4 months for employees on pregnancy disability leave (“PDL”). This represents a major change in California law.

What is S.B. 299?

Existing California law prohibits employers with more than 5 employees from refusing to allow a female employee disabled by pregnancy, childbirth, or a related medical condition to take a leave of absence for a reasonable time (up to 4 months) before returning to work. This leave is known as PDL in California.

Prior to S.B. 299’s passage, employees on PDL were entitled only to the same benefits that the employer provided to other disabled persons. In other words, if the employer either terminated or limited health coverage for persons disabled by other conditions, then the employer could terminate or limit coverage for employees on pregnancy disability leave, too.

Now, with the passage of S.B. 299, California employers with more than 5 employees must continue for up to 4 months the group health benefits of any employee on pregnancy disability leave. These benefits must be continued on the same terms and conditions as if the employee continued working. Thus, if the employer would have paid 100% of the health insurance premium for the employee had she continued working, the employer must pay 100% of the premium for her now while she is on PDL. Similarly, if the employer would have required the employee to pay

some portion of her health insurance premium had she continued working, then the employer can require the employee on PDL to pay that same portion.

Finally, under S.B. 299, if the employee fails to return from PDL, the employer generally may recoup from the employee all health insurance premiums the employer paid to continue the employee’s coverage during her leave; however, if the employee fails to return (1) due to a continuing disability or (2) because the employee took a separate, protected leave under the FMLA or CFRA, then the employer has no right of recoupment.

S.B. 299 was sponsored by California State Senator Noreen Evans (D-2nd District).

Impact on California Employers

S.B. 299 goes into effect on January 1, 2012. Therefore, before that date, California employers with more than 5 employees should review their pregnancy disability leave policies and their benefits continuation policies to ensure compliance with the new law.

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