



Aaron R. Gelb

Gesundheit! Illinois and Chicago Sick Leave Laws Prompt Employers to Seek Treatment

by Aaron R. Gelb, Shareholder at Vedder Price and Labor and Employment Practice Member

Both the State of Illinois and City of Chicago recently passed laws impacting when, how often and for what reasons covered employees can take sick leave. Faced with what some may view as an onslaught of new laws and regulations at the federal, state and local level affecting various aspects of the employment relationship, certain employers may find themselves suffering from compliance-related malaise. Because an ounce of prevention is often worth a pound of cure, proactive employers will act now to ensure that they are complying with these new laws when they take effect. The good news is that you still have time to get the help you need.

Illinois' Employee Sick Leave Act is fairly innocuous: it has no requirement that employers grant sick leave if they don't do so already. Instead, the Illinois Act merely extends the reach of your current policies; if your employees are already provided time with which to cover their health-related absences, now they can apply that time to cover absences related to a family member's health issues. "Family members" include not just children and spouses, but siblings, parents, in-laws, grandchildren, and grandparents. Employers can cap the time taken for absences involving family members at whatever amount of sick leave the employee generates in six months. The Illinois Act goes into effect on January 1, 2017.

Chicago's Paid Sick Leave Ordinance, on the other hand, may cause a greater number of compliance-related aches and pains. Under the Chicago Ordinance employers are required to provide paid sick leave to any employee working 80 hours in 120 days. That means the law covers

nearly everyone working for you, including those on limited part-time schedules – anyone working five hours a week or more will now have paid sick leave. Employees will earn, under the Chicago Ordinance, one hour for every 40 hours they work, with a cap of 40 hours total in a 12-month period. Like the Illinois Act, the Chicago Ordinance enables employees to use their sick leave to help with family members' health-related needs. And again like the Illinois Act, "family" is broadly defined. Unlike Illinois' law, however, employees can also use this time to cover issues related to domestic violence.

There are some limits, though, to how far the Chicago Ordinance extends. For example, unless your entity is covered by the Family and Medical Leave Act (the "FMLA"), only 20 hours of that 40-hour cap carry over to the next year. Note, also, that while an employer cannot require an employee to find a replacement to cover the missed time, you may require up to seven days' notice for reasonably foreseeable events, such as scheduled medical appointments. The Chicago Ordinance does not go into effect until July 1, 2017, so there is ample time to get your policies and procedures in order.

As you review your policies and prepare for compliance, keep in mind that both the Illinois Act and the Chicago Ordinance provide that if an employer already has policies in place that provide as much or more coverage than the laws do, the employer need not modify those existing policies. Reviewing existing sick leave policies now—before either the Act or the Ordinance goes into effect—will put you in a better position to avoid the headaches that come with efforts to comply on the fly.