SHAWE ROSENTHAL LLP

E-UPDATE

October 28, 2022

RECENT DEVELOPMENTS

The Practical Implications of the DOL's Proposed Independent Contractor Test

Employee or independent contractor? The determination has consequences for various "stakeholders." Unions legally may organize employees, but not independent contractors. Companies must withhold taxes from employee pay; not so with independent contractors, who are responsible for making these payments on their own. The government as a "stakeholder" experiences less "tax leakage" where the relationship is employment. Individuals who wish to have maximum flexibility as to when, where and how they work, such as some people with disabilities or with caregiving responsibilities, may benefit from not having to adhere to the work rules that come with employment status. Employers have a stake too. Get it wrong and they are on the hook for unpaid wages, taxes, liquidated damages and attorneys' fees.

But, what does it mean to be an independent contractor? Or to be misclassified as one? Like the National Labor Relations Board, which has revisited the determination repeatedly over the years and is in the process of reconsidering its test, the U.S. Department of Labor's interpretation has changed from one Presidential administration to the next. And on it goes with the DOL's newest proposed guidance that the very wage-and-hour-savvy Eric Hemmendinger wrote of on October 11, 2022 in an e-lert/blog post.

The DOL proposed rule is, according to the Department, intended to return the inquiry to a "totality of the circumstances" analysis that is generally used by courts in cases examining the issue. The DOL "believes that this approach is the option that would be most beneficial for stakeholders." The DOL states that the focus of this inquiry, and the multiple factors to be considered, ultimately is whether the individual is 'economically dependent' on the employer looking at the situation as a whole, or truly 'in business for themselves.'"

So, let's take a deep dive into the factors that the DOL is proposing, and what they examine:

1. *Opportunity for profit or loss based on managerial skill*. The DOL says the opportunity to make more money by working more hours or taking more jobs normally is **not** the sort of opportunity for profit reflective of managerial skill. Instead, the DOL suggests the following as possibly relevant: "whether the worker determines or can meaningfully negotiate the charge or pay for the work provided; whether the worker accepts or declines jobs or chooses the order and/or time in which the jobs are performed; whether the worker engages in marketing, advertising, or other efforts to expand their business or secure more work; and whether the worker makes decisions to hire others, purchase materials and equipment, and/or rent space."

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2. *Investments by the worker and the employer*. The DOL states that the worker investing in equipment to do the work is **not** a driving force. Instead, the question is whether the overall investments by the worker are made to support their own independent business and serve a business-like function, such as to take on different types or more work, extend market reach or reduce costs. The DOL suggests that another consideration is the worker's investments overall in their business relative to the overall investments by the "employer" (a term used by the DOL throughout the proposed rule; is the DOL telegraphing some bias here?). According to the proposed rule, "The worker's investments need not be equal to the employer's investments, but the worker's investments should support an independent business or serve a business like function for this factor to support independent contractor status."

3. *Degree of Permanence of the Working Relationship.* The DOL offers that relationships that are indefinite or ongoing, often involving exclusive relationships, weigh in favor of employee, **not** independent contractor status. By contrast, relationships that are definite in nature, project based, sporadic, or nonexclusive, look more like independent ones (except where the sporadic nature of work is based on the nature of the business where the work is performed). The DOL concedes that regularly occurring, fixed periods of work may be carried out by independent contractors but adds that this would not be the case if it is due to the seasonal or temporary nature of the work itself.

4. *Nature and Degree of Control.* The DOL describes this factor again using "employer" to describe the company that is using the worker's services, and whether said employer exerts control, including *reserved control*, over the performance and economic aspects of the working relationship. Setting the schedule of work, supervising work (including technological supervision by means of a device or electronically) and demanding exclusivity by the worker in servicing the employer are indicia of control. Reserving the right to discipline the worker or make supervisory visits to a worker may exert control by virtue of the possibility of these outcomes, even when not actually exerted. So too is placing demands on the worker's time that do not allow them to work for others when they choose (even where a contract with the worker allows them to do so). Control over the price for the work and marketing of the worker's service also is relevant. If controlled by the worker, the factor favors independent status but not if by the employer. However, the DOL concedes that imposing standards based on legal obligations, health and safety requirements, or customer or contractual service standards is not control that undermines independent contractor status.

