

# 2011 HUMAN RESOURCES UPDATES

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# Snapshot— New Employment Laws in 2011

Many new employment laws will be going into effect in 2011. Here are just a few highlights of which you should be aware:

## **Revised ADA Regulations**

The Americans with Disabilities Act has been expanded once again. The rule will become effective on March 15, 2011. On March 15, 2012, compliance with the 2010 Standards will be required for new construction and alterations. In the period between September 15, 2010 and March 15, 2012, covered entities may choose between the 1991 Standards, the Uniform Federal Accessibility Standards (UFAS), and the 2010 Standards. Covered entities that should have complied with the 1991 Standards or the UFAS during any new construction or alteration of facilities or elements, but have not done so by March 15, 2012, must comply with the 2010 Standards.

### **Architectural Regulations**

- Restrooms must now be designed with side access to toilets, not just front access, as is the current law
- “Reach range” requirements now require that side reach range must be no higher than 48 inches (instead of 54 inches) and no lower than 15 inches (instead of 9 inches)

### **Mobility Devices**

- Wheelchairs must have access to all areas open to pedestrian use
- Other power-driven mobility devices (such as Segways) must be permitted unless it can be demonstrated that their use would fundamentally impact business programs, services or activities

### **Service Animals**

- New regulations define a service animal specifically as a dog individually trained to work or perform tasks that mitigate the effects of a disability
- In addition, trained miniature horses may be used as service animals, subject to certain limitations



## **New Heat Illness Regulations**

The Office of Administrative Law approved revised heat illness regulations. The standards apply to all outdoor places of employment. High Heat procedures apply specifically to employers in the following industries: agriculture, construction, landscaping, oil and gas extraction, and transportation or delivery of agricultural products, construction materials or other heavy materials.

The revised standards specify that shade may be provided by any natural or artificial means that does not expose employees to unsafe or unhealthy conditions and requires employers to provide shade whenever the outdoor temperature exceeds 85 degrees Fahrenheit.

Additional standards apply whenever the temperature equals or exceeds 95 degrees Fahrenheit.

## **New Laws Affecting California Employers in 2011**

The California legislature has passed several bills which were signed into law and take effect January 1, 2011. The following have a direct impact on employers while others pertain to unemployment and other administrative matters.

### **Organ Donation Leave**

California lawmakers have added a new leave entitlement for qualified private sector employees who volunteer to donate an organ or bone marrow. As an incentive to encourage people to save lives, the legislature provides that employees who participate will receive generous leave rights, including paid time off. Eligible employees can take leaves of absence with pay for up to 30 days for organ donation or up to 5 days for bone marrow donation. Employers may require use of vacation, sick and/or PTO under specific limitations. Under the new law, employees returning from organ or bone marrow donation leave must be returned to the same position they held when the leave began or to an equivalent position.

This leave will not run concurrently with FMLA or CFRA. The employer must continue paying for health benefits during the leave, and it does not constitute a break in service for purposes of seniority, vacation accrual, salary or other benefits of employment. Employers may not interfere with the leave or retaliate against an employee who takes leave.

### **Meal Period Exemption**

AB 569 provides a limited exemption from California's meal period requirement to construction employees, security officers in the security services industry, commercial truck drivers and employees of electrical and gas corporations and local publicly owned electric utilities if the employees are covered by a valid collective bargaining agreement which expressly provides meal periods for those employees.

# Staying Up-to-Date with the New Health Care Reform Law

## 2010 - 2012

The health care reform act went into law in March, 2010. Here is a snapshot of what went into effect this past year, and what you can expect in the coming years:

### 2010

- Dependent coverage for adult children, to age 26
- No lifetime coverage limits
- 100% coverage for preventive services in network
- No pre-existing condition exclusions for children

### 2011

- No pre-tax reimbursements from health account for non-prescribed, over-the-counter medication
- Reporting value of employer-sponsored coverage on W-2s
- Auto enrollment in new long term care program available, with employees able to opt out

### 2012

- Uniform explanation of coverage
- Pre-enrollment document sent explaining benefits and exclusions
- 60-day notice for material modifications, if not provided in uniform explanation of coverage
- 20% tax for nonqualified HSA (Health savings accounts) withdrawals

The health care reform act went into law in March, 2010.

