M&G|exposure

This past weekend, Morris & Garritano hosted our annual Holiday Party. The evening is a wonderful opportunity to spend time with our co-workers and loved ones, to enjoy a delicious meal, and to celebrate the success of the past year while looking forward to the next.

Part of our annual tradition is to recognize a select group of individuals who have gone above and beyond for their clients, the company, or their co-workers. The Executive Excellence Awards are given to five employees from various departments of the agency who exemplify what it means to be an M&G employee.

The criteria for the Executive Excellence Award is:

- Someone who demonstrates strong Core Values and is a role model for other employees.
- Those who have made a strong contribution to a major initiative, or made significant impact to our clients, their department, or another department in the agency.
- Their contributions may have improved a process or created an efficiency that wasn't there before.

We are proud to announce Jackie Bonini, Cynthia Horwitz, Michael Reichel, and Sara Holloway as recipients of the 2018 Executive Excellence Awards.

The Greg Morris Award, an award that pays tribute to the spirit and memory of the person that made Morris & Garritano what it is today is one of our agency's highest honor. It is awarded to someone who:

- Not only demonstrates, but exemplifies, the Core Values of Morris & Garritano and creates a positive work environment for those around them.
- Embodies the spirit of Greg Morris as a warm, compassionate person with strong collaborative skills.
- Is helpful, giving, and passionate about their work.
- Demonstrates a trait of giving back and empathy for others, something that Greg Morris was well known for in the community.

This year's recipient, though only being with M&G for just over one year, has already made a big impact and we can only wait to see what else she is capable of. We are excited to announce Brandy Hugo as this year's Greg Morris Award recipient.

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- 401(k) Contribution Increase for 2019
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- Upcoming Labor Law Seminars
- Best Practices: Cyber Claims

OVERTIME IN AGRICULTURE

Contributed by: Louise Matheny, Human Resources Consultant

Over the next four years, from 2019 to 2022, legislation will be phasing in overtime requirements for agricultural employees. However, employers with 25 or fewer employees will not start paying the new overtime requirement until 2022 through 2025.

This will be a major change for agricultural employers, as different overtime rules apply to them under Wage Order 14. Currently, agricultural workers earn overtime pay after working 10 hours per day or working the seventh consecutive day in a workweek. The overtime pay rate is 1.5 times the employee's regular rate of pay after 10 hours per day and for the first 8 hours on the seventh consecutive workday in a workweek. Any time after eight hours on the seventh day is a pay rate of two times the employee's regular rate of pay.

Employers with ***26 or more*** employees

Dates	Overtime Requirement
1/1/19	Time and one half for hours worked more than 9.5 per day or 55 per week
1/1/20	Time and one half for hours worked more than 9 per day or 50 per week
1/1/21	Time and one half for hours worked more than 8.5 per day or 45 per week
1/1/22	Time and one half for hours worked more than 8 per day or 40 per week Double time for all hours worked over 12 in one day

Employers with ***25 or fewer*** employees

Dates	Overtime Requirement
1/1/22	Time and one half for hours worked more than 9.5 per day or 55 per week
1/1/23	Time and one half for hours worked more than 9 per day or 50 per week
1/1/24	Time and one half for hours worked more than 8.5 per day or 45 per week
1/1/25	Time and one half for hours worked more than 8 per day or 40 per week Double time for all hours worked over 12 in one day

Remember too that, effective January 1, 2019, California's minimum wage is $12 per hour for employers with 26 or more employees and $11 per hour for employers with 25 or fewer employees.

IRS REMINDS ELIGIBLE EMPLOYEES TO PLAN NOW FOR HEALTH FSA ARRANGEMENTS IN 2019

Contributed by: Louise Matheny, Human Resources Consultant

The Internal Revenue Service is reminding eligible employees that now is the time to begin planning to take full advantage of their employer's health flexible spending arrangement (FSA) during 2019.

FSAs provide employees a way to use tax-free dollars to pay medical expenses not covered by other health plans. Since eligible employees need to decide how much to contribute through payroll deductions before the plan year begins, many employers are offering their employees the option to sign up for an FSA this fall for participation that begins in 2019.

Interested employees wanting to contribute to an FSA, must make that choice for 2019, even if they contributed in 2018. Self-employed individuals are not eligible.

During the 2019 plan year, employees can contribute up to $2,700. This is a $50 increase over 2018. Amounts contributed are not subject to federal income tax, Social Security tax, or Medicare tax. If the plan allows, the employer may also contribute to an employee's FSA.

Throughout the year, employees can then use funds to pay qualified medical expenses not covered by their health plan, including co-pays, deductibles, and a variety of medical products and services ranging from dental and vision care to eyeglasses and hearing aids. Interested employees should check with their employer for details on eligible expenses and claim procedures.

