

OurERC A Local Business Newsletter

Powered by Employer's Resources of Colorado



Please join us for our July Lunch & Learn on Thursday, July 20th from 11am – 1pm. This lunch and learn will be in regards to **“Unemployment Benefits – How Does it Affect You as an Employer.”** We will discuss topics on how to prepare, necessary documentation, and the process.

The lunch and learn is limited to 12 attendees. Sandwiches/Salads will be provided. – please provide any dietary restrictions with your sign-up!

To register for this event, please email Laurie at lloaden@erccolorado.com or call our office at 719-448-9009.

Check Cashing and Certegy

Occasionally ERC receives complaints regarding paper checks cannot be cashed at Walmart. This is not an error on ERC's part. This is due to the check cashing services they use called "Certegy." According to consumeraffaris.com, Certegy has a one star overall satisfaction rating with over 550 reviews. This issue is not specific to Walmart; there have also been Certegy issues in connection with stores such as the Dollar Store and Target. ERC recommends that checks be cashed at banks in order to ensure that the process goes through. If an

employee does not have a bank they can cash the check at any UMB location for a small fee. Another solution is to sign up for a rapid! Paycard. These cards can be used just like a debit card, but they are not connected to a bank. They come with a routing number and account number so the funds can be used as if they are linked to a bank account. The rapid! Paycards are free of charge and are a safe and efficient way to receive funds similar to a direct deposit. Please talk to your payroll specialist if you have specific concerns regarding check cashing or would like to inquire about the rapid!



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6 Common Management Mistakes

What do employment attorneys see as the common thread that lands well-meaning employers in court time and time again? Costly mistakes by their front-line managers.

To safeguard your firm from these five common **manager blunders** cited by attorneys, have HR meet with all front-line managers and supervisors and remind them to avoid:

The Big 6

1. **Sloppy documentation.** **Managers' documentation** should never, ever seem subjective. It should always be written as if it could wind up in a jury's hands.
2. **Inflated appraisals.** Many managers avoid difficult conversations by inflating the performance ratings of employees. This can make it impossible to justify a discipline decision in court.
3. **Applying policies inconsistently.** When managers don't apply their policies to all employees, it leaves the company wide open to an array of discrimination suits.
Another critical mistake in this area: Not knowing certain policies even exist.
4. **Being unaware of the law.** It's become a troubling trend in employment law cases: Front-line managers blatantly admit to not knowing about laws like the FMLA or the ADA. Managers need to be trained on the ins and outs of these critical employment laws.
5. **Ignoring complaints.** Granted, some employees complain incessantly. But to stay safe, each and every complaint about unfair treatment or harassment must be taken seriously and investigated.
6. **Blatant rudeness.** Sometimes there's a fine line between being stern and being flat-out rude. But when managers err toward the latter, it can make employees think they disapprove of a specific protected trait — such as age, race or gender — and potentially lead to a discrimination lawsuit.



MyERC offers a number of helpful tools for both employers and employees.

Employers have the ability to check their employee's paystubs, their personal information

on file, and the setting of tax allowances.

Employees also have access, but only for their personal information. They also have the ability to print their paystubs.

If you or any of your employees need to set up a MyERC portal or have questions about one already set up, please contact your payroll specialist.



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OSHA Electronic Recordkeeping

OSHA's new recordkeeping rule, which took effect Jan. 1, 2017, requires certain employers to electronically submit injury and illness data that they are already required to record on their OSHA Injury and Illness forms. OSHA believes that analysis of this data will enable OSHA to use its enforcement and compliance assistance resources more efficiently. Some of the data will also be posted to the OSHA website. OSHA believes that public disclosure will encourage employers to improve workplace safety and provide valuable information to workers, job seekers, customers, researchers, and the general public. The amount of data submitted will vary depending on the size of company and type of industry.

OSHA is not accepting electronic submissions at this time, and recently extended the July 1, 2017 date by which certain employers are required to submit the information from their completed 2016 Form 300A electronically out to December 1st for further consideration of the rule.

ERC will continue to monitor the OSHA requirements and submit the required OSHA forms for those clients that will be required to post their OSHA logs electronically.

OSHA – Post Accident Drug Tests

Buried in OSHA's impending final rule on electronic reporting of workplace injuries and illnesses is this little nugget. OSHA believes that you violate the law if you require an employee to take a post-accident drug test. Let me repeat. According to OSHA, you violate the law if you automatically drug test any employee after an on-the-job accident.

While this prohibition doesn't appear in the actual text of the final rule, it does prominently appear in OSHA's interpretation of the provision which prohibits employers from retaliating against employees who reporting a work-related injury or illness:

OSHA believes the evidence in the rulemaking record shows that blanket post-injury drug testing policies deter proper reporting.... [T]his final rule does not ban drug testing of employees. However, the final rule does prohibit employers from using drug testing (or the threat of drug testing) as a form of adverse action against employees who report injuries or illnesses. **Continued on next page.**



ERC's hours of operation are Monday through Friday from 7:30am – 4:00pm. Drug screens are only available between the hours of 9:00am and 4:00pm. ERC is closed for a weekly staff meeting from 8:00am – 9:00am every Friday. If you or your employees require a drug screen or an office visit that conflicts with those times, please contact our office at least one day in advance to coordinate.



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OSHA – Post Accident Drug Tests

Continued: To strike the appropriate balance here, drug testing policies should limit post-incident testing to situations in which employee drug use is likely to have contributed to the incident, and for which the drug test can accurately identify impairment caused by drug use.... Employers need not specifically suspect drug use before testing, but there should be a reasonable possibility that drug use by the reporting employee was a contributing factor to the reported injury or illness in order for an employer to require drug testing.

“What about workers’ compensation laws,” you say? “State law requires post-accident testing. What gives?”

OSHA hears your cries, and has an answer for you:

A few commenters also raised the concern that the final rule will conflict with drug testing requirements contained in workers’ compensation laws. This concern is unwarranted. If an employer conducts drug testing to comply with the requirements of a state or federal law or regulation, the employer’s motive would not be retaliatory and the final rule would not prohibit such testing. This is doubly true because Section 4(b)(4) of the Act prohibits OSHA from superseding or

affecting workers’ compensation laws.

Make no mistake, this interpretation is huge for employers. As a result of this new reporting standard, employer policies that require post-accident drug testing will face scrutiny by OSHA, and OSHA will cite you for any policy that mandates post-accident testing without consideration of the specific facts and circumstances of the injury. Further, OSHA will deem retaliatory any employer discipline for a failed or refused post-accident test unless the drug use is likely to have contributed to the accident and for which the

test can accurately identify pre-accident drug-related impairment. That’s a high bar for employers to clear.

This rule was to take effect on Aug. 10, but OSHA has stated that it is delaying enforcement until Nov. 1. If you have a drug testing policy or otherwise engage post-accident testing in your workplace, now is the time to review your policies and practices with your employment counsel. This issue is very much on OSHA’s radar, which means it must be on your radar also.



Source: <http://www.workforce.com/2016/07/28/osha-says-negative-to-post-accident-testing/>

