

Keeping our Clients Connected

"Slowing the Runaway Train" continued from page 1

insurance pool to achieve excellent sustained results. We are also proud that we have been able to deliver these results with local, experienced and proactive customer service.

The financial results for our health plans, as well as customer service excellence, have allowed us to retain 95% to 99% of our health insurance customer base each year, versus the health insurance industry average of 85%. Our strong customer retention exhibits our ability to deliver Fortune 500 quality services, allowing our customers to focus on their corporate goals without spending significant internal resources of their own.

EMS also applies the power of our customer pool to offer a broad line of additional products such as life, dental, disability and vision coverage. Our dental plan has averaged less than a 1% increase per year for the last five years with no carrier or plan changes. The average dental plan renewal increase is 5% to 6% per year! Our life and vision plans also renewed with no premium increases.

While the economic future may continue to be unpredictable, we believe our PEO model and ongoing plan management strategies will continue to offer our customers the best possible advantage in today's challenging environment. We look forward to further discussing the details of our products and services at our next meeting!

**"Success is the
sum of small
efforts, repeated
day in and
day out."**

—Robert Collier

HR Challenge

HR Challenge

An employee with an impairment that substantially limits his ability to hear starts wearing a hearing aid. Does he have a covered disability under the amended ADA if the hearing aid restores most of his hearing?

- A) No.
- B) Yes.



Correct Response: Yes.

Explanation: Under the ADA Amendments Act (ADAAA), if a mitigating measure limits the symptoms or impact of an impairment, that fact cannot be used in determining if a person's impairment meets the definition of disability. The determination of disability must focus on whether the individual would be substantially limited in a major life activity without the mitigating measure.

Source: www.hrchallenge.blr.com

Labor Department Stiffens Incentive Pay for Flex Workweek Employees

Beginning May 5, employers who pay workers overtime under a fluctuating workweek system might have found themselves facing penalties for providing bonuses and other types of incentive pay to non-exempt salaried employees—something that was allowable until the U.S. Department of Labor issued new regulations April 5 forbidding the practice.

The system, which is used in a variety of industries from retail to technology to the service sector, allows employers to pay workers a fixed salary regardless of the number of hours actually worked. The new regulations, which amend the Fair Labor Standards Act of 1938, will likely lead employers using this method to eliminate all incentive rewards such as commissions, bonuses, or prizes, says Lee Schreter, a shareholder with Littler Mendelson, a labor and employment law firm based in San Francisco.

"Employers will no longer be able to reward employees for doing a good job if they use the fluctuating workweek method, and I think that's unfortunate," she says.

Schreter says that many employers are unaware of these changes because the Labor Department "has not done a good job" of publicizing them and has provided little guidance on the matter "other than publishing the 100-plus pages of the final rule, which are not user-friendly," she says. And the department has given employers only 30 days to comply. After that they are subject to investigation and enforcement, she says.

"The department has done a sleight of hand and employers must make a very quick change if they are using the fluctuating workweek and paying incentives to come into compliance," she says. Small businesses that may lack a large human resources staff will most likely be caught unaware, according to Schreter. "They aren't likely to read the DOL website and unless they belong to a trade association they may not know these rules are going to take effect."

In addition to changes in the fluctuating workweek, employers with tip-earning workers must now inform the employee if they plan to claim an employer tip credit, which allows employers to use part of a workers tip to pay their minimum wage salary. The new regulations also provide that the maximum tip credit an employer may claim is \$5.12 an hour and that the

tip credit cannot be larger than the tips the employee actually receives, among other provisions. While the tip credit notification doesn't have to be in writing, Schreter says she is telling her clients to put it on paper.

"The penalty for not giving notice is paying the difference between the tip credit claimed and the hourly salary of the employee," she says. "That kind of liability can put a small business out of business. Employers must report the tip credit on their pay stub, which means they had less than 30 days to reformat their pay stub."

Source: www.workforce.com

Safety

Safety Corner

Now that we are approaching the summer months, it is imperative to take measures to prevent suffering a heat injury. The most important thing to remember is drink plenty of water BEFORE you feel thirsty.



