



Lambert & Carney Benefits Group, LLC Newsletter Brief

National Defense Authorization Act for Fiscal Year 2008

On January 29, 2008, The President signed into law the *National Defense Authorization Act for Fiscal Year 2008*, which includes provisions that expand the benefits of the Family and Medical Leave Act (FMLA) to assist service members and their families.

As of this signing, employers of 50 or more employees will now have new responsibilities to grant FMLA leave to certain employees taking leave because a member is called up to active duty in the Armed Services or to care for such a family member that suffers an injury while on active duty in the Armed Services. Employers covered by the FMLA must act quickly to update their existing FMLA practices.

The bill expands the FMLA in three significant ways.

First, the bill adds two categories of covered conditions permitting an eligible employee to take FMLA leave. An eligible employee may take FMLA leave due to "qualifying exigencies" related to active military duty of a family member. An employee may also take leave to care for a family member with a "serious illness or injury" incurred in the line of active duty.

Second, the legislation adds "next of kin" to the family members entitled to take FMLA leave to care for an injured servicemember.

Third, the bill allows an eligible employee to take up to 26 weeks of FMLA leave (up from 12 weeks) only once to care for an injured spouse, son, daughter, parent or next of kin ("nearest blood relative") who is a covered servicemember.

The definition of a "qualifying exigency" was not provided. However, Congress has directed the Secretary of Labor to issue regulations to determine what constitutes such an exigency.

To qualify, a "serious illness or injury" must be incurred while the servicemember is on active duty and must render the member unable to perform the duties of his or her office, grade, rank or rating and for which the member is: (1) undergoing medical treatment, recuperation or therapy; (2) an outpatient; or (3) on a temporary disability retired list.

The Caregiver Leave requirements of H.R. 4986 became effective immediately on January 29, 2008, when signed into law. Because the Secretary of Labor must issue regulations defining the events that will be considered a "qualifying exigency", those requirements will not be effective until the Secretary of Labor issues final regulations defining "any qualifying exigency."

The information contained in this newsletter has been compiled from sources we believe are reliable. It is not intended to be legal or tax advice. If you would like further information regarding the issues raised in this News Letter Brief, please contact Paul Lambert at plambert@lcbenefits.com. Our website is www.lcbenefits.com.

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