

DSI NEWSLETTER

DEDICATION SERVICE AND INTEGRITY
"OUR BUSINESS IS TO SERVE YOUR BUSINESS"

Legal Updates and Industry News

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DANONE SIMPSON INSURANCE SERVICES LLC

Our commitment as your trusted insurance advisor is to assist you with your insurance needs including negotiations, implementation of plan designs, claims and risk management. We have partnered with several Human Resources Consultants, COBRA/Flex Third Party Administrators and other entities to provide personalized programs designed to fit your company's needs. By utilizing our buying power, we have had great success in creating service outsource options at reduced rates that are partially subsidized or cost free.

Our first and foremost goal is to service our clients, making them our priority in our every decision.

PRODUCTS AND SERVICES

- Group Medical, Dental, Vision
- Life/Long and Short Term Disability
- Long Term Care
- Employee Assistance Programs
- Voluntary Benefits
- COBRA/Flex
- 401k Plans
- Compliance Updates, Executive Seminars
- Workers' Compensation
- Property/Casualty
- Risk Services - Supervisor Training
- Travel Assistance Programs
- Errors and Omissions
- Directors and Officers
- EPLI—Employee Practices Liability Insurance
- Human Resources Consulting Services

Human Resources Executives- If termed employees or those who have exhausted their COBRA benefits are asking about individual coverage you may refer them to our website www.dsiemployeebenefits.com to obtain individual quotes.

Simply Green

In the 2008 SHRM Green Workplace Survey Brief, responding HR professionals listed the following top green practices:

- Offering recycling programs for office products, including plastic, glass, cans & styrofoam.
- Using energy efficient lighting systems and equipment, such as occupancy sensors; using Energy Star equipment; and changing from desktop to laptop computers.
- Installing automatic shut-offs for equipment.
- Buying or leasing refurbished goods such as toner cartridges, copiers, printers, fax machines, retread tires and re-refined oil.
- Promoting walking, biking and public transit.
- Partnering with environmentally friendly suppliers and companies.
- Minimizing pollution, such as air and water emissions, during production.
- Participating in or sponsoring projects and events in the community, such as plant-a-tree day and fundraisers for nature preserves.

Source: *HR Magazine*



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So what do you do with
your unwanted technology?

Avoid throwing old gadgets in the trash, because their inner workings can contain toxic materials including lead, beryllium, cadmium and flame retardants. If crushed or burned these materials can seep into the environment and harm human health. Many states prohibit dumping electronic equipment in the trash, although the EPA maintains that most U.S. landfills include proper liners and groundwater testing to prevent leaching.

The EPA has created a web site: <http://www.epa.gov/epaoswer/hazwaste/recycle/ecycling/basic.htm> to help you determine whether you should recycle or donate your e-waste. You can also find links and resources for recycling, donating or reselling your equipment at e-Bay's **Rethink Program**.

If you're considering reselling your equipment, you can go to Rethink to get started or research prices on eBay or on classified ad sites like craigslist.

You can donate your technology to a number of organizations, including the **National Christina Foundation**. You can go to its website, enter information about your old computers, laptops, fax machines, PDAs, digital cameras and other peripherals, and Cristina Foundation will search its database and connect you with local nonprofits and schools that need machines.

Source: *MSNBC Interactive*



HUMAN RESOURCES CORNER

EMPLOYERS MUST FOLLOW STRICT GUIDELINES FOR MAKE UP TIME



For an employee's hours worked to be treated as make up time and not overtime, employers must remember to follow these eight key guidelines:

1. The makeup time request must be for time lost by the employee due to a personal obligation.
2. An employer may inform an employee of the makeup time option, but the employer may not encourage or otherwise solicit an employee to request the employer's approval to take personal time off and make up the work hours within the same week.
3. If an employee requests time off for a personal reason, the employer may tell the employee about the makeup time policy. However, the employer cannot say the employee can take the time off only if the employee uses make up time.
4. The makeup time the employee works cannot amount to more than 11 hours in a workday or more than 40 hours in a work week.
5. The time must be made up within the same workweek as the time lost.
6. Each request to make up time must be in writing and be approved by the employer.
7. There is one exception to the requirement that each request for time off be a separate request. If an employee knows in advance that s/he will be requesting make up time for a personal obligation that will recur at a fixed time over a succession of weeks, the employee may request to make up work time for up to four weeks in advance provided, however, that the make up work is performed in the same week that the work time was lost.
8. There is not limit on the number or frequency of makeup time requests. An employee may submit a request each week. However, the employer cannot require or solicit employee to submit makeup time requests to try and create an alternative workweek without meeting the legal requirements for doing so.