Under the use-or-lose provision, participating employees often must incur eligible expenses by the end of the plan year or forfeit any unspent amounts. However, should employers choose to do so, they may offer participating employees more time through either the carryover option or the grace period option.

- Under the carryover option, an employee can carry over up to $500 of unused funds to the following plan year — for example, an employee with $500 of unspent funds at the end of 2019 would still have those funds available to use in 2020.
- Under the grace period option, an employee has two and a half months after the end of the plan year to incur eligible expenses — for example, with a plan year ending on December 31, 2019, an employee would have until March 15, 2020 to use funds.

Employers can offer either option, but not both, or none at all.

Employers are not required to offer FSAs. Interested employees should check with their employer to see if they offer an FSA. More information about FSAs can be found in Publication 969, Health Savings Accounts and Other Tax-Favored Health Plans, available on IRS.gov.

NEW REQUIREMENTS FOR SEXUAL HARASSMENT PREVENTION TRAINING

Contributed by: Louise Matheny, Human Resources Consultant

In 2018, 1,016 new bills were signed into CA law. Many of these new laws are a result of the #MeToo movement, impacting settlements and nondisclosure agreements in sexual harassment claims and extending the "professional relationship harassment" liability. One bill, in particular, affects businesses off all sizes.

SB 1343 states that employers with five or more employees are required to provide mandatory sexual harassment training to supervisors (two hours training) and non-supervisory employees (one hour training) by January 1, 2020. That means that the training must take place in 2019! This is a change from the current law that only requires employers of 50 or more to provide two hours of sexual harassment prevention training to their managers/ supervisors.

After January 2020, employees must be retrained every two years, meaning all employees statewide must be retrained by January 1, 2022. If an employee was trained before or between January 1 and December 31, 2018, the law requires that they be retrained during the 2019 calendar year.

Under the Department of Fair Employment and Housing's (DFEH) regulations, the definition of "employee" includes full-time, part-time, and temporary employees. Additionally, employees or contractors do not have to all work at the same location or work or reside in California. Temporary and/or seasonal employees must receive training within 30 days of hire or 100 hours worked, whichever occurs first. Temporary services employers are responsible for providing training to employees that are placed with clients.

The training must include harassment based on gender identity, gender expression, and sexual orientation and include practical examples of such harassment. Training should be provided by trainers or educators with knowledge and expertise in these particular areas.

As laid out in SB 1343, DFEH is required to make online training courses available on the prevention of sexual harassment and abusive conduct in the workplace. They expect to have these trainings available by late 2019. In the meantime, DFEH is offering a sexual harassment and abusive conduct prevention toolkit that includes a sample training. To satisfy the training requirements, employers are able to use this sample training in conjunction with an eligible trainer.

What happens if employees do not receive training by January 1, 2020?

Employees can file a complaint with the DFEH stating their employer has not complied with the sexual harassment prevention training requirements. Complaints filed after January 1, 2020 will be reviewed in light of the totality of the circumstances, including the availability of DFEH's online training courses or the availability of qualified trainers. DFEH will work with the employer to obtain compliance with the law if, in fact, the law has been violated.

The good news is - Morris & Garritano offers FREE online training through ThinkHR! ThinkHR is a value-added benefit that complements our in-house HR services.

- On the ThinkHR website, under the training tab on the home page, you will find Harassment courses.
  - For your managers and supervisors, you will choose Workplace Harassment Prevention for Manager in California, Connecticut, and Maine.
    - For all other employees, choose Sexual Harassment Prevention for Employees.

Please contact Louise Matheny, HR Business Consultant, at 597-6365 if you have any questions about ThinkHR or need help logging in.

401(K) CONTRIBUTION LIMIT INCREASES FOR 2019

Contributed by: Keith Dunlop, Director of Compliance and HR

On November 1, the IRS announced that the threshold for employee 401(k) contributions for 2019 will be capped at $19,000 – a $500 increase from 2018. Additionally, the "all sources" contribution (employee and employer) maxes out at $56,000, up $1,000 from the previous year.

This means that plan participants who contribute their max limit for $19,000 will be able to receive up to $37,000 from match and profit-sharing contributions.

The catch-up contribution limit for employees aged 50 and over will remain unchanged at $6,000.

Below are the adjustments highlighted in the IRS's Notice 2018-83, taking effect on January 1, 2019 for 401(k), 403(b), and most 457 plans.

