

THE VOICE

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HR|experts®

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From “THE VOICE” at the other end of the telephone:

I would like to extend a warm welcome to the all the new practices who have recently joined us especially those practices from Georgia and Virginia! Welcome to HR|Experts!

Thank you for faxing in your registration forms for HR|Experts. If you have not already done so, send in your registration form or simply e-mail me your contact information. As a reminder, HR|Experts offers you phone support Monday – Friday from 8:30am – 5:00pm. Give me a call or send me an e-mail with your HR questions!

I’m going to quickly change gears and mention legislative updates because May is always a busy time for NC legislators. Specifically, more than 750 bills introduced would be ineligible to be considered for the remainder of the 2009-2010 term if they failed to pass out of one chamber before midnight, May 14. This is known as the “crossover deadline.” There were several proposed bills that would have affected employers such as State Minimum Wage/Inflation Increases which would have provided for automatic increases to NC state minimum wage based on increases in the Consumer Price Index and Healthy Families & Healthy Workplaces Act which would have required employers to provide paid sick time. Neither of these bills passed before crossover so they are ineligible for consideration for the remainder of the 2009 term.

To keep abreast of the legislative updates in your state, visit the following websites:

NC - <http://www.ecnc.us/page.asp?g=ncemployers&content=startpage>

GA - http://www.legis.ga.gov/legis/2009_10/

VA - <http://leg1.state.va.us/091/lis.htm>

Thank you for your calls and questions to date. I enjoy working with each of you! For your convenience, my contact information is as follows:

jill.schultz@callhrexperts.com; 888.473.9778; 919.431.6096; Fax 919.431.6094.

Sincerely,



Human Resources Advisor

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Medical MutualSM

PROTECTING OUR PROFESSION

HR|Experts is provided as a benefit
to members of Medical Mutual.

The Voice is not designed or intended to
render legal advice to its members.

Introducing HR|Experts' Member List Serve

The list serve is an e-mail discussion group that enables you to ask your peers at other Medical Mutual member companies for advice and/or recommendations while also sharing the best practices of your organization.

What could you learn from your peers? Sample discussion topics to date include:

- Job Descriptions
- Patient Flow Sheets
- Continuing Education policies
- Red Flag policies

When you register for HR|Experts, you are automatically enrolled in the list serve as a benefit

of the free services offered by HR|Experts. If you are not receiving the list serve e-mails, simply send an e-mail to Jill.Schultz@callhrexperts.com. Once registered, you will receive a verification e-mail with information about submitting and answering list serve questions, as well as managing your preferences within the list serve system (including how to opt out if you choose).

If you are already enrolled in the list serve and you wish to submit a question to your peers, send your question in an e-mail to hrexperts-members-list@lists.callhrexperts.com.

Remember to include a "Subject" in your e-mail so others can see and follow the discussion topic/thread.

As an added feature, all discussion topics are saved in the list serve archive so if you think your question has already been asked; you can search the archives and find prior responses!

Please contact Jill.Schultz@callhrexperts.com if you have any questions about the list serve. Thank you for being a part of Medical Mutual's HR|Experts program!

IRS Provides Guidance for COBRA Subsidy by Defining "Involuntary Termination"

On April 1st the IRS released Notice 2009-27, which provides additional guidance for the COBRA subsidy including information specifically addressing the definition of "involuntary termination." The notice also further elaborates on the meaning of other requirements imposed by the COBRA subsidy rules enacted under the American Recovery and Reinvestment Act of 2009 (ARRA). <http://www.irs.gov/pub/irs-drop/n-09-27.pdf>

The DOL website (<http://www.dol.gov/ebsa/cobra.html>) continues to provide updates and information including expanded FAQs for employers on the COBRA premium reduction including new Q&As on the model notices. Reminder that employers were to notify eligible employees no later than April 18, 2009. Contact your health insurance carrier or third party administrator for more details on the COBRA notices as well as requirements that apply to employers with less than 20 employees.