Source: HR California / CA Chamber of Commerce

HR Solutions



Question: Is it OK to provide over-the-counter medications to our employees upon request?

Answer: No. Employers should not distribute any medications, even over-the-counter (OTC) drugs, directly to employees. If a supervisor, manager or other company representative hands an employee who is complaining of pain a medication suggesting that it will resolve their ailment, it may be difficult for the employee to contradict this authority figure at work, and/or they may just follow these suggestions without consideration of the actual need for, type or dosage of medication.

Even over-the-counter medications have health risks and side effects that can be serious or even fatal. What if the amount of OTC medication you provided (or suggested) to an employee was the wrong dosage? What if the medication you handed the employee causes drowsiness resulting in a workplace accident? What if they get in a car accident on their drive home? Employers should not take on the risks and liabilities of managing employees' medical conditions.

How many of us have been at work and felt a headache start? You think of that pain reliever in your medicine cabinet at home and wish you had it with you. You know if you don't treat this pain it will only get worse. Employers don't want an employee who heads home every time they have a pain or ache. Management prefers to reduce the downtime of a minor health issue and keep their employees productive. So what is an employer to do? Unfortunately, there really is no one best practice.

One option is to set up a basic policy requiring employees to notify their supervisor if they are taking any medications (even OTC medications) that may impair their ability to perform their work or cause drowsiness.

In addition, employers may suggest that employees be responsible for maintaining and controlling their own pain medication. This type of policy would actually encourage employees to keep on hand the one or two OTC medications they use at home in a locked desk or locker for when they may need it. This option relieves the employer of any responsibility for supplying medications but may not stop the sharing of medications among co-workers.

Another option is for employers to actually add one or two basic OTC medications to the first-aid kit supplies available to employees. Many resources advise against this option because of concerns of overuse, improper use and pilfering of these supplies. Your organization should proceed only after consultation with legal counsel, management and employees. If your company chooses to include OTC medications in a first-aid kit, it is imperative that you provide only single-dose packages that are properly labeled as regulated by the Food and Drug Administration, including a tamper-evident package. Do not purchase any product that contains ingredients that are known to cause drowsiness. With proper labeling, employees are then able to self-select if available OTC medications are right for them.

Source: SHRM Website 3/21/2008



Health Matters

Workers' Compensation

Californians permanently injured on the job would get an average 16 percent increase in disability payments under new rules proposed by the state Division of Workers' Compensation.

The formula is based on new data that links wage losses to the type of injury suffered by the worker. The formula calculates payments to disabled workers based on estimates of how much they would earn if they weren't permanently injured.

Division Director Carrie Nevans said the new formula is based on a review of how wage losses relate to injuries under the worker compensation formula in use since 2005.

Critics said the current disability formula is already too low, so a small increase isn't nearly enough.

Workers compensation changes since a 2004 overhaul have cut employers' insurance premiums by more than half, from \$6.47 per \$100 in payroll in 2003 to less than \$3 per \$100 last year.

But group representing injured workers said benefits are now far below those of other states.

A U.S. Chamber of Commerce report found that a California worker who lost an eye in a job-related injury would get an average of \$17,714 in benefits. The same injury would bring the same worker \$64,000 in New York, and \$168,318 in Illinois.

The proposed new California law for 2009 would increase the average paid for a permanent should injury from \$7,693 to \$8,153. The total payment for a hip injury would increase from \$14,490 to \$15,755. An ankle injury would bring \$7,521 instead of the current \$6,003.