5. *Extent to which the work performed is an integral part of the "employer's" business.* Workers who perform a function that is integral to the business (i.e. critical, necessary or central to the employer's principal business) are more likely to be employees. Those who do not perform such functions are more likely independent.

6. *Skill and Initiative.* The DOL states that this factor focuses on whether the worker uses specialized skill to perform the work, and whether that skill contributes to business-like initiative. By contrast, workers who do not use specialized skills or rely on the employer for training, are engaged in work that looks more like employment. As to what is business-like initiative and what is not, the DOL offers the following examples:

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A highly skilled welder provides welding services for a construction firm. The welder does not make any independent judgments at the job site beyond the decisions necessary to do the work assigned. The welder does not determine the sequence of work, order additional materials, think about bidding the next job, or use those skills to obtain additional jobs, and is told what work to perform and where to do it. In this scenario, the welder, although highly skilled technically, is not using those skills in a manner that evidences business-like initiative. The skill and initiative factor indicates employee status.

A highly skilled welder provides a specialty welding service, such as custom aluminum welding, for a variety of area construction companies. The welder uses these skills for marketing purposes, to generate new business, and to obtain work from multiple companies. The welder is not only technically skilled, but also uses and markets those skills in a manner that evidences business-like initiative. The skill and initiative factor indicates independent contractor status.

The rules proposed by the DOL, which determine how the agency will interpret the statute in enforcing the law and are offered as guidance to courts in cases and people in real world working relationships, are open to interpretation. According to the DOL, they are intended to align with the underlying "expansive" definition of "employee" under the FLSA itself.

The public may comment on the proposed rule, and the DOL has extended its original deadline for the submission of such comments from November 28 to December 13, 2022. Comments may be submitted here. Once the comment period closes, the DOL will consider the comments and may make changes; however, we believe these rules are likely to be adopted in final form without meaningful modification. Employers should prepare for increased scrutiny of any independent contractor relationship and more enforcement actions by the DOL.

The White House's COVID-19 "Playbook" – Preparing Workplaces for Fall and Winter

The White House has issued a "Fall Playbook for Businesses to Manage COVID-19 and Protect Workers," with a list of recommendations for employers to keep their workforces safe in light of the anticipated rise in COVID-19 infections this fall and winter. These recommendations include the following:

1. Help employees access updated COVID-19 vaccines, including by:
   - Partnering with a vaccine provider to host on-site vaccination clinics for flu and COVID-19.
   - Providing information and answering questions about the importance of flu and COVID-19 vaccinations
   - Offering paid time off or other incentives to receive vaccinations

2. Ensure that employees know about COVID-19 treatment options and how to access them. Action items include:
   - Encouraging employees to test if they have COVID-19 symptoms.
   - Making sure employees with COVID-19 know that they should consult a health care provider to determine eligibility for treatments, like Paxlovid.

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- Increasing awareness of valuable resources, like free at-home tests through health insurance and telehealth/virtual care visits.

3. Improve indoor air quality across buildings. Recognizing that masking is on the wane, the White House suggests that employers focus on air quality by taking steps such as:
   - Publicly committing to the Clean Air in Building Challenge – a White House call to action to make air quality improvements to keep building occupants safe.
   - Inspecting ventilation, filtration and air cleaning systems.
   - Using the highest filtration level of air filters possible for the mechanical ventilation system.
   - Using portable air cleaners in areas with limited ventilation or filtration.
   - Running HVAC systems during all hours of occupations, with increased run-time and enhanced settings when COVID-19 Community Levels, as determined by the CDC, are higher.

Employers – Update Your Mandatory EEOC Poster!

The federal Equal Employment Opportunity Commission has released a new "Know Your Rights" poster (dated October 20, 2022) that replaces the prior "EEO is the Law" poster and supplement, which employers with 15 or more employees are required to display in the workplace. The new poster consists of two pages – the first is applicable to all covered employers, while the second page is relevant to federal contractors and entities receiving federal financial assistance. The EEOC also provided FAQs that make the following points:

- Employers have "a reasonable amount of time" in which to replace the old poster with the new one.
- Employers may download the new two-page poster from the EEOC's website.
- With regard to employees with visual disabilities, the poster is available as a PDF that has been optimized for screen readers.
- The poster is available in English and Spanish, with other languages forthcoming.
- It should be placed in a conspicuous location in the workplace where notices to applicants and employees are customarily posted (typically a breakroom or common hallway).

