Engage PEO Client Alert: New Mexico

NM's Healthy Workplaces Act, Earned Sick Leave

What's New: Effective July 1, 2022, New Mexico will require private employers to provide one hour of earned sick leave for every 30 hours worked. The law assumes that exempt employees work 40 hours per week. The leave is available for use as soon as it is accrued, and there is no waiting time for new hires.

The paid leave must be provided to employees for sick time, safe time, and to assist themselves and family members, including an employee's spouse or domestic partner, children, grandchildren, grandparents, parents, and siblings of an employee or the employee's spouse or domestic partner, as well as individuals who are so closely associated with the employee or the employee's spouse/domestic partner that they are the equivalent of a family member. Additionally, a domestic partner is an individual with whom the employee maintains a household and a mutually committed relationship, which need not be a legally recognized marriage or a registered domestic partner.

Paid Sick Leave may be used for:

- Mental or physical illness, injury, or health condition of the employee or employee's family member.
- Medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition of the employee or the employee's family member.
- Preventative medical care for the employee or the employee's family member.
- Meetings at the employee's child's school or place of care related to the child's health or disability.
- Absences necessary due to domestic abuse, sexual assault, or stalking suffered by the employee or a member of the employee's family to:
    - Obtain medical or psychological treatment or other counseling,
    - Relocate,
    - Prepare for or participate in legal proceedings, or
    - Obtain services or assist family members with the above activities.

Employers may define any 12-month period during which leave may be used, including a calendar year, fiscal year, employee's anniversary year, or year from employee's first leave use. Unused leave carries over to the next year, but employers may cap the number of hours accrued annually at 64 hours per year. Carry-over must be consistent with the year metric used.

Upon hire, employers must provide every employee with notice (electronic or written) of the employee's right to earn sick leave, how earned sick leave is accrued and calculated, the terms of use of earned sick leave, the prohibition against retaliation for using earned sick leave, the employee's right to file a complaint with the LRD for alleged violations of the Act, and all means of enforcing violations of the Act. The notice must be in English, Spanish, or any other language, if requested by the employee, that is the first language spoken by at least 10% of the employer's workforce.

The law does not apply to independent contractors. And, employers that provide paid time off more generous than the Act requires are compliant, as long as employees may use the paid time off for reasons covered by the Act.

If you have any questions about New Mexico's new law, please reach out to your Engage HR Consultant.