Senate President Pro Tem Don Perata, D-Oakland, has proposed a bill to increase permanent disability payments. A spokeswoman said the senator is studying the proposed formula and could not immediately comment.

Source: *Insurance Journal*

Cucumber-Dill Potato Salad

This recipe is a healthy alternative to the typical mayo-based potato salads, yet still creamy and delicious! It makes a great addition to a summer BBQ.

Yield: 8 Servings

2 lbs. SMALL RED SKINNED POTATOES

1 tsp. SEA SALT

2 cups PEELED AND DICED CUCUMBERS

2 tsp. WHOLE GRAIN/BROWN MUSTARD

3 Tbsp. CHOPPED FRESH DILL

1/4 cup EXTRA VIRGIN OLIVE OIL

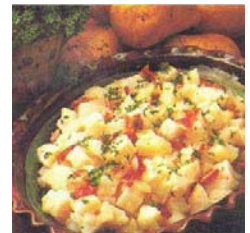
Procedure:

Place potatoes (unpeeled) in a large pot of water and bring to a boil. Cook until potatoes are soft.

Remove potatoes from water and cut into 1 inch pieces.

Let cool for a few minutes, then combine with remaining ingredients in a large bowl and mix well.

Notes: Mixing the potato salad while the potatoes are still warm as it yields a creamier texture.



Recipe from *The Organic Kosher Cookbook* by Aviva Allen. Aviva Allen is a holistic nutritionist and chef from Toronto, Canada. For more information, or to purchase a cookbook, visit www.avivaallen.com.

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CA Drug Test Ruling

Decision from California Supreme Court



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On January 25, 2008, the California Supreme Court ruled that employers are not required to retain workers who test positive for marijuana use even if the drug is recommended by a doctor for medical reasons.

The case involved an employee who tested positive for marijuana and was dismissed by his employer. The employer, Ragingwire, Inc., believed the employee's drug use left the company vulnerable to issues that could generate lawsuits. The employee claimed he was discriminated against and illegally fired because his drug use was authorized by his physician and he carried a medical marijuana card. His employer argued successfully – all the way to the California Supreme Court -- that all marijuana use is illegal because the drug remains banned under federal law.

In 1996, voters passed the "Compassionate Use Act," making California the first state to legalize marijuana use for medicinal purposes. Enactment of the "Compassionate Use Act" instantly created controversy and uncertainty. However, yesterday's decision was clear. The court said that the act has nothing to do with employment laws.

Justice Kathryn Werdegar wrote, "Under California law, an employer may require pre-employment drug tests and take illegal drug use into consideration in making employment decisions." She further wrote, "Nothing in the text or history of the Compassionate Use Act suggests the voters intended the measure to address the respective rights and obligations of employers and employees." A previous decision in 2005 from the U.S. Supreme Court also held that state laws legalizing the use of marijuana for medicinal purposes do not protect users from prosecution.

Two other groups -- Santa Clara Valley Transportation Authority and the Western Electrical Contractors Association -- joined Ragingwire's case and argued to the court that employers could lose out on government contracts and grants if employees were allowed to smoke marijuana. The Sacramento-based Pacific Legal Foundation also supported the employer's position and offered this quote to the Associated Press: "This decision promotes employer efforts to make safe, drug-free workplaces."

Source: CA Chamber of Commerce

Clearing up Confusion on Expected Loss Rates

In July 2007, the California Insurance Commissioner, Steve Poizner, approved a 14.2% reduction in pure premium rates. He estimates that the combined loss ratio for work comp carriers in the state is currently at 37%.

While premium rates are dropping, it is counter-intuitive that experience modifications are rising. The experience mod is the part of your workers' compensation insurance premium that you control. It is expressed as a ratio of your actual losses compared to expected losses for an operation of your size (payroll) and employment classifications.

An "Expected Loss Rate" is the factor used to determine the amount of expected losses by classification for each \$100 of payroll. With claims cost decreasing, it stands to reason that the expected losses for each classification would drop.

Why is this Important?

When the market swings and rates rise, the impact becomes more severe and results in higher experience modifications. Companies must do more than sit on the sidelines—it is imperative that you prepare now!

Source: ARGO

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