BenefitsBuzz

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DID YOU KNOW?

On June 20, the Department of Labor (DOL) issued a proposed rule that would expand Family and Medical Leave Act (FMLA) leave rights for same-sex spouses.

The proposal would use the "place of celebration" rule, meaning that FMLA eligibility would be determined by legality of same-sex marriage in the state where the marriage was performed. This replaces the "state of residence" rule which determined eligibility based on the state where the employee resided.

The rule would also redefine "spouse" under the FMLA to expressly reference the inclusion of same-sex marriages in addition to common law marriages, and include same-sex marriages entered into abroad.

Supreme Court Changes Rules on Contraceptive Mandate

Under the Affordable Care Act (ACA), non-grandfathered health plans are required to provide certain preventive care services for women, including contraceptives, without charging a copayment, deductible or coinsurance.

Under the guidelines, plans must cover all FDA-approved contraceptive methods, sterilization procedures and patient education and counseling for all women with reproductive capacity.

However, three closely held for-profit corporations (Hobby Lobby Stores, Mardel and Conestoga Wood Specialties) challenged the ACA's requirement on the grounds that doing so would violate the right to exercise religious belief under the Religious Freedom Restoration Act (RFRA).

On June 30, the Supreme Court issued a ruling agreeing with the plaintiffs, finding that the ACA's contraceptive mandate, as applied to closely held corporations with sincere religious objections, violates the RFRA.

As a result of this ruling, closely held businesses that object to the contraception mandate based on sincere religious beliefs are not required to provide contraceptives as part of their health plans.

For all other for-profit employers, however, the contraceptive coverage mandate will continue to apply. The Department of Health and Human Services will likely issue guidance in the future to address how the Court's ruling should be implemented.

The Court cautioned that its decision only applies to the ACA's contraceptive mandate. Other insurance coverage requirements, such as immunizations, are not subject to RFRA exemptions. Also, the RFRA may not be used to excuse prohibited discrimination.

Final Rule Released on ACA Waiting and Orientation Periods

The Affordable Care Act (ACA) provides that group health insurance plans or policies may not apply any waiting period that exceeds 90 days, beginning with the 2014 plan year.

On June 23, the Departments of the Treasury, Labor and Health and Human Services released final regulations clarifying the maximum allowed length of any "reasonable and bona fide employment-based orientation period" as it relates to the waiting period limit.

To ensure that it is not used as a subterfuge for the passage of time, an orientation period is permitted only if it does not exceed one month.

The final regulations apply to group health plans and group health insurance issuers for plan years beginning on or after Jan. 1, 2015. Until then, employers can comply with the proposed regulations issued earlier this year.

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