The information is now presented in a much simpler and more straightforward manner, which should be easier to understand.

If the EEOC discovers that an employer has failed to display this mandatory poster, there is a penalty of $610 per violation. So, employers, make sure to get that updated poster up asap!

TAKE NOTE

Another Federal Appellate Court Finds Computer Boot-Up Time May Be Compensable. As we discussed in our October 2021 E-update, the U.S. Court of Appeals for the Tenth Circuit previously found that pre-shift time spent booting up a computer may be compensable work time where the use of the computer is integral and indispensable to the employee's work. And now the Ninth Circuit joins in.

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In *Cadena v. Customer Connexx LLC*, the employees answered customer service calls on unassigned employer-provided computers. After they booted up their computers, which took anywhere from a minute to 20 minutes (depending on the computer's age), they clocked in to the timekeeping system. The employees alleged that they should have been paid for the time booting up and shutting down.

Under the Portal-to-Portal Act, which is an amendment to the Fair Labor Standards Act, activities that are preliminary or postliminary to an employee's principal activities are not compensable. Principal activities include all those that are an "integral and indispensable" to the performance of the productive work that the employee is retained to perform (and not necessarily all the activities required by the employer). In this case, the Ninth Circuit found that "All of the employees' principal duties require the use of a functional computer, so turning on or waking up their computers at the beginning of their shifts is integral and indispensable to their principal activities." Accordingly, such time was compensable.

There are two exceptions to the compensability of such time – if it is too minimal (i.e. *de minimis*) or if the employer did not know and did not have reason to know that the employees were working the extra time. The Ninth Circuit found that these issues had not been addressed by the federal trial court, and sent the case back for further consideration. (Note, however, that the Tenth Circuit had found the *de minimis* doctrine to be inapplicable under strikingly similar circumstances, and it is hard to believe that an employer would not understand that the computer needed to be turned on before logging into the timekeeping system).

The lesson here for employers is that non-exempt employees engaged in computer-based work should be paid for the time spent turning on and booting up the computer, in preparation for their work.

Employees Cannot Dictate Their Employer's Investigation. The U.S. Court of Appeals for the Sixth Circuit rejected an employee's claim that her employer conducted an inadequate investigation into her harassment complaint – even though the harassment stopped – because it did not handle it as she thought it should have been handled.

The employee's argument combines several aspects of Title VII's prohibition on sex discrimination. An employer will be liable under Title VII for co-worker harassment if its response shows indifference or is unreasonable. A failure to investigate, for example, will result in employer liability. Conversely, there is no liability if the employer does prevent further harassment. In addition, Title VII prohibits disparate treatment in the terms and conditions of employment on the basis of sex.

In *Garcia v. Beaumont Health Royal Oak Hospital*, a female employee who complained of harassment by a female coworker argued that her employer conducted an inadequate investigation, because it would have handled her complaint differently if she had complained about a male co-worker. Here, although the employer's investigation did not substantiate the complaint, it still warned the coworker against any inappropriate conduct, did not schedule the two to work together again, and directed the employee to report any further incidents (of which there were none).

The Sixth Circuit rejected this "novel" claim that "an employer's dealings with a coworker, even when that coworker has ceased all harassment, can constitute an adverse employment action against another employee." Because there were no further incidents of harassment, the Sixth Circuit found

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both the employer's response to be reasonable and that the employee's terms and conditions of employment had not been adversely affected. As the Sixth Circuit summed up, "Title VII affords [the employee] no right to dictate her employer's dealings with a coworker who is no longer harassing her."

Although it is reassuring that an employer's investigation will not be controlled by the employee's wishes or expectations, employers should still be mindful that their response to a harassment complaint must be prompt, thoughtful, and appropriately calculated to stop any harassment.

Be Consistent In Enforcing Those E-Mail Policies. E-mail policies have been a topic of intense scrutiny by the National Labor Relations Board. Although employers are permitted to implement policies that prohibit non-business use, such policies must be enforced consistently, as the NLRB reiterated in a recent case applicable to unionized and non-unionized employers alike.

