HEALTH COVERAGE STATUS DISCRIMINATION PROHIBITED

The Health Care Reform Act of the 2006 Legislative Session created the Catamount Health Program, a statewide health care insurance program for the uninsured. Beginning with the quarter starting April 1, 2007, a new employer assessment of $365 (a dollar a day) per full-time equivalent (FTE) uninsured employee will be levied on employers who have uninsured employees on their payrolls. (See "Changes to Quarterly C-101 Filing for Catamount Health Assessments" in last month's column.)

This past legislative session's technical correction bill (H.229, "An Act Relating to Corrections and Clarifications to the Health Care Affordability Act of 2006 and Related Legislation") adds a section (21 V.S.A. § 561) to the State's employment practices law that makes it illegal for an employer to inquire about the health coverage status of a job applicant or to discriminate against applicants or employees on the basis of health coverage status.

An employer who violates this new law may be sued by an applicant or employee (full- or part-time) in Superior Court for compensatory damages (compensating an actual loss) and punitive damages (intended to punish and thereby deter unlawful conduct), including payment of lost wages or other benefits, costs, reasonable attorney's fees, or equitable relief (a nonmonetary remedy) such as reinstatement, and any other relief deemed appropriate.

This new law does not prevent an employer from informing an applicant about the health care coverage benefits it provides or from inquiring into the health care coverage status of an employee in order to calculate how many uninsured employees the employer has on its payroll.

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