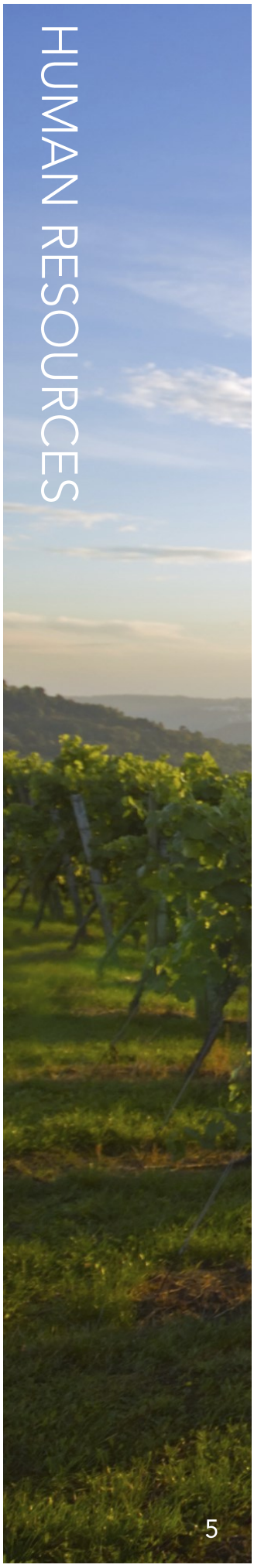
Defined Contribution Plan Limits	2019	2018	Change
Maximum employee elective deferral	**$19,000**	$18,500	+$500
Employee catch-up contribution (if age 50 or older by year-end)	**$6,000**	$6,000	No change
Defined contribution maximum limit, all sources	**$56,000**	$55,000	+$1,000
Defined contribution maximum limit (if age 50 or older by year end); maximum contribution all sources plus catch-up	**$62,000**	$61,000	+$1,000
Employee compensation limit for calculating contributions	**$280,000**	$275,000	+$5,000
Compensation limit of "key employees" in a top-heavy plan	**$180,000**	$175,000	+5,000
Compensation limit of "highly compensated employees" in a top-heavy plan (HCE threshold)	**$125,000**	$120,000	+5,000

"Key employees" and "highly compensated employees" are terms used for testing purposes in the annual nondiscrimination testing of a retirement plan.

The $6,000 catch-up contribution limit for participants age 50 or older applies from the start of the year to those turning 50 at any time during the year.

It is important that HR Administrators share 2019's plan contribution limits with their employees. While some participants may not reach the maximum contribution, it is still important information for those who are able to put away some extra dollars for retirement savings.

Source: IRS Notice 2018-83.



UPCOMING LABOR LAW SEMINARS

Contributed by: Louise Matheny, Human Resources Consultant

Human Resource Association of the Central Coast (HRCC)

Tuesday, January 8, 2019
11:30am - 1:30pm
Garden Room at The Madonna Inn
100 Madonna Road, San Luis Obispo, CA 93401

Presenter: Paul Wilcox, Mullen & Henzell, LLP

Registration: Human Resources Association of the Central Coast

Fees: Member Lunch = $25
Guest Lunch = $30
Non-Member Lunch = $35
Meeting without Lunch = $15

San Luis Obispo Chamber of Commerce

Thursday, January 10, 2019
12:00pm - 1:30pm
MindBody
4051 Broad St., San Luis Obispo, CA 93405

Presenters: Susan Waag, LightGabler

Registration: San Luis Obispo Chamber of Commerce

Fees: Current Member = $30
Future Member = $45

San Luis Obispo County EAC

Friday, January 18, 2019
8:30am - 12:00pm (registration opens at 8:00am)
Paso Robles Inn Ballroom
1103 Spring Street, Paso Robles, CA 93446

Presenters: Alden Parker, Fisher & Phillips, LLP

Registration: EAC California Labor Law Update 2019

Fees: $35

IT'S TIME TO PLACE YOUR 2019 LABOR LAW POSTER ORDER!

Contributed by: Louise Matheny, Human Resources Consultant

As a Morris & Garritano client, we are happy to provide you with up to five complimentary posters based on your workplace locations. We have both English and Spanish posters available.

By law, California employers must display all required state and federal employment notices. The poster must be placed conspicuously where all employees and applicants can see it. Typical locations are the lunchroom, a predominant hallway, or outside your restrooms.

From a best-practice perspective, old employment law posters should be saved to help prove past compliance, even though it is not required. Posters can be relevant evidence to show that employees were informed of their applicable rights.

You must also post one of the IWC Wage Orders based upon the "main purpose" of your business. Some types of businesses may need to post more than one Wage Order. You can obtain your Wage Order from the CA Department of Industrial Relations, IWC.

Finally, there are circumstances that may require additional posters such as heavy equipment or forklifts, chemical use, and government contracts. Employers with an existing Medical Provider Network must also complete and post an MPN notice. Some cities and counties throughout California require employers to post additional notices based on local ordinances addressing minimum wage, paid sick leave, and other requirements.

