
Chamberlain, Hrdlicka, White, Williams & Martin

ATTORNEYS AT LAW

AREAS OF PRACTICE INCLUDE:

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- BANKRUPTCY
- COMMERCIAL LITIGATION
- CONSTRUCTION LAW
- CORPORATE, SECURITIES & FINANCE
- EMPLOYEE BENEFITS
- ENERGY
- ESTATE PLANNING
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Why It Matters

- The compliance burden on employers has increased sharply since 2008, with significant additional legislation forecast for 2010 and beyond.
- Compliance is costly, complex and time-consuming.
- Violations can overwhelm – even destroy – a business.

1900

COMMON LAW

NLRA

COMMON LAW

LMRA
FLSA
IRS
FICA

NLRA
COMMON LAW

ADEA
FUTA
EPA
EEO
LMRA
FLSA
IRS
FICA

NLRA
COMMON LAW

HIPAA
FMLA
ADA
WARN
EPPA
IRCA
COBRA
ERISA
HMO
MSHA
OSHA
ADEA
FUTA
EPA
EEO
LMRA
FLSA
IRS
FICA

NLRA
COMMON LAW

2000

2009
Health Reform
HIRE
CHIPRA
ARRA
EO 13496
EO 13495
EO 13494
FMLA Regs
ADAAA
LEDBETTER
HIPAA
FMLA
ADA
WARN
EPPA
IRCA
COBRA
ERISA
HMO
MSHA
OSHA
ADEA
FUTA
EPA
EEO
LMRA
FLSA
IRS
FICA

NLRA
COMMON LAW

FOREWARN
HFA
CRA FLIA
MFJPA
WFFA
ICPCA AFA
PAWA
ENDA
Health Reform
HIRE
CHIPRA
ARRA
EO 13496
EO 13495
EO 13494
FMLA Regs
ADAAA
LEDBETTER
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COMMON LAW





Increased Litigation

- EEOC received 95,402 charge filings in FY09
- Most common target: employers with 15 to 100 employees
- EEOC says 50% of charges are filed against small and mid-size employers
- It's become easier to sue and file complaints – more media focus, more educated public
- Employers are less prepared to comply or defend – more prone to violations
- DOL Increasing Staff by 1/3, Publically Stated that there is a “New Sheriff in Town”
- FLSA Investigations a Point of Focus; Employers found to be out of compliance 78% of the time



Which Employers Must Comply With Health Care Reform And When?

- **Employer Mandate**

- If 50 or more employees, offer “minimum essential coverage” at “affordable” rate or pay a monthly penalty if a full time employee obtains coverage through the Exchange and is eligible for a premium tax credit or cost sharing reduction
- Full Time Employee: 30 or more hours of service per week
- Aggregate monthly hours of all non full-time employees and divide by 120 to determine number of full time equivalents

- **Implementation**

- **Phase I:** Initial rules relating to mandated benefits effective for plan years beginning on or after September 23, 2010, or January 1, 2011 for calendar year plans
- **Phase II:** Health Care Reform Provisions-Generally effective January 1, 2014

Preparing for Health Care Reform

- Must provide Health Coverage to all employees or pay a penalty
- Determine whether to protect grandfathered status (Plans active as of March 23, 2010)
- Extend coverage for dependent children through age 26
- Automatic Enrollment (200 or more employees)
- Remove Lifetime limits
- Effective 1/1/2011 Over-the-counter Medications are not covered – coordinate with vendor and communicate

Preparing for Health Care Reform

- May not impose pre-existing to children under 19
- W2 Reporting Requirements effective 2011
 - Annual Reporting Requirements 2014
 - Reporting Disclosure Requirements for enrollments after March 23, 2012
- Compliance required on Employee Notifications
 - Written Summary of Benefits to employees
- Consult with your Broker or Attorney on whether you qualify for a reimbursement from HHS for retirees that are not yet eligible for Medicare

Consult your Accountant Regarding the Tax Consequences of Health Care Reform

Penalties for Failure to Comply

- **Failure to Offer “Minimum Essential Coverage” Coverage**

- If a Large Employer fails to offer Minimum Essential Coverage, **and** any full-time employee is eligible for a Premium Tax Credit or Reduced Cost Sharing, then the Employer pays:
 - \$2,000 divided by 12, multiplied by the number of full-time employees employed during the applicable month, **not** counting the first 30 full-time employees
 - Only full-time employees are counted for this penalty, and it is not tax deductible

- **Failure to Offer “Affordable” Coverage**

- Minimum Essential Coverage provided by a Large Employer is unaffordable if:
 - Employee premium is greater than 9.5% of household income, **or**
 - Employer pays less than 60% of plan cost
- Penalty if unaffordable minimum essential coverage is offered
 - The lesser of \$3,000 per Premium Tax Credit/Reduced Cost Sharing Full-Time Employee **or** \$2,000 for each full-time employee, **not** counting the first 30 full-time employees

Shall the Constitution of Georgia be amended so as to make Georgia more economically competitive by authorizing legislation to uphold reasonable competitive agreements?