

In 1994, Congress passed the Uniformed Services Employment and Reemployment Rights Act (**USERRA**) to protect the rights of employees who are or become members of the uniformed services of the United States. It protects a wide variety of rights regarding employment and includes health insurance benefits.

### **What Employers Have To Comply?**

All employers must comply with USERRA, including state, local, and federal governments. Unlike COBRA which only applies to employers with 20+ employees, USERRA applies to all employers without regard to the number of employees.

### **What employees are protected?**

USERRA protects all individuals that are members of the uniformed services. The protections apply to reservists who are called to active duty, or to employees who volunteer or who are drafted into the uniformed services. The uniformed services include all branches of the armed forces, national guard, and public health service employees.

#### Protected Absences:

- Active duty
- Active duty for training
- Initial active duty for training (drills)
- Inactive duty training
- Full-time National Guard duty
- Absences for purposes of examination to determine fitness for active duty

### **Group Health Plan Benefit Protections**

In any case in which a person (or the person's dependents) has coverage under a health plan in connection with the person's position of employment, and that coverage is lost when such person is absent from employment by reason of service in the uniformed services, the plan shall provide that the person may elect to continue such coverage for a period of 18 months.

#### *Premiums*

- If service in the uniformed services is for a period of greater than 31 days, the person who elects to continue health-plan coverage may be required to pay not more than 102 percent of the full premium under the plan (as determined by COBRA law).
- If service in the uniformed services is for a period less than 31 days, the person who elects to continue health-plan coverage may not be required to pay more than the employee share, if any, for such coverage

#### *Reinstatement of Benefits Without an Exclusion or Waiting Period*

In the case of a person whose coverage was terminated by reason of service in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment, if an exclusion or waiting period would not have been imposed under a health plan had coverage not been terminated as a result of such service. This applies to both the employee and dependents.

### *Illness or Injury Resulting From Service*

The prohibition against an exclusion or waiting period does not apply to the coverage of any illness or injury determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services.

### **General Employment/Reemployment Requirements of the USERRA**

Must treat individuals that are members of the uniformed services no less favorably than other individuals

Must reemploy individuals that are absent from a position of employment by reason of service in the uniformed services

Must restore seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services

Must provide any additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed

Must continue employer contributions to any pension plan for the individual in the same manner and to the same extent as made for other employees during the same period of service.

Can not deny individuals who are members of the uniformed services employment, reemployment, retention, promotion, or any other benefit of employment on the basis of that service.

Can not take adverse action against individuals who are members of the uniformed services, unless the employer can prove the action would have been taken anyway.

Can not discriminate against, or take adverse action against, any person taking action to enforce rights under the USERRA.