To place your poster order or if you have any questions about which posters you may need for your worksite, please call Louise at 597-6365. New posters must be displayed by January 1, 2019.

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Morris & Garritano ThinkHR

Have you heard about ThinkHR, the newest addition to our existing HR Business Consulting service?

If you are involved with employee and compliance issues, this HR knowledge solution is a value-added benefit that will save you time and money.

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HR Live | HR Comply | HR Learn | Mobile App

If you are interested in learning more about ThinkHR, please contact Louise Matheny at lmatheny@morrisgarritano.com.

2019 ACA REPORTING DEADLINES

Contributed by: Keith Dunlop, Director of Compliance and HR

On November 29, 2018, the Internal Revenue Service (IRS) issued Notice 2018-94 to:

- Extend the due date for furnishing forms under Sections 6055 and 6056 for tax year 2018 for 30 days, from Jan. 31, 2019, to **March 4, 2019**; and
- **Extend good-faith transition relief from penalties** related to 2018 information reporting under Sections 6055 and 6056.

Notice 2018-94 does not extend the due date for filing forms with the IRS for tax year 2018. The due date for filing with the IRS under Sections 6055 and 6056 remains **Feb. 28, 2019** (**April 1, 2019**, if filing electronically).

IRS Report	Filing Deadlines
Form 1095-C to Individuals	March 4, 2019
Form 1094-C to IRS (paper)	February 28, 2019
Form 1094-C to IRS (electronic)	April 1, 2019

Who Must Furnish ACA Forms?

The IRS informational reporting requirement applies to Applicable Large Employers (ALEs) – those with 50 or more full-time and full-time equivalent employees in the preceding calendar year. Entities that are associated through common control must aggregate their numbers.

Doesn't My Insurance Carrier Do This For Me?

No. Section 6055 of the regulations states that "providers of coverage," such as health insurance issuers and self-insured employers, must use Forms 1094-B and 1095-B to report information about the coverage they provided during the previous year. This is a separate reporting requirement from that of fully insured employers under Section 6056 who must provide forms 1094-C and 1095-C.

Impact on Individuals

Because of the extended furnishing deadline, some individual taxpayers may not receive a Form 1095-B or Form 1095-C by the time they are ready to file their 2018 tax returns. Taxpayers may rely on other information received from their employer or other coverage provider for purposes of filing their returns, including determining eligibility for an Exchange subsidy and confirming that they had MEC for purposes of the individual mandate.

Taxpayers do not need to wait to receive Forms 1095-B and 1095-C before filing their 2018 returns. In addition, individuals do not need to send the information they relied upon to the IRS when filing their returns, but should keep it with their tax records.

Extension of Good-faith Transition Relief from Penalties for 2018

Notice 2018-94 also extends transition relief from penalties for providing incorrect or incomplete information to reporting entities that can show that they have made good-faith efforts to comply with the Sections 6055 and 6056 reporting requirements for 2018 (both for furnishing to individuals and for filing with the IRS).

This relief applies to missing and inaccurate taxpayer identification numbers and dates of birth, as well as other information required on the return or statement. No relief is provided for reporting entities that:

- Do not make a good-faith effort to comply with the regulations; or
- Fail to file an information return or furnish a statement by the due dates (as extended).

In determining good-faith, the IRS will take into account whether a reporting entity made reasonable efforts to prepare for reporting the required information to the IRS and furnishing it to individuals (such as gathering and transmitting the necessary data to an agent to prepare the data for submission to the IRS or testing its ability to transmit information to the IRS). The IRS will also take into account the extent to which the reporting entity is taking steps to ensure that it will be able to comply with the reporting requirements for 2019.

Contact Morris & Garritano Director of Compliance Keith Dunlop for further information regarding these or any other ACA-related issue.

DISTRICT COURT JUDGE IN TEXAS STRIKES DOWN THE ACA

Contributed by: Keith Dunlop, Director of Compliance and HR

The Affordable Care Act Remains in Effect for Now

On Friday, December 14, a federal judge in Texas issued a partial ruling that strikes down the entire Affordable Care Act (ACA) as unconstitutional. The White House has stated that the law will remain in place, however, pending the appeal process. The case, Texas v. U.S., will be appealed to the U.S. Court of Appeals for the Fifth Circuit in New Orleans, and then likely to the U.S. Supreme Court.

The plaintiffs in Texas (a coalition of twenty states) argue that since the Tax Cuts and Jobs Act zeroed out the individual mandate penalty, it can no longer be considered a tax. Accordingly, because the U.S. Supreme Court upheld the ACA in 2012 by saying the individual mandate was a legitimate use of Congress's taxing power, eliminating the tax penalty imposed by the mandate renders the individual mandate unconstitutional. Further, the individual mandate is not severable from the ACA in its entirety. Thus, the ACA should be found unconstitutional and struck down.