Type of plan	Does the law apply?	Details
Self-funded ERISA plans	Yes	Certain provisions do not apply, including the medical loss ratio provision
Insured group health plans, including HMOs, subject to ERISA	Yes	
Collectively bargained ERISA plans (fully insured and self funded)	Yes	Provisions applicable to grandfathered plans also apply to a grandfathered collectively bargained agreement plan ratified before 3/23/10, both before and after the plan terminates.  After termination of the agreement, if the plan loses grandfathered status, all health care reform provisions apply. If no changes are made between termination and renewal, health care reform would apply to first renewal after termination (and after loss of grandfathered status).
Church plans (fully insured and self-funded)	Yes	
Self-funded state and local government plans (including public school plans)	Yes	Self-funded, non-ERISA, non-federal government plans are not permitted to opt out of the new insurance market reforms.
Insured state and local government plans	Yes	Subject to the law because the health insurance issuer underwriting the plan is subject to it.
Medigap and Medicare Supplement plans	No	
Retiree-only plans (fully insured and ASO)	No	Health care reform will not be enforced for retiree-only plans. This exclusion is based on language saying that plans covering fewer than two current employees are exempt from certain federal laws, such as health care reform. By definition, retiree-only plans only cover retirees and sometimes dependents, so there can be no current employees in the plan.  States are encouraged to adopt a similar position, but states may make a different interpretation for issuers of retiree-only plans and non-federal government-only plans.
Individual health plans	Yes	
Pharmacy	Yes	Subject to the law because pharmacy benefits are not HIPAA exempted.
Vision and dental	Yes (if not HIPAA exempted)  No (if HIPAA exempted)	Dental and vision are not subject to the law if they meet the definition of a HIPAA exempted benefit.
Exempted benefits - disability and life	No	Not subject to the law.
Health savings accounts (HSAs)	Yes (provisions specific to HSAs)  No (other provisions)	The actual HSAs are not ERISA plans, so they are exempt from the law except certain provisions specific to HSAs, such as qualifying mid-year events and penalty charges.  The actual high-deductible health plan is subject to the law, including the mandate for preventive services.
Health reimbursement accounts (HRAs)	Yes	Subject to ERISA so subject to the law.
Executive medical plans	Yes	These plans must comply with the same provisions as all grandfathered plans. Also, these plans cannot be offered only to highly compensated individuals. The group is responsible for complying.

# 2011 Payroll and Tax Updates

## 1. Employers Beware: New Quarterly Return Requirements

A new law that takes effect January 1, 2011, requires employers to file returns with the EDD regarding an employee's wages, contributions, taxes withheld and other required information quarterly instead of annually.

Employers must use new forms for these revised reporting requirements:

- Report total subject wages, Unemployment Insurance (UI) and Disability Insurance (DI) taxable wages and contributions, by filing a New Quarterly Contribution Return and Report of Wages (DE 9) quarterly instead of annually
- Continue to report employee wages and personal income tax withheld quarterly on the New Quarterly Contribution Return and Report of Wages (Continuation) (DE 9C)

These forms will replace the Annual Reconciliation Statement (DE 7) and the Quarterly Wage and Withholding Report (DE 6) except for years prior to 2011. Registered employers will receive the new forms automatically by mail. They will also be available online and at local EDD offices in December 2010. The DE 6 and DE 7 will continue to be available online for years prior to 2011.

## 2. No W-2 Reporting Requirements Under PPACA for 2011

The Patient Protection and Affordable Care Act (PPACA) included a provision requiring employers to report the value of individual health insurance benefits on their W-2. The requirement was to begin for W-2's issued on or after January 1, 2012, for 2011 wages. The IRS has issued a notice informing employers that it will not enforce the W-2 reporting requirement in 2011. The notice states that reporting the value of coverage on employee W-2's "will not be mandatory for Forms W-2 issued for 2011." The IRS has not issued additional guidance regarding the commencement of this requirement. We will update our clients when the new reporting date has been issued.

## 3. Please note that form W-11 expires on 12/31/10 and cannot be used in 2011.

## 2011 Tax Limits and Guidelines

### FEDERAL

#### **FICA (Social Security)**

Maximum Taxable Earnings	\$106,800
Employer 2011 Withholding Percent	6.2%
Employer 2011 Maximum Withholding	\$6,621.60 (No change from 2010)
Employee 2011 Withholding Percent	4.2%
Employee 2011 Maximum Withholding	\$4,485.60 (\$2136 less than 2010)

#### **FICA (Medicare)**

Maximum Taxable Earnings	No Limit
Employer/Employee 2011 Withholding Percentage	1.45%
Employer/Employee 2011 Maximum Withholding	No Limit (No change from 2010)

