

One Minute Memo®



New York City Human Rights Law Amended, Expanding Protection to “Caregivers”

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On January 5, 2016, New York City Mayor Bill de Blasio signed a bill amending the New York City Human Rights Law to extend non-discrimination protections to “caregivers.” The [law](#) will now allow employees to sue employers on the basis of their “actual or perceived” status as a caregiver of dependent children, parents, or other family members.

An employee is covered under the law if he or she provides “direct and ongoing” care for a minor child or “care recipient.” A care recipient is a “person with a disability” who is either a “covered relative” or a “person who resides in the caregiver’s household” and who “relies on the caregiver for medical care or to meet the needs of daily living.”

Claims predicated on discrimination due to care of a minor child are virtually limitless, as the statute does not place restrictions on whether the care must be for a sick or healthy child. The definition of “care recipient” will also be subject to interpretation by the New York City Human Rights Commission and the courts. It is likely the “disability” of a “care recipient” will be interpreted like any other disability under the NYCHRL. It is unclear whether a person claiming discrimination based on caregiver status will have to prove that his or her care recipient was disabled.

The law also protects an employee who seeks to care for “a covered relative,” which includes the caregiver’s child, spouse, domestic partner, parent (including foster, step-, and adoptive parents, or legal guardians of a child), sibling (including half- and step-siblings), grandchild or grandparent, or child or parent of the caregiver’s spouse or domestic partner, or “any other individual in a familial relationship...as designated by the rules of the Commission.” The definition of “covered relative,” as it is left open to interpretation by the Commission, may well be expanded to include other members of an employee’s family.

The law will take effect on May 4, 2016, within 120 days of its enactment.

What Employers Should Do:

Employers should carefully consider employee requests for accommodation or leave to care for a covered individual. Though an employee may have exhausted his or her sick leave or FMLA leave, or may not be eligible for such leave, the law may now offer protections for absences from work as an accommodation due to responsibilities relating to caregiver status. A request for time off under the FMLA may constitute notice to the employer of an employee’s caregiver status.

Until the Commission issues formal enforcement guidance or institutes rulemaking proceedings, the potential interpretation and reach of the law remain unknown. Employers should stay tuned for updates.

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