The court in *Texas* agreed, finding that the individual mandate can no longer be fairly read as an exercise of Congress's Tax Power and is still impermissible under the Interstate Commerce Clause—meaning it is unconstitutional. Also, the court found the individual mandate is essential to and inseverable from the remainder of the ACA, which would include not only the patient protections (no annual limits, coverage of pre-existing conditions) but the premium tax credits, Medicaid expansion, and of course the employer mandate and ACA reporting.

Several states such as Massachusetts, New York and California have since intervened to defend the law. They argue that, if Congress wanted to repeal the law it would have done so. The Congressional record makes it clear Congress was voting only to eliminate the individual mandate penalty in 2019; the record indicates that they did not intend to strike down the entire ACA.

It is worth noting that the Trump administration filed a brief early in 2018 encouraging the court to uphold the ACA but strike down the provisions relating to guaranteed issue and community rating.

The ACA has largely survived more than 70 repeal attempts and two visits to the U.S. Supreme Court. We anticipate it will survive this one too, in time. While the Supreme Court lineup has changed, all five justices who upheld the ACA in 2012 are still on the bench. Moreover, the Supreme Court may be reluctant to strike down a federal law as expansive as the ACA, particularly when it has been in place for nearly nine years and affects millions of people. Notably, the Supreme Court was not required to rule on the "severability" issue in 2012. Given a strong tradition of the Supreme Court to avoid, if possible, broad rulings of unconstitutionality in established laws, it is not unlikely that the current Court, if this case makes it that far, will find a way to hold that even if the Court's 2012 logic with respect to the individual mandate is no longer applicable, the rest of the law is severable and saved, thus avoiding once again a broad ruling on the ACA's constitutional soundness. The bottom line: employers should continue to comply with the ACA, as its provisions (including the employer mandate and associated reporting) remain the law for the foreseeable future.

This alert was prepared for Morris & Garritano by Stacy Barrow of Marathas Barrow Weatherhead Lent LLP, a premier employee benefits, executive compensation and employment law firm. Reprinted with permission.

OPEN ENROLLMENT REMINDER

Contributed by: Employee Benefits Department

With Open Enrollment in full swing, we wanted to provide a reminder of what you can expect in the coming weeks. If you have questions about your open enrollment, please feel free to contact your Account Manager.

SELF-INSURED GROUPS ON THE DECLINE

Contributed by: Adam Peterson, Commercial Risk Advisor

The California workers compensation insurance market of the late 1990s and early 2000s was hotly contested with “open competition” among insurers vying for a share of the voluntary market. Carriers competed on the basis of price, driving premiums well below actual loss costs, thereby depleting reserves and forcing some aggressive insurance underwriters into bankruptcy or rating downgrades. Early in the new millennium, the surviving insurers rolled out significant premium increases forcing employers to explore alternatives for workers compensation. One of those alternatives was self-insurance.

In the following years, Self-Insured Groups (SIGs) were viewed as a cost-effective alternative to the standard workers’ compensation markets. However, as we move further away from the economic recession, the standard markets have softened and become more competitive again. To compound the issues for SIGs, many legislative provisions have made financial solvency more and more difficult. Consequently, many of the SIGs in California have closed their doors as members revoke and the groups fail to adhere to state regulations. Eventually, it’s projected that all employers will be forced back into the conventional market so most are making the decision to leave sooner rather than later.

EMERGENCY REGULATIONS FOR WORKPLACE INJURIES REPORTING APPROVED

Contributed by: Commercial Lines Department

In last month's newsletter, we told you about Cal/OSHA's proposed emergency regulation requiring certain California employers to submit their injury and illness log (Form 300A) information to an online OSHA database. We wanted to provide a bit more information on this development and emphasize some of the industries affected.

The Office of Administrative Law (OAL) has approved the Cal/OSHA's submission for emergency regulations.

The first compliance date to submit the data from 2017 is December 31, 2018. Then, beginning in 2019, the Form 300A summary data from the *previous year* will need to be submitted by March 2 of the current year. For example, data from 2018 will be due by March 2, 2019.

The following employers must submit online Form 300A covering calendar year 2017 by **December 31, 2018**

- All employers with 250 or more employees, unless specifically exempted by section 14300.2 of Title 8 of the California Code of Regulations.
- Employers with 20 to 249 employees in the specific industries listed in Appendix H of the emergency regulations.

Instructions to submit the summaries online each year are on federal OSHA's Injury Tracking Application webpage.

Cal/OSHA will proceed with the formal rulemaking process to make the emergency regulations permanent by submitting the required documentation to OAL. The rulemaking process will include a public comment period and public hearing. The dates for the comment period and public hearing will be posted on Cal/OSHA's proposed regulation page.