### **SUPPLEMENTAL WAGES**

Rate (flat rate withholding method)	25%
Over \$1 million	35%
	(No change from 2010)

### **401(k) PLAN DEFERRAL LIMITATIONS**

Elective Deferrals	\$16,500
401(k) Catch-Up Contribution Deferrals	\$5,500 (No change from 2010)

### **HSA PLAN DEFERRAL LIMITATIONS**

Individual Maximum Contribution (Includes Employer Contribution)	\$3,050 (No change from 2010)
Family Maximum Contribution (Includes Employer Contribution)	\$6,150 (No change from 2010)
Catch Up Contributions (55+ years old)	\$1,000 (No change from 2010)

### CALIFORNIA ONLY

#### **SUPPLEMENTAL WAGE WITHHOLDINGS**

Bonuses & Earnings from Stock Options	10.23% (No change from 2010)
Other Supplemental Earnings	6.60% (No change from 2010)

#### Regular Withholding

Individual income tax rates decrease by .25% effective January 1, 2011. The rates were previously increased by .25% beginning January 1, 2009. A 2011 Tax Rate Table is available upon request.

#### **DISABILITY INSURANCE (Employee Paid)**

Maximum 2011 Wages Subject to Withholding	\$93,316 (No change from 2010)
Employee 2011 Withholding Percentage	1.2% (Up .1% from 2010)
Employee 2011 Maximum Deduction	\$1,119.79 (Up from \$1,026.48 in 2010)

# Staying Educated, Staying Informed: Complimentary Training Webinars

Learning has become a strategic component of a successful business. A 2008 SHRM survey found that training and development are among the top three critical HR functional areas that contributed to organizations' business strategies. As the economy, employment laws, employee benefits and safety regulations constantly evolve, it is crucial to stay on top of the law and current employment trends.

Further, an intelligent, well-trained workforce is central to worker productivity and key to a company's success. Reduced turnover, fewer workplace accidents and increased performance and productivity are all directly linked to employee training. Successful companies embrace training as a central part of their philosophy.

CPEhr offers complimentary monthly training webinars on a wide range of HR topics. We encourage you to join us! (topics subject to change)

**January** – Understanding Health Care Reform

**February** – Effective Recruiting

**March** – Motivating Employees

**April** – Social Media in the Workplace

**May** – 2011 Labor Law Updates

**June** – Email Etiquette

**July** – Heat Training

**August** – Advanced Workers' Comp

**September** – Current Human Resources Policies

**October** – Defining the Professional Workplace

**November** – Payroll & Year-End Tax Updates

**December** – Team Dynamics

For more information, visit [www.cpehr.com](http://www.cpehr.com)



**Fast Fact: The *SHRM Workplace Forecast* released in 2008 found that 53% of organizations surveyed are increasing or planning to increase overall spending on learning and training initiatives in response to economic and employment trends.**

# Recruiting and Interviewing Tips for a Rebounding Economy

The improving economy should lead to increased levels of hiring. That said, even businesses that need to increase headcount may be concerned about the lasting effects of the recession... a post-traumatic stress of sorts. On the one hand, they are concerned that money being spent on new hire packages and compensation has yet to be earned, while they are still struggling financially. On the other hand, as the need for new sales, service or product development increases, they will have no choice but to hire. Recruiters and hiring managers will also feel the stress, going from “not really busy” to “extremely busy.”

To minimize the stress and ease the process of rebuilding your workforce, consider the following guidelines:

## Recruiting

- 1. Define your needs.** A job description will help you define the level of knowledge, skills and abilities that you are looking for in a candidate.
- 2. Change your perspective.** Don't view the number of resumes as something intimidating. Instead, try to consider it as a treat that there are so many capable candidates who are willing and want to work.
- 3. Don't look at resumes as they enter your inbox.** Wait until you receive the bulk of resumes (typically the first two weeks of the job posting) and set aside a block of time in which to go through them all.
- 4. Post job openings in a reputable place.** Only post openings on sites that were created specifically for employers looking for candidates and for job seekers searching for employment. With this approach, you'll tend to receive more serious inquiries.

## Interviewing

- 1. Evaluate interview criteria.** This should be based solely on job-related criteria. Does the candidate possess the skills as defined in the job description?
- 2. Know the laws.** There are many federal, state and local laws that you should know before interviewing a candidate.
- 3. Think for the future.** Remember, the employees you hire today are the leaders that you will employ tomorrow. Select the candidate with this long-term perspective in mind.

