



New York State Department of Labor
David A. Paterson, Governor
M. Patricia Smith, Commissioner

November 30, 2009

[REDACTED]

Re: Request for Opinion
Workers' Compensation
RO-09-0162

Dear [REDACTED],

This letter is written in response to your letter dated November 13, 2009 in which you request an opinion regarding an employer's obligations to an employee who returns to work after taking Workers' Compensation leave due to an on-the-job injury. Unfortunately, since a substantive response to your letter would require an interpretation of laws other than the New York State Labor Law, it would be inappropriate for the New York State Department of Labor to render such an opinion. Insofar as your question appears to be related to the New York State Workers' Compensation Law, please direct your inquiry to the New York State Workers' Compensation Board at the following address:

NYS Workers' Compensation Board
Counsel's Office
20 Park Street
Albany, NY 12207

The Federal Family Medical Leave Act may be relevant to your inquiry depending on the circumstances of the leave the individual took from [REDACTED]. As such, I suggest you contact the U.S. Department of Labor at the following address to ensure compliance with that and other federal labor laws:

Albany District Office
US Dept. of Labor
ESA Wage & Hour Division
Leo W. O'Brien Federal Building
Room 822
Albany, NY 12207

Tel: (518) 457-4380, Fax: (518) 485-1819
W. Averell Harriman State Office Campus, Bldg. 12, Room 509, Albany, NY 12240

Additionally, please be advised that employers are required by Article 6 of the New York State Labor Law, as interpreted by this Department, to notify their employees of any changes in their rate of pay or pay days prior to the time of such changes. (See, NY Labor Law §§193; 195.) Furthermore, since your question may relate to your company policy on employee leave time, please be advised that Labor Law §195(5) requires that employers notify their employees in writing or by publicly posting the employer's policy on sick leave, vacation, personal leave, holidays, and hours. Such a policy is enforceable upon employers through Labor Law §198-c, which requires that employers abide by the terms of agreements and policies to provide benefits or wage supplements. (See, *Glenville Gage Co. v. Industrial Bd. of Appeals of New York, Dep't of Labor*, 70 A.D.2d 283 (3rd Dep't 1979).)

I hope this information and the additional contact information I have provided will prove helpful. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Maria L. Colavito, Counsel

By:



Jeffrey G. Shapiro
Associate Attorney

JGS:mp