Click here for a list of industries with 20 to 249 employees who must submit Form 300A data to OSHA electronically. Examples of listed industries include agriculture, construction, residential care facilities, grocery or specialty food stores, and general merchandise stores.

Establishments in the following industries with **20 to 249 employees** must submit injury and illness summary (Form 300A) data to OSHA electronically

NAICS	Industry
11	Agriculture, forestry, fishing and hunting
22	Utilities
23	Construction
31-33	Manufacturing
42	Wholesale trade
4413	Automotive parts, accessories, and tire stores
4421	Furniture stores
4422	Home furnishings stores
4441	Building material and supplies dealers
4442	Lawn and garden equipment and supplies stores
4451	Grocery stores
4452	Specialty food stores
4521	Department stores
4529	Other general merchandise stores
4533	Used merchandise stores
4542	Vending machine operators
4543	Direct selling establishments
4811	Scheduled air transportation
4841	General freight trucking
4842	Specialized freight trucking
4851	Urban transit systems
4852	Interurban and rural bus transportation
4853	Taxi and limousine service
4854	School and employee bus transportation
4855	Charter bus industry
4859	Other transit and ground passenger transportation
4871	Scenic and sightseeing transportation, land
4881	Support activities for air transportation
4882	Support activities for rail transportation
4883	Support activities for water transportation
4884	Support activities for road transportation
4889	Other support activities for transportation
4911	Postal service
4921	Couriers and express delivery services
4922	Local messengers and local delivery
4931	Warehousing and storage
5152	Cable and other subscription programming
5311	Lessors of real estate
5321	Automotive equipment rental and leasing
5322	Consumer goods rental
5323	General rental centers
5617	Services to buildings and dwellings
5621	Waste collection
5622	Waste treatment and disposal
5629	Remediation and other waste management services
6219	Other ambulatory health care services.
6221	General medical and surgical hospitals
6222	Psychiatric and substance abuse hospitals
6223	Specialty (except psychiatric and substance abuse) hospitals
6231	Nursing care facilities
6232	Residential mental retardation, mental health and substance abuse facilities
6233	Community care facilities for the elderly
6239	Other residential care facilities
6242	Community food and housing, and emergency and other relief services
6243	Vocational rehabilitation services
7111.	Performing arts companies
7112	Spectator sports
7121	Museums, historical sites, and similar institutions
7131	Amusement parks and arcades
7132	Gambling industries
7211	Traveler accommodation
7212	RV (recreational vehicle) parks and recreational camps
7213	Rooming and boarding houses
7223	Special food services
8113	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance
8123	Dry-cleaning and laundry services

WORKERS' COMP AND LEAVE OF ABSENCE COORDINATION

Contributed by: Mary Jean Collins, Workers' Compensation Claims Analyst

When an employee is injured at work, you might feel like you've suddenly been thrown into the Bermuda Triangle of workplace laws - California workers' compensation statutes, the Family and Medical Leave Act (FMLA) and the Americans with Disabilities Act Amendments Act (ADAAA) - and that's not to mention occupational safety and health standards.

It's true - there are many issues to navigate. What forms of leave are appropriate? What about insurance benefits while they are out? While no two situations are alike, there are procedures you should consider when - and even before - you become lost in unfamiliar waters due to a workplace injury.

Evaluate Leave Possibilities

The Workers' Compensation Appeals Board (WCAB) ruled that employees on workers' compensation leave are entitled only to the same continuation of group health benefits as employees on other types of disability leaves. The WCAB notes that ERISA preempts state regulation of employee benefit plans, so the state cannot require an employer to provide health benefits to an employee it would not otherwise cover.

For employers with fewer than 50 employees, they can terminate the employee's health benefits and send a COBRA notice.

If you have 50 or more employees and the employee is eligible for FMLA/CFRA, you must maintain health benefits for up to 12 weeks. It is important to designate the time off under FMLA/CFRA and provide notice to the employee. Many employers do not take advantage of that. Don't make that mistake.

While on FMLA/CFRA leave, the employer must continue providing any group health benefits at the same level and under the same conditions as if the employee were actively employed, for up to 12 weeks. This includes medical, dental, vision and other coverages. The employee must continue to pay their portion.

