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EMPLOYMENT LAW UPDATE
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Effective May 4, 2016, the definitions section of Title 8 of the New York City Administrative Code (a part of the New York City Human Rights Law) was amended such that discrimination on an "individual's actual or perceived status as a caregiver" constitutes a new category of unlawful discriminatory practice in employment. This law serves to expand protection for caregiver parents and other more untraditional caregivers in the course of their employment.

Under the new amendment, New York City employers with 4 or more employees are prohibited from discriminating against potential applicants or employees who act as caregivers with respect to hiring or firing, compensation, and conditions or privileges of employment. Employees are protected whether they work full-time or part-time, if they are interns and regardless of their immigration status. Most independent contractors are also protected. All employees of the organization do not need to work in New York City, only one employee does.

Under New York City Human Rights Law, the term "caregiver" is defined as a person with who provides direct ongoing care for a minor child or a care recipient. A "care recipient" is a person with a disability who (1) relies on the caregiver for medical care or to meet the needs of daily living and (2) a covered relative, or a person who resides in the caregiver's household. A covered relative includes: caregiver's child (under 18); caregiver's spouse; caregiver's domestic partner; caregiver's parent; caregiver's sibling; and caregiver's grandchild or grandparent. Care of adopted and step-children will also fall under the definition of a care recipient. A "minor" will be any child under the age of 18.

Employers are not required to offer accommodations to employees because of their caregiving status. However, employers cannot deny these benefits to employees with caregiving responsibilities if they provide these benefits to other employees. For example, if employers were to offer a flex work schedule to some employees, they must also offer this schedule to workers who qualify as caregivers.

New York City's ban goes further than New York State's law on familial status protection, which only protects employees from caring for children under the age of 18. New York City becomes the largest municipality to adopt a statute to this effect. Mayor DeBlasio emphasized that it is critical to protect caregivers so they can continue to provide essential care to the children, elderly, and individuals with disabilities who rely on them to lead happy and healthy lives.

As the New York City Human Rights Laws are one of the few discrimination statutes that provide punitive damages for New York City employees, employees would be well advised to become familiar with these legal updates, and small employers ought to change internal written policy and train to ensure appropriate implementation.
