

## USERRA Regulations Finalized

On December 19, 2005, the U.S. Department of Labor (DOL) published final regulations impacting the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). The regulations clarify the rights and obligations of individuals serving in active duty with respect to their civilian employment. The DOL also finalized regulations regarding employer notice obligations of USERRA rights in the workplace. The new regulations take effect on January 18, 2006.

The regulations are substantial and cover all facets of employment rights and military leave. This bulletin summarizes the obligations USERRA imposes on health and welfare plans as well as the employer notice requirement. A complete text of the regulations is available at [www.dol.gov/vets/regs/fedreg/final/2005023961.pdf](http://www.dol.gov/vets/regs/fedreg/final/2005023961.pdf).

### **Employee Notification of a Military Leave**

An employee must provide their employer with either verbal or written advance notice of pending service to protect their rights under USERRA. In the event of military necessity or extenuating circumstances which render advanced notice impossible or unreasonable, this requirement is waived and rights remain protected.

### **Health Coverage during a Military Leave**

Under USERRA, an employee absent from work during military service has the right to continue group health plan coverage for both the employee and dependents. An employer must allow coverage to continue for 24 months. Plan sponsors may develop reasonable procedures for the election of continuing coverage. An employee cannot be barred from electing coverage because it was impossible or unreasonable to make a timely election. The employer must treat an employee on military leave in a manner consistent with the organization's other leave policies. Depending on internal leave policies, the employer may charge the employee and dependents for the cost of premiums. If the duration of military service is 31 days or less, the employer may only charge the same amount for the coverage as paid for an active employee. If service extends beyond 31 days, then the individual may be charged no more than 102% of the premium.

### **Health Coverage upon Reemployment**

The employer must reinstate the employee and dependents coverage upon reemployment as if their coverage had never been terminated. The employee and dependents are not subject to any exclusions or waiting periods, unless a condition exists that was incurred or aggravated while in the line of duty.

### **Employer Notification Requirement**

Employers must notify employees of their rights under USERRA. In March 2005, the DOL issued a proposed USERRA poster that meets the notification requirement. The poster contains information regarding rights and obligations under USERRA. The employer will meet their notice obligations by displaying the USERRA poster in a location where employee notices are customarily placed. Recent DOL regulations finalized the USERRA poster. For your convenience we have attached a copy of the poster to this email. The DOL requires this notice be posted by January 18, 2006. You will also find a copy of the poster at: [http://www.dol.gov/vets/programs/userra/USERRA\\_Private.pdf](http://www.dol.gov/vets/programs/userra/USERRA_Private.pdf).