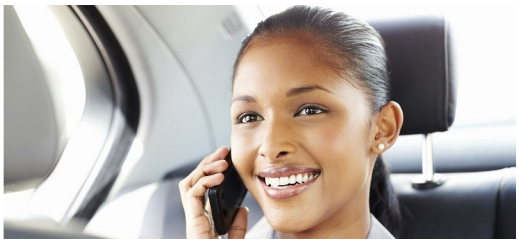
> For example: You pay 80 percent of an employee's health insurance premium and the employee pays 20 percent. The employee must pay you the 20 percent each month to remain covered. Because you cannot make normal payroll deductions, you must make payment arrangements with the employee. The notice to the employee should clearly outline any requirements to make health benefit premium payments during the leave including premium due dates. It should also inform the employee of potential liability if the employee fails to make timely payments. An employer's obligation to maintain health insurance coverage ceases under FMLA/CFRA if an employee's premium payment is more than 30 days late. To drop the coverage for an employee whose premium payment is late, the employer must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date.

The general rule is that to avoid being liable for a discrimination suit under Labor Code section 132(a), the employer needs to apply its policies equally across-the-board to employees off work for work-related injuries and to employees off work for non-work-related injuries or disability. To do otherwise risks a finding that the policy is being applied in discriminatory manner against injured workers, which is prohibited by Labor Code section 132(a).

And finally, remember to audit your insurance premium statements each month. It is not uncommon for M&G to hear from a client that they have been paying insurance premiums for an employee who has not worked in over a year!

ERGONOMICS AND THE MOBILE WORKER

Contributed by: Michael Schedler, Loss Control Analyst



Laptops, smartphones, and tablets have become commonplace to meet the work demands of a mobile workforce. Mobile or flexible work locations include the home, hotel, airport, shared and satellite offices, client locations, and vehicles. The number of mobile workers in the U.S. continues to grow and is projected to rise from 96.2 million to 105.4 million over the next five years.[1] Safety concerns include long work hours, mental fatigue, ergonomics, vehicle crashes, and more.

Liberty Mutual Insurance research has shown that, with management supported ergonomic training, workers can change their computing behaviors in ways that positively impact their safety, musculoskeletal and visual health, and performance.[3] Ergonomics is a challenge for mobile workers, as unhealthy ergonomic behaviors can result in back, neck, and wrist pain; headaches; eyestrain; and stress.[4] The following guidelines can benefit your overall health and wellbeing when using mobile technology away from the office.

Ergonomic Principles

Understanding ergonomic risks from using mobile devices such as laptops, smartphones, and tablets while on the road is important to improving your overall safety and wellbeing. The following tips can help avoid discomfort when using mobile devices:

- Reduce keyboard count by keeping messages brief
- Use voice command features to reduce repetition where feasible
- Take short breaks every 20-30 minutes
- Use a bag with wheels to transport laptops
- Maintain upright posture while texting
- Use shortcuts on mobile devices
- Maintain a neutral grip when holding device
- Avoid bending your head down and rounding your shoulders

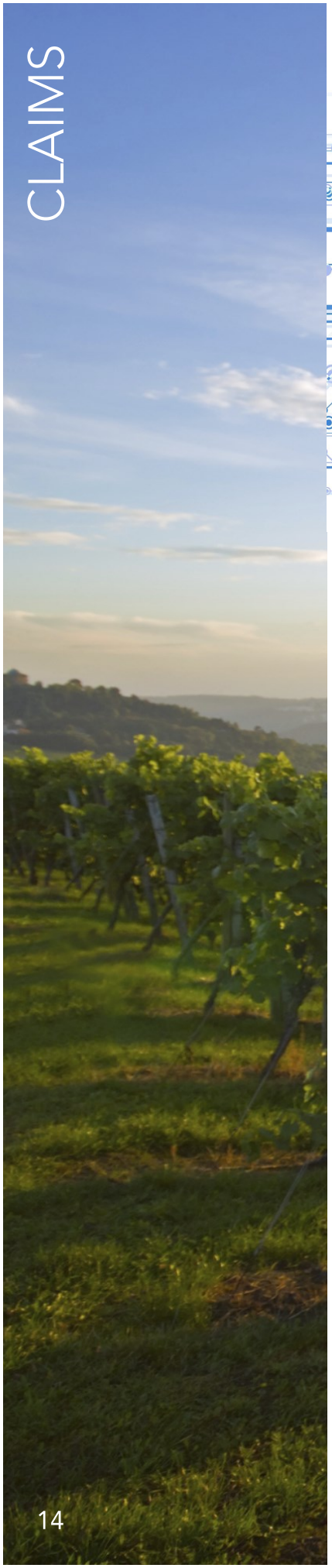
Applying ergonomic principles at home, at work, and on the road is important to your overall safety, health, and well-being. Being aware of risk factors associated with using mobile technology and practicing the above ergonomic principles can help improve your safety over the long term. Report any pain or discomfort to your manager or supervisor immediately and work together on an action plan for improving your ergonomics and safety wherever you work.