In *T-Mobile USA, Inc.*, the employer had policies prohibiting the use of facility-wide email distribution lists. A customer service representative (CSR) emailed all the other CSRs to urge them to join the union, to contact her outside of working hours with any questions, and to attend a union event the next night. The company then notified employees, for the first time, that they were not permitted to send mass communications for any non-business purpose, among other things. The employee was also told that she could not send union-related emails to employees' work addresses, and her email violated the company's email policy.

The NLRB found, however, that the employer violated the employee's rights under Section 8 of the National Labor Relations Act to engage in concerted activity for employees' mutual aid or protection, as it had not enforced the email policy consistently. Rather, it had allowed other nonsupervisory employees to send or reply to facility-wide personal emails, and had also sent its own mass, non-business-related emails. The NLRB further found that the employer had violated the Act by issuing its mass communication rule in response to the employee's protected activity of sending the initial email about the union.

The lesson for employers is to be careful and consistent in enforcing email and other communications policies – particularly given the pro-unionization bent of the current Board.

Inconsistent Explanations Dooms Employer's Defense Against Race Discrimination Claim. In reversing a federal trial court's decision in favor of the employer on an employee's reverse race discrimination claim, the U.S. Court of Appeals for the Seventh Circuit noted that the employer "told two incompatible stories about both how and why" it made the promotion decision at issue.

In *Runkel v. City of Springfield*, the employer selected a Black candidate for a position, and a white employee alleged that she was denied the promotion based on her race. In defending against the charge of discrimination that the employee filed with the Equal Employment Opportunity Commission, the City asserted that the selected individual had more education, seniority and professionalism. However, the decisionmaker (the mayor) also asserted that he did not compare the successful candidate to anyone else, and publicly stated that his hiring of a Black woman was an example of how his administration was "moving toward reflecting the city's demographics." Moreover, before offering the job to the successful Black candidate, he offered the job to another Black candidate, who declined the position.

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The Seventh Circuit noted that the employer's "different stories for the hiring appear inconsistent as to both the procedure used (was there a comparison of candidates or not?) and the substantive reasons for the hiring (was race part of the decision?)." Added to the mayor's race-related comments about the hire, the Seventh Circuit found that the inconsistencies could allow a jury to find that the City's explanations were pretext for intentional race discrimination in violation of Title VII.

It is important for employers to remember, even with the heightened focus on diversity, equity and inclusion in the workplace, that employment decisions should not be based on race (absent very rare and legally constrained circumstances). It is also important to be able to identify objective, non-discriminatory criteria for hiring selections and to be able to clearly and consistently articulate those criteria both during and after the hiring process.

NLRB General Counsel Pushes for Interim Settlements in Lieu of Injunctive Relief. The General Counsel of the National Labor Relations Board has issued a memorandum directing NLRB staff attorneys to pursue settlements of unfair labor practice claims in place of seeking court-ordered injunctive relief, for the stated purpose of better focusing the agency's resources.

While the merits of an unfair labor practice claim are being litigated before the NLRB, Section 10(j) of the National Labor Relations Act enables the NLRB field staff to request a federal district court to issue temporary (or interim) injunctions to remedy the allegedly unfair labor practice and protect employee rights. The memo states that, now, employers will be given the opportunity to voluntarily agree to an interim agreement on remedies before court-ordered injunctive relief is sought. The hope is that this will increase voluntary agreements and avoid district court litigation. It is rather unclear, however, whether employers will welcome this opportunity to agree to relief regarding a matter in which it is still disputing the merits of the claim.

This memo follows a prior announcement by the General Counsel to expand the use of injunctive relief against employers in the context of union organizing campaigns, as we discussed in our February 2022 E-Update. Employers should be prepared to face continued aggressive enforcement activity from the Biden NLRB and its GC.

The Rare Case Where the "N" Word Did Not Create a Hostile Work Environment. (This case summary comes with the warning: "Don't try this at in your workplace.") As we have previously discussed (in our September 2022 E-Update and March 2022 E-Update, for example), courts are quick to find that the single use of the "N" word in the workplace can create a hostile work environment under Title VII. But a recent case bucked that trend – although based on circumstances that were very specific to the situation.

In *Scaife v. United States Dept. of Veterans Affairs*, an African American employee sued her employer for hostile work environment harassment, based in part on a department lead's calling her the "N" word outside her presence. In order to create a hostile work environment under Title VII, the conduct at issue must be sufficiently severe or pervasive. As a general matter, courts have found that the single use of the "N" word meets that standard.

