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Re: New USERRA Notice Requirement

Dear Clients and Other Friends:

The Department of Labor recently released final regulations on the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA). Pursuant to these final regulations, every employer must provide its employees with a new notice of their rights under USERRA. This obligation can be met by posting the new Notice provided by the Department of Labor in the places other employee notices are usually posted. To download the required notice, go to <http://www.dol.gov/vets/> and click on the "Non-Federal (State and Private) Employers" link. (The new notice is very similar to the notice that was posted on December 10, 2005, but has been updated to reflect the final regulations.) The DOL rule requiring the notice was issued in December 2005 and is effective January 18, 2006.

In addition, you should consider what steps your company should take with regard to the following:

- Coordination of COBRA and USERRA health plan continuation obligations. These obligations are similar but not the same. Companies need to have policies in place to address how they will administer continuation coverage when an employee is eligible under both COBRA and USERRA. This may include coordinating with your COBRA administrator, insurer and/or TPA, having election forms and procedures that include USERRA where applicable, and notifying employees appropriately of your USERRA policies and procedures.
- Review your health plan and/or policy for reinstatement rules to ensure that they comply with USERRA. Under the regulations, employers have an affirmative duty to negotiate terms with their insurers that comply with USERRA.
- Review any stop loss policies to be sure they apply if an employee is reinstated in the health plan retroactively under USERRA any time during the 24 month coverage period provided under the statute.
- Review your SPD language for all benefit plans (retirement and welfare) to make sure information about USERRA is included.

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- Review your defined contribution plans and, if necessary, adopt procedures for making and allocating make-up deferrals and contributions.
- Confirm that your pension plan complies with USERRA by recognizing certain periods of military service.

Please let us know if you have any questions.

Sincerely,

Sonja Lemmer Martens

SLM/rah/jks