Takeaways

- According to the Bureau of Labor Statistics, overall musculoskeletal disorder (MSD) incident rates have stabilized but mobile worker reports of discomfort continues to be a problem.[2]
- Understanding ergonomic risks associated with mobile devices is important for preventing injury.
- Applying sound ergonomic principles while using mobile devices on the road can reduce musculoskeletal pain and discomfort.
- Report MSD symptoms immediately to your manager and develop a joint action plan for improving ergonomics and safety.

1. Business Wire. (June 2015). *IDC forecasts U.S. mobile worker population to surpass 105 million by 2020*. Retrieved from https://www.businesswire.com/
2. U.S. Bureau of Labor Statistics, U.S. Department of Labor. (November 2017). *2016 survey of occupational injuries & illnesses charts package*. Retrieved from https://www.bls.gov/
3. Liberty Mutual Insurance. (2015). *Ergonomic tips for computer workstations and mobile devices, RC 188*. Retrieved from Liberty Mutual SafetyNet.
4. Liberty Mutual Insurance. (2014). *Visual display terminals, RC 186*. Retrieved from Liberty Mutual SafetyNet.

Source: Liberty Mutual Insurance (2018). *Ergonomics and the Mobile Worker.* Retrieved from Liberty Mutual SafetyNet.



BEST PRACTICES: CYBER CLAIMS

Contributed by: Heather Ross, Claims Advocate

Many of us are not experts when it comes to troubleshooting problems with our computers. When something goes wrong, we might try something that worked previously, or we might just try turning the computer off and back on, but for non-techies, the first instinct is often to call IT in order to get back up and running as quickly as possible.

If, however, you work for a business that has purchased cyber liability coverage, you'll want to be mindful that your gut response may not be sufficient to maximize the benefits under your policy. Cyber liability insurance is a relatively new coverage, and we're hearing that many clients are not understanding how to take advantage of all the benefits that are available to them under the policy.

First, it's important to know ahead of time who will be charged with handling a cybersecurity situation, and what resources are available to assist. Many cyber policies include access to a helpline or a breach coach to guide you through the initial response. For some carriers, the cyber claims reporting hotline is not like a typical call center; it's a different phone number, and instead of people who just take down the claim information, they're staffed with professionals who can provide immediate assistance. We recommend that you take the time to look through your policy and make sure you know how to report a claim – even outside of business hours – and that key personnel in your organization have access to this information as well.

Next, once you become aware that an incident or breach has occurred, take steps to determine the extent to which your system has been compromised, and whether any sensitive information may have been breached. Here, your IT department (or outside IT support provider) can be a great resource, but your cyber carrier may also have a forensic team to help determine how serious the breach is, identify whether any sensitive information was compromised, and help with damage control.

While it's critical to identify, quarantine, and secure all affected data and systems, it's equally important not to forge ahead with removing the malware until you've reached out to your cyber carrier for guidance. Otherwise, you may end up erasing crucial evidence that will be needed later, either for the resolution of your own claim, or to address a claim levied by a third party alleging harm due to the breach. Besides, even if your claim ends up being below your deductible, many carriers have contracted rates with service providers, so using carrier-recommended providers may save you money.

In summary, to help maximize your coverage in the event of a data breach: familiarize yourself with your resources, know how to report a claim, and call your cyber liability carrier as soon as you confirm that a breach has occurred. Following these simple steps will not only help you recover as soon as possible after a cybersecurity incident, but will also help minimize your out-of-pocket costs due to the breach.

12 WAYS TO AVOID HOME INSURANCE CLAIMS DURING THE HOLIDAY SEASON

1. **Decorate wisely** by using non-flammable or flame-retardant decorations.
2. **Use candles responsibly** and keep them at least 1 foot away from anything that burns. Be sure to extinguish all candles when leaving a room or before going to sleep.
3. **Keep your tree away from a heat source.**
4. **Prevent theft** by locking your doors and windows, keeping the garage closed, and make note of strangers in your neighborhood.
5. **Protect your pipes** to prevent them from freezing if there is a quick drop in temperature.
6. **Be a responsible party host** and ensure no one is driving after they have been drinking.
7. **Protect your identity** by keeping wallets, passports, smartphones and other sensitive items secure in bags or pockets. Use secure passwords and change them often.
8. **Test your fire and carbon monoxide detectors.**
9. **Inspect and clean your fireplace.**
10. **Practice kitchen safety** since the increased use of stovetops and ovens during holiday preparations can heighten the risk of a home fire.
11. **Don't overload electrical outlets and use proper extension cords.**
12. **Keep pets calm** when guests are over to prevent pet bites or other injuries. As the home/pet owner, you could be liable for resulting medical bills.

MORRIS & GARRITANO INSURANCE

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Please contact us for more information or questions on anything mentioned in this newsletter.

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