In this case, while acknowledging that the "N" word is "an egregious racial epithet" and that "a one-time use of the epithet can in some circumstances warrant Title VII liability," the U.S. Court of Appeals for the Seventh Circuit did not find such circumstances to exist here. Rather, because the

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employee heard about the slur from a co-worker, the Seventh Circuit stated that "Although racial epithets do not always have to be stated directly to a plaintiff to create an objectively hostile work environment, remarks that are stated directly to the plaintiff weigh heavier than when a plaintiff hears them secondhand." Additionally, the employee heard about the slur months after it was made. Moreover, the individual making the slur, although a high-ranking department lead, did not have direct supervisory authority over the employee. And the Seventh Circuit also dismissed the department lead's history of racial insensitivity, noting that, "While of course relevant, 'second-hand harassment' is not as great as the impact of harassment directed at [the employee] herself."

While the employer in this case avoided hostile environment liability, we nonetheless warn employers that they should never tolerate such language in the workplace.

NEWS AND EVENTS

Publication – Chambers' 2022 Regional Employment Practice Guide, for which Shawe Rosenthal authored the Maryland Chapter, has been released. A pdf of the chapter is available here. Chambers & Partners is a prominent London-based research and publishing organization that ranks law firms and lawyers based upon their reputation among peers and clients. It also publishes global practice guides providing clients with expert legal commentary on the main practice areas in key jurisdictions around the world.

Publication – On behalf of Lexology (a global resource of legal updates, analysis and insights), our firm authored the Maryland chapter of the "Employment: North America" Guide (Lexology PRO subscription required). A pdf of the chapter is available here.

Webinar – Teresa D. Teare will be featured as a speaker for "Effective Summary Judgment Practice in Federal Court," a free webinar sponsored by the Maryland Chapter of the Federal Bar Association and the Metropolitan Washington Employment Lawyers Association on November 17, 2022, from 12:00-1:30 p.m. Teresa, along with the Honorable Theodore D. Chuang, the Honorable Pamela A. Harris, and plaintiff's-side attorney Pooja Shethji, will share best practices on this topic. You may register for this webinar here.

Victory - Darryl G. McCallum won a motion to dismiss in a federal age discrimination and retaliation case brought by a former employee against a public school system asserting both individual claims and a collective action on behalf of a purposed class of unsuccessful job applicants.

Honor – Fiona W. Ong has once again been recognized by Lexology as its "Legal Influencer" for U.S. – Employment, most recently for Q3 2022. Lexology publishes in excess of 500 legal articles daily from more than 900+ leading law firms and service providers worldwide. Lexology instituted its quarterly "Lexology Content Marketing Awards" in 2018 to recognize one individual within each practice area in each region of the world for consistently providing useful, insightful legal analysis. This is the fourteenth consecutive quarter and fifteenth time overall that Fiona has received this honor.

Leadership – Parker E. Thoeni has been appointed as co-chair of the Trade Secrets subcommittee of the Business Torts and Unfair Competition Committee of the Litigation Section of the American Bar Association.

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Media – Fiona W. Ong was quoted in an October 26, 2022 Law360.com article by Anne Cullen, "Offensive Music at Work Can Mean Headaches For Employers." (Subscription required to access article).

Presentation – Lindsey A. White and Chad M. Horton presented on "The Use of AI in Employment Decisions: Practical Considerations for Employers" for the October 2022 meeting of the Baltimore chapter of the Association of Corporate Council.

Media – Fiona W. Ong was quoted in an October 25, 2022 Law360.com article by Anne Cullen, "How To Help With Panic Attacks As Workplace Anxiety Surges." (Subscription required to access article).

Podcast – Parker E. Thoeni was featured in an episode of the podcast, Latte with a Lawyer, which features the stories of attorneys and their strategies and tactics for making an impact in their profession. You can listen to the podcast here.

Presentation – On October 20, 2022, Fiona W. Ong led a panel discussion on "Effective Mediation Strategies" at the annual conference of the American Employment Law Council, an invitation-only, international organization of leading labor and employment attorneys practicing on the management side.