Webinars at Your Fingertips!

It's here! The new training tool mentioned in the February issue of *The Voice* is now available. You can now access the most current, expert audio learning tools available, including convenient audio conferences and webinars that you can attend live from anywhere as well as pre-recorded sessions (On Demand) that you can listen to anytime. Programs run 60 to 90 minutes. Live programs cost \$89 and CDs are available for \$69. The audio conferences and webinars are provided by CAI.

To view the list of topics and register for audio conferences and webinars, log onto www.medicalmutualgroup.com, sign in using your policyholder information, go to the 'For Your Practice' tab, and click on the link for "Webinar Programs."

When is Employee Travel Compensable?

Travel for non-exempt employees is counted as hours worked (compensable) under the Fair Labor Standards Act in certain situations. How the travel time is counted depends on the specific situation. The normal home to work commute is generally not compensable. However, if the employee is *required* by the employer to pick up other employees, pick up supplies, or perform other work during the home-to-work or work-to-home commute, the travel would be compensable. (Note: Voluntary carpools for the work commute would not be compensable.)

The Department of Labor's Hours Worked Fact Sheet details the following travel scenarios and discussions of what is considered hours worked.

Home to Work on a Special One Day Assignment in Another City: An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

Travel That is All in a Day's Work: Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

Travel Away from Home Community: Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

In the Travel Away from Home Community section, it is important to note that they do not consider travel time as a *passenger* outside of the normal hours as hours worked. However, if the employee is *driving*, the time would be hours worked.

Another special situation in travel time is where an employee who is offered public transportation by the employer to travel away from the home community requests permission to drive his/her personal car. In this case, the employer may count either the time the travel would have taken on public transportation or the time spent driving the personal car.

Upcoming Training

Basic FMLA

June 10 Raleigh; July 28 Greensboro

Conducting Effective Performance Appraisals

June 24 Raleigh; June 10 Greensboro

Customer Service Excellence Certification Training

Oct 5 & 6 Greensboro; Oct 26 & 27 Raleigh

For additional programs visit www.capital.org

Should You Allow Employee Access to Personnel Records?

Generally, employees who work for private employers have no absolute legal right (absent a court order) to see their personnel records or files. While there are exemptions (i.e. access to OSHA medical records in NC), the exceptions are limited.

From a practical standpoint, however, it may promote good employee relations to allow employees to view their own personnel records so long as certain precautions are observed. For example it is usually sound employee relations policy to remove irrelevant items from personnel files and allow employees to view their own records if they request. This will strengthen an effective open door policy and promote good employee relations. As a general rule; however, employees should not be allowed to photocopy materials in their file or to remove their files from company property.

Quarterly Quote

*"Most folks are as happy as they make up their minds to be."
-Abraham Lincoln (1809-1865)*

FMLA Update: Serious Health Condition

A revised definition of serious health condition was issued by the U.S. DOL in January 2009. Once you have determined that an employee's leave qualifies as a serious health condition under FMLA, provide the employee with a notice of their rights and responsibilities under FMLA and require certification of the serious health condition. For more information on FMLA coverage, eligibility, and conditions under which an employer must grant unpaid leave, visit <http://www.dol.gov/esa/whd/regs/compliance/whdfs28.pdf>.

The following definition is from the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division - Fact Sheet #28: The Family and Medical Leave Act of 1993 (Revised January 2009).

“**Serious health condition**” means an illness, injury, impairment, or physical or mental condition that involves either:

- Inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (*i.e.*, inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; **or**
- Continuing treatment by a health care provider, which includes:
 - (1) A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that **also** includes:
 - treatment two or more times by or under the supervision of a health care provider (*i.e.*, in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); **or**
 - one treatment by a health care provider (*i.e.*, an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (*e.g.*, prescription medication, physical therapy); **or**
 - (2) Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; **or**
 - (3) Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; **or**
 - (4) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; **or**
 - (5) Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.