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LEGISLATIVE ACTION ALERT

The Patriot-News ©

The U.S. Court of Appeals for the Third Circuit found that a Pennsylvania company's 'flex time' policy violated the federal Fair Labor Standards Act

In an article from the Patriot News © By Matt Miller on October 13, 2017 that was posted on line, a Pennsylvania company violated federal law by employing a "flex time" system that didn't pay its workers for taking breaks of 20 minutes or less, a U.S. appeals court panel ruled Friday.
The article went on to say that the American Future Business Systems, a Malvern-based publishing company lost its appeal in the decision from the U.S. Court of Appeals for the Third Circuit. The Company appealed to the circuit court after U.S. Eastern District Judge Mark A. Kearney ruled that American Future was violating the Fair Labor Standards Act in the way it paid its sales representatives.
The U.S. Department of Labor sued the company in 2012, arguing it was violating the FLSA by not paying workers for breaks of 20 minutes or less.
In a precedential opinion by Judge Theodore A. McKee, the circuit judges noted that, before 2009, American Future allowed its employees two paid 15-minute breaks per day.
It then changed that to allow employees to log off their computers at any time, although they were not paid for that time off line. The exception was they could log off for up to 90 seconds - for a bathroom break, etc. - and be paid for that time.
Those employees weren't permitted to work more than 40 hours a week and their base pay was the federal minimum wage of $7.25 an hour, McKee noted. On average, they worked five hours a day.
McKee agreed with Kearney that American Future's policy violated FLSA regulations that require paid breaks of up to 20 minutes to promote worker efficiency.
By contrast, the company's "flex time" policy "forces employees to choose between such basic necessities as going to the bathroom or getting paid unless the employee can sprint from computer to bathroom, relieve him or herself while there, and then sprint back to his or her computer in less than 90 seconds," McKee wrote. "That result is absolutely contrary to the FLSA."

Governor Wolf and Acting Insurance Commissioner Statement: Washington Sabotaging Pennsylvanians' Health Insurance

October 13, 2017

Harrisburg, PA – Governor Tom Wolf and Acting Insurance Commissioner Jessica Altman today issued the following statement on Washington causing health insurance rate increases:
Governor Wolf Statement:

"The President and Republicans in Washington are doing everything in their power to sabotage our health insurance markets and cause chaos for Pennsylvania families, seniors, and people with pre-existing conditions.

"Republicans in Congress have scuttled a bipartisan effort to stabilize markets and control health care costs. Now, President Trump is actively working to undermine the market and cause rate increases, raise costs on seniors, and take away protections for people with pre-existing conditions who need the individual market to get coverage.

"Pennsylvanians deserve better from Washington. Time and again, my administration has made clear the consequences of Washington health care sabotage. Washington has not listened. Congress has ignored bipartisan governors, insurance commissioners, insurance providers, and nearly every expert that has warned of the effects this chaos will have on their families, seniors and people with pre-existing conditions."

Acting Commissioner Altman:
"Through these actions, the Trump Administration continues to ignore the obvious issues in the individual market and is instead choosing to further destabilize the individual market and disrupt the small group insurance market – a market that has, to date, remained stable.

"Cost-sharing reductions (CSR) are not a bailout to insurance companies – they're part of an agreement to help lower-income consumers around the country afford health insurance with lower out-of-pocket costs like co-pays and deductibles. Insurers are still required to offer these lower costs whether cost-sharing reductions are paid or not, and we have worked closely with our individual market participants to ensure adequate rates are in place for the 2018 plan year. However, by choosing this moment to make a definitive statement that CSR payments cannot legally be made, it reneges on expectations insurers had when establishing rates for 2017.

"Further, by directing three federal agencies to change the rules and loosen standards under which small employers and associations can participate in association health plans, the executive order will further erode market stability and likely result in healthier individuals leaving the traditional small group insurance market. This could ultimately reduce the number of people in the small group insurance market and degrade the risk pool.

"The President praised his actions as giving people access to more plans at lower prices, but he avoided mentioning the fact that premiums have already increased because of the games he has played with CSR funding. He neglected to mention that association health plans are not subject to state patient protections like coverage requirements, **grievance procedures**, and financial solvency requirements.

"He glorified sales of association health plans across state lines, and ignored, as I have said previously, the reality that interstate insurance sales prevent state regulators from protecting consumers who purchase a plan sold in a different state. Pennsylvanians have had experience with the dangers of these plans. My department has previously had to shut down association health plans due to millions of dollars of unpaid claims. If we lose our regulatory authority as the order suggests, how are we going to be able to protect Pennsylvania consumers?"

PA Attorney General Shapiro said in a statement. "If the President's attempt to destabilize the health care market succeeds, it will have a devastating impact on Pennsylvania families, our economy and the health care market in our Commonwealth," Citing estimates by congressional analysts, Andy Carter, president and CEO of the Hospital and Healthsystem Association of Pennsylvania, said that more than 500,000 Pennsylvanians who buy insurance in the individual market could see premiums spike by more than 20 percent in 2018. That, he said, could price many people out of the market for insurance. Pennsylvanians received $214 million in federal subsidies last year, with 234,000 enrollees - or more than more than half of the people covered by insurance through Healthcare.gov - benefiting from them, according to federal data. That's about $915 per enrollee for the year.

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