By taking a slow, strategic approach to hiring, you will be on your way to rebuilding your workforce with the most eligible and valuable candidates on the market.



The strengthening economy means more employers will be looking to hire new staff.

# Risk Management—Four Ways to Improve Workplace Safety

The Workers' Compensation Insurance Rating Bureau (WCIRB) has recently requested a substantial increase in workers' compensation rates. In order to help contain workers' compensation insurance costs, it is vital that employers focus on injury prevention and workplace safety. Here are some tips that can be used to help keep employees safe and workers' compensation costs down:



## **1. Implement an Injury and Illness Prevention Program (IIPP)**

Not only is an IIPP a necessity for regulatory compliance\*, an effective IIPP will also help to control injuries and associated costs. Your IIPP should address key items including authority and responsibility for the safety program, employee compliance, communication with employees, hazard assessment and correction, accident investigation, safety training and recordkeeping.

\*All California employers are required by Cal/OSHA to have an Injury and Illness Prevention Program in place. Federal OSHA is currently considering a similar requirement.

## **2. Make Safety Everyone's Job**

While it is necessary to designate specific individuals to administer the IIPP, it is also important to emphasize the company-wide shared responsibility for safety. In order for an IIPP to be effective, everyone from top management to supervisors and employees must buy in to and support the program. Make sure that managers and supervisors are adequately trained regarding company safety policies so that they can help to enforce these policies with their employees. Involve employees in the safety program, encouraging them to make safety suggestions and assist with hazard identification surveys and job hazard analysis. This creates a sense of employee ownership of workplace safety issues. Also consider incorporating safety into performance evaluations and bonus programs.

## **3. Consider a Safety Incentive Program**

When done right, an incentive program can be a valuable addition to the company's overall safety program. Be wary of programs that discourage injury reporting; instead, try implementing a program that uses positive reinforcement, rewarding employees for contributing to workplace safety by making safety suggestions, following safe work practices and assisting with hazard identification efforts.

## **4. Schedule a Safety "Checkup"**

Contact a CPEhr Risk Management representative in order to schedule a workplace safety evaluation. Proactive measures will go far in your efforts to minimize risks and preempt injuries from occurring.

# Managing in the Age of Social Media

Despite a 35 percent increase in social media consumption to nearly 6 hours per week, more than half of businesses worldwide have no social media policy or are unsure if they do, a new survey finds.

Nearly 3,000 people working in HR, IT and finance positions around the globe were interviewed for the survey conducted by Toolbox.com. The study found that although social media policies were scarce in many companies, 46 percent of HR respondents said their workplaces make it “easy” or “very easy” to use social media while working.

Social networking is no longer used just to share photos and videos, or for chatting. Companies are using Facebook, LinkedIn, Twitter and other social web sites for recruiting, branding and customer contact. Legal experts say that employers need to be cautious about how they phrase social media policies before they implement them.

In a recent case, the National Labor Relations Board (NLRB) has challenged the termination of a woman after she posted negative comments about her supervisor on her Facebook page. The company said it terminated the woman because the postings violated the company’s Internet policies. The NLRB said the employee’s Facebook postings were protected activity under federal labor law because the postings were attributed to her having been denied representation from her union.

Some legal experts say that employers who have adopted Internet policies to protect their companies from disparagement and legal problems arising from employee postings might need to review those policies carefully in light of recent developments. Employers might need to include new disclaimers or otherwise scale back policies that appear likely to be construed as interfering with employee rights.

If you need assistance in creating or reviewing your Social Media policy, please contact a CPEhr Human Resources Consultant.

Source: SHRM

**Fact: HR professionals spend an average of 6.02 hours per week engaging with social media content, compared to 3.89 with editorial content and 3.1 with vendor content.**

## About Us

CPEhr is one of the oldest privately held Human Resources Outsourcing and PEO firms in California. Our longevity, coupled with the flexibility afforded to a privately held corporation, enables CPEhr to provide customized services, with the back-end support of a large corporation.

We are proud of our customer service and personalized client relationships. We service a full range of industries and client sizes from 2 to 20,000 employees. With a 90 percent retention rate, our corporate staff is dedicated to our company and clients. CPEhr has a flat hierarchy making our executive team always available to you.

Services include:

- HR Compliance
- Employment Administration
- Employee Benefits
- Risk Management
- Payroll and Tax
- Training
- Recruiting

# CPEhr

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