TOP TIP: A New (Mandatory?) Retirement Savings Benefit for Maryland Employees

Employers of Maryland employees recently may have received various notices regarding a new state program – MarylandSaves. While employers tend to view "mandatory" (more on that later) government programs with some skepticism, this program is intended to benefit Maryland employers and their employees by encouraging saving for retirement and providing an easy-to-use retirement savings option for those employers who do not already have one – at no cost to and with minimal effort from the employer.

MarylandSaves has a website that includes helpful FAQs for employers, along with guides and other resources, as well as a registration portal. There is also a helpline: 1-833-811-7437 . We summarize some of the most significant information from the FAQs here, along with additional guidance that we obtained from the Executive Director of MarylandSaves, Glenn Simmons.

"Mandatory" Participation for Covered Employers. The law that created this program requires all entities engaging in business in Maryland that meet the following criteria to participate in this program:

- They have been in operation for at least 2 calendar years
- They have at least one W-2 employee
- They do not provide a retirement savings option to their employees, and did not provide one within the past two calendar years
- They use an automated payroll system

If the employer participates in the program or has an employer-sponsored retirement plan (even if the plan does not cover all employees), its annual state business filing fee (required by corporate

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law) will be waived. Notably, although the law "mandates" participation by covered employers, the only penalty for failing to participate is that the filing fee will not be waived.

In order to receive the business filing fee waiver, employers should use the MarylandSaves portal to register or to certify that they offer another qualified plan. MarylandSaves will provide the list of business that qualify for the waiver to the State Department of Assessment and Taxation (SDAT) by December 1.

There is no cost to the employer, and employers do not contribute to the program. They also should not advise employees on their MarylandSaves account – rather, questions should be referred to the program or the employee's financial/tax advisor.

Who Is a Covered Employee? Technically, all employees of a covered employer are eligible to participate except the following:

- Employees "engaged in interstate commerce such that they are beyond the legislative reach of the state." We interpret this as being designed to prevent conflict with the Constitutional authority of the federal government to regulate interstate commerce. That prevents inconsistent legislation from one State being applied in another State.
- Employees covered under the Federal Railway Labor Act.
- Employees who are already eligible to participate in a qualifying retirement plan.
- Employees who are covered by a valid collective bargaining agreement providing for a multi-employer retirement plan.
- Employees who are under 18 years old at the beginning of the calendar year.

In an attempt to simplify, the FAQs state that employees whose employment is based in Maryland or who have income in Maryland are eligible for the program – including employees living in other states. Frankly, that is not an entirely helpful definition, and does not address the interstate commerce exception above. However, we sought further clarification from Executive Director Simmons, who confirmed that a reasonable approach to meeting this definition would be to use the list of employees who are counted for purposes of Maryland unemployment insurance coverage and eligible to receive Maryland UI benefits.

Covered Employees – Automatic Enrollment and Opting Out. Covered employees must be automatically enrolled in the program. Initially, the employer will use the registration portal to provide their list of covered employees to the program – a process that reportedly takes about 15-20 minutes. For employees who are hired after the employer's initial registration, Executive Director Simmons acknowledged that employers who utilize probationary or introductory periods could wait until the end of the period before enrolling those new employees.

Once the employee is enrolled, the program will notify them of their enrollment and that they have 30 days in which to opt out of the program. Employees may also opt out of or re-enroll in the program at any time.

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If they do not opt out, automatic contributions will be made by payroll deduction. The amount of the contribution will be set at a default amount unless the employee specifies otherwise. The employer must update their payroll processing to include the employee's contribution and any subsequent changes of which they are notified by the program (e.g. if the employee later opts out or changes their contribution amount).

Deadline for Compliance? There is no technical deadline by which covered employers must comply, although Executive Director Simmons states that they would like employers to enroll their employees as soon as possible.

RECENT BLOG POSTS

Please take a moment to enjoy our recent blog posts at laboremploymentreport.com:

- Can Rap Music in the Workplace Create a Hostile Work Environment? by Evan Conder, October 27, 2022
- Bostock v. Clayton County: The Epilogue… and What It Means for Employers (for Now) by Fiona Ong, October 21, 2022
- Department of Labor Proposes Independent Contractor Interpretation by Eric Hemmendinger, October 11, 2022
- In Precedent-Shifting Decision, NLRB Says Dues Checkoff Survives CBA Expiration by Chad M. Horton, October 6, 2022
- Employers, Are You Regarding Those Socially Awkward Employees as Disabled? by Fiona Ong, September 30, 2022

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