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Judge Enjoins “Equivalent Benefits” Amendment to Illinois Temporary Staffing Agency Law



Private: Mark Brookstein

Human Resources & Employment

On March 11, 2024, Judge Thomas M. Durkin of the U.S. District Court for the Northern District of Illinois granted plaintiffs’ motion for a preliminary injunction prohibiting the Illinois Department of Labor (DOL) from enforcing the “equivalent benefits” portion of Section 42 of the Illinois Day and Temporary Labor Services Act (DTLSA). Under that provision, a temporary laborer, after working 90 calendar days for a staffing agency client, must receive “equivalent benefits” as a comparable direct-hired employee, or the “hourly cash equivalent” of the benefits.

Plaintiffs, which included temporary staffing agencies and trade associations, argued that Section 42 was preempted by federal law: namely, the Employee Retirement Income Security Act of 1974 (ERISA), which preempts “any and all State laws insofar as they may now or hereafter relate to any employee benefit plan” covered by the statute.

Judge Durkin agreed, finding that “[a]gencies must determine the value of many different benefit plans and then determine whether to provide the value in cash or the benefits themselves by modifying their plans or adopting new ones. Such a direct and inevitable link to ERISA plans warrants preemption.”

Thus, the “equivalent benefits” requirement will not go into effect on April 1, 2024, when the remainder of the DTLSA becomes enforceable. Notably, plaintiffs did not challenge the “equal pay” provision of Section 42. Also, Judge Durkin rejected plaintiffs’ challenges both to Section 11, which gives a worker the right to refuse an assignment to a site with a labor dispute (such as a strike) without prejudice to future assignments, and to Section 67, which allows “interested parties” to seek damages and injunctive relief under the DTLSA.

Given that this is a “*preliminary* injunction,” we will continue to monitor the ultimate fate of “equivalent benefits” and report accordingly. For more information about the DTLSA, please see [this prior post](#), along with [this update](#), on our blog.

If you have any questions or want more information about the Illinois Day and Temporary Labor Services Act (DTLSA), please contact a member of Gould & Ratner’s [Human Resources and Employment Law Practice](#).