Following are the Top 10 Ways to Prevent Heat Injuries:

10. Keep informed of weather conditions such as heat and UV indices
9. Make every effort to keep the airflow in your work area circulating (use fans when available)
8. Eat plenty of fruits and vegetables
7. Avoid consumption of caffeine and alcohol
6. Wear light-colored, lightweight clothing (but NOT loose-fitting)
5. Wear sunscreen with a sun protection factor (SPF) of at least 30
4. Keep an eye on your co-workers and know the signs of heat injury – headache, dizziness, confusion, irritability, cool/clammy skin, red areas on skin, nausea, dehydration, etc.
3. Use break times to relax in a cool area – avoid smoking during breaks
2. Seek shade when possible and avoid working in direct sunlight
1. Drink at least one quart of water every two hours– if you feel thirsty, it is too late

Source: Chris McKinney, EMS Regional Safety Director

Wage Garnishments- What You May or May Not Know

They are not pleasant, but unfortunately, we are bound by law to withhold them. Garnishments can come in a variety of forms. Some examples of garnishments are child support orders, tax levies, student loan garnishments, or the standard municipal court garnishment. The maximum amounts that are withheld are calculated AFTER taxes. Voluntary deductions the employee requests to have withheld from their paychecks may not be taken into consideration depending on the type of garnishment. Voluntary deductions can include medical benefit costs, 401(k), HSA, employee loans, uniforms costs, etc.

Child support orders are the most common. These are enforced by the county of residence that the custodial parent resides in. Each state has its maximum amount of withholding. In Ohio, the maximum amount that we can withhold is 65%. This amount is only if the employee is single and in arrears, which is also known as past due child support. If the employee is not in arrears the standard withholding max is 50% for married persons and 60% for single persons. These orders remain in effect until the court sends a release of the withholding. Some child support orders require the employee to maintain health insurance for the child or children. If this is required, the health insurance costs are included in the maximum amount to be withheld.

Student loan garnishments are mandated by the federal government. These are not as harsh. The max amount that can be withheld is 15%, taking into consideration that a higher priority garnishment is

not in place withholding more than 15%. Most cases can be resolved by the employee contacting the company processing the student loan to make a payment arrangement with them. Most companies are willing to offer a payment plan, but this isn't a guarantee that it is available.

Municipal Court garnishments are processed through the civil division of the court. Generally these are defaulted bank loans, credit card bills, car loans, etc. The maximum amount withheld cannot exceed 25% as long as a higher priority garnishment is not in place and already withholding over 25%. If an

employee has more than one municipal court ordered garnishment they are stacked and rotated every 182 days. As soon as one is stopped, we must notify the court that the 182 days have passed in order to start the second order in line. They will then submit a new order to wait in line for the next 182 days to pass.

Tax levies are the most unforgiving when it comes to withholding. The IRS submits a new withholding manual each year to inform us what the amount of take home pay the employee is to receive. As an example,

a single person without dependents and paid weekly is only given \$182.69 after taxes, regardless of their hourly wage. However, tax levies are the easiest to make arrangements with. I stress to every employee that contacts us to call the IRS immediately and ask for a payment arrangement. They will stop the garnishment and submit the payment arrangement to us as early as the same day the employee contacts them. For more information visit americanpayroll.org.

Article by Angie Sidebottom, EMS Payroll Specialist



working with managers, supervisors, and co-workers to make sure their work is covered while they are taking time off.

Reasons to encourage employee to take vacations:

- **Put a cap on accrued vacation payable**—when an employee's unused vacation time is allowed to accrue for an extended period of time, employers are left holding the bag if that employee leaves the company or suddenly decides to take many weeks at one time. A "use it or lose it policy" encourages employees to use their earned vacation time within the calendar year, and protect your balance sheet from an unlimited or unexpected payout.
- **Fatigue, poor health, and stress, all of which can lead to an increase in worker's compensation and health insurance costs**—keep your employees healthier and safer while possibly minimizing the premiums you pay by enforcing regular time off.
- **Increase output with higher productivity and accuracy levels**—studies have shown that productive, successful employees are those who take vacation and occasional time off to relax, rejuvenate and refresh. Upon return from vacation, their renewed sense of drive and determination can provide both short-term and long term boosts in productivity. Additionally, the necessary rest and replenishment will help them avoid costly mistakes, which overworked employees are more apt to make.
- **Employees that get away are more likely to stick around**—time off can help improve employee morale which in turn can reduce employee turnover.
- **A change in scenery promotes ingenuity**—hum drum routine rarely leads to inspired thinking. When on vacation, we often find ourselves in a new environment, and going through different routines. We gain fresh perspective, creative inspiration and new ideas.
- **Overworked employees are cranky employees, and are often the cause of infighting as well as office politics**—you can prevent unnecessary crankiness and improve employee morale on your team by simply making it clear that working long hours and foregoing vacation are not the way to get ahead.

