

November 3, 2009

Amendments Expand Leave Benefits for Military Families

by Denise M. Keyser and Jennifer E. Keyser

On October 28, 2009, President Obama signed the National Defense Authorization Act of 2010, greatly expanding family leave benefits for military families. Employers should review their leave policies to ensure that they comply with the latest changes to the Family Medical Leave Act of 1993.

The new law is effective immediately, although the U.S. Department of Labor and the Office of Personnel Management are working with the Department of Defense and the Veterans Administration to draft implementing regulations.

In January 2008, the FMLA was amended to create two new categories of leave for military families, "exigency" and "caregiver." The National Defense Authorization Act expands those benefits:

- Eligible employees may take up to 26 weeks of military caregiver leave to care for a veteran undergoing medical treatment, recuperation, or therapy for a serious injury or illness that occurred within five years of his or her service in the regular Armed Forces or the Reserves. This provision is intended to cover the treatment of those illnesses or injuries that may not manifest immediately, such as post-traumatic stress disorder. Previously, such leave was limited to those caring for current members of the Armed Forces, National Guard, or Reserves.
- Eligible employees may take leave to care for a service member or veteran who was injured on active duty and suffers an aggravation or recurrence of that injury. Previously, an employee was entitled to take military caregiver leave on multiple occasions only when the injury or illness became severe enough to be considered a subsequent injury or illness.
- Family members of those in the regular Armed Forces, including those on active duty, may take up to 12 weeks of exigency leave. Previously exigency leave was available only for Reserves and National Guard members. This type of leave enables family members to take time away from work to handle important personal matters, such as child care, drafting a will, and making financial arrangements

Employers should be alert to the possibility of further changes, as President Obama, while campaigning, pledged to expand FMLA coverage in a number of areas.

If you have questions about the latest expansion of benefits or about the FMLA in general,

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