DOL Issues Proposed Regulations Regarding FMLA Entitlement for Military Families and Airline Flight Crew Members

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On January 30, 2012, the U.S. Department of Labor (DOL) issued proposed regulations to implement amendments to the Family and Medical Leave Act (FMLA) that were passed in 2009. These amendments cover “qualifying exigency leave” and “military caregiver leave” available to military families under the FMLA. The proposed regulations were issued because the DOL was tasked with clarifying the amendments, and the DOL took the position that certain provisions of the amendments would not take effect until key terms were defined.

The January 30 proposed regulations are the first step in that process, offering definitions to previously undefined terms and offering explanations on points that could cause confusion. For example, military caregiver leave is available in certain circumstances for covered employees to care for covered service members and veterans suffering from a serious injury or illness. However, the amendments to the FMLA do not define “serious injury or illness of a veteran.” The proposed regulations offer a definition to fill this gap. Once a definition is finalized, then employers will be required to provide covered employees with FMLA leave to care for a covered veteran.

The proposed regulations also address amendments to the FMLA included in the Airline Flight Crew Technical Corrections Act, which established special FMLA hours of service eligibility requirements for airline flight crew members, as well as special provisions for calculating the amount of FMLA leave they use.

The Notice of Proposed Rulemaking is available here. Interested parties have until March 30, 2012 to submit comments on the proposed regulations. Comments may be submitted electronically at www.regulations.gov (identified by Regulatory Information Number 1235-AA03) or by mail addressed to Mary Ziegler, Director of the Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3510, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

If you would like to discuss any aspect of the proposed regulations and how they could affect your business or organization please contact any of the Cozen O’Connor Labor and Employment Group lawyers.