- **Reduce unplanned outages**—overworked employees may take fewer vacation days off, but the tradeoff is that they will most likely require more sick days. Additionally, if your employees are nervous about how you will react to their vacation request, they will be more likely to procrastinate—leaving little time for a back-up plan—or even play hooky. Employees who feel open to use their vacation time at their discretion will proactively plan for their outages and have fewer sick days. Foster an environment that supports your employees' efforts to balance work and their personal lives through paid time off, and the result will be loyal employees that won't leave you hanging.

If you have any questions or need any additional information on the advantages for employees and employers with vacations please contact your EMS Specialist for more information.

Sources: shrm.org, Careerbuilder.com, and accountingprinciples.com

Client Corner

EMS Networking: Two EMS Clients Working Together

Richard Palmer, President of Nehemiah Manufacturing Co., says, "Steve and his team at Unit Building Services provide high quality and cost effective general contracting services. Nehemiah hired Unit to assist with the renovation of our new facility in Cincinnati. Steve's team was great to work with and helped us deliver the project on time and on budget. It was great to have a partner in the process we could trust to look out for our best interest."



Terminating an Employee? Slow Down!

What's one of the killer problems with defending wrongful termination lawsuits? When "the story" about why the person was fired is inconsistent. That is, when HR, the manager, and the documentation don't agree.

For example, here's what happens:

The employee's performance is poor enough that he or she has to be fired. But the supervisor won't tell the person that's why he is being fired. Why? The supervisor never once told the person that his performance was poor. So the supervisor blames "the budget" or "headcount," or says that "they're making me cut back."

So far, so good.

The supervisor isn't in trouble for never informing the employee of his poor performance, and the employee thinks he's being fired for a reason out of his control.

But what happens?

The supervisor hires a replacement. Now the ex-employee thinks: They've lied to me. It wasn't the budget. It must be because I am a member of a protected class. (No, the person is never going to think that it has to do with his or her poor performance.)

Is it any surprise that the lawsuit is filed?

And now you've got the following:

- What the employee was told=budget
- What the employer now claims=poor performance
- Performance appraisal="satisfactory"

- Recent raise and bonus
- Various other emails, documents, unemployment hearing records

When the stories don't agree, the jury knows only one thing for sure—the company lies. And that leaves them with only one conclusion that makes sense—discrimination.

So, before you fire, you decide to send out an e-mail that says "Let's meet and get our stories straight." That will solve the problem, right? Well, no, that's not the best course. It screams collusion, fixing, falsification. But you do want to evaluate all your actions and documents before you take action.

If you discover discrepancies, as one expert recommends, you may have to tell the firing manager: Look. We could fire the person now, but we'll be married to him in court for years. If we wait, we can get this done without all that baggage.

Of course, the best solution is to do things right from the beginning. And that starts with your policies on performance management, discipline, and termination.

In fact, estimates are that for most companies, there are 50 or so policies that need regular updating (or maybe need to be written). It's easy to let it slide, but you can't afford to—your policies are your only hope for consistent and compliant management that avoids lawsuits.

For assistance during employee terminations, please contact your EMS HR Specialist with any questions or concerns.

Source: www.blr.com



Cajun Shrimp and Rice

A one-pot recipe that's perfect for a healthy weeknight supper!

Ingredients

- 1 tablespoon unsalted butter
- 2 tablespoons extra-virgin olive oil
- 3 cloves garlic, minced
- 2 teaspoons Cajun seasoning
- 1 pound large shrimp, peeled and de veined, tails intact
- Kosher salt and freshly ground pepper
- 4 plum tomatoes, chopped
- 2 bunches scallions, chopped
- 3 cups cooked white rice
- 3 tablespoons chopped fresh parsley
- Lemon wedges, for serving (optional)



Directions

Heat the butter, olive oil and garlic in a large skillet over medium-high heat until fragrant, about 1 minute. Add the Cajun seasoning and shrimp and cook, stirring, until the shrimp begin to curl, about 1 minute. Season with salt and pepper. Add the tomatoes and scallions to the skillet and cook, stirring, about 1 minute. Add the rice and 1/4 cup water and continue to cook until the rice is warmed through and the shrimp are opaque, about 3 more minutes. Stir in the parsley and serve with lemon, if desired.

Per serving: Calories 357; Fat 11 g (Saturated 3 g); Cholesterol 176 mg; Sodium 537 mg; Carbohydrate 40 g; Fiber 3 g; Protein 23 g

Recipe courtesy of www.foodnetwork.com

