

NEW LAW: Nevada Defines “Health Benefits” For Purposes of Nevada’s Minimum Wage Laws

Nevada’s minimum wage law contains a two-tier minimum wage system. Employers who provide qualifying “health benefits” are able to pay a lower minimum wage (\$7.25 per hour) than employers who do not provide qualifying “health benefits” (currently \$8.25 per hour). However, it was unclear to employers what constituted qualifying “health benefits,” which resulted in much debate and litigation over that issue.

Most recently, in May of 2018, the Nevada Supreme Court rendered a decision (in [MDC Restaurants, LLC v. The Eighth Judicial Dist. Court](#)) where the Court held that the Nevada Minimum Wage Act “requires an employer who pays one dollar per hour less in wages to provide a benefit in the form of health insurance at least equivalent to the one dollar per hour in wages that the employee would otherwise receive.” The Court further held that to qualify for the credit the health benefits must also be “at a cost to the employer of the equivalent of at least an additional dollar per hour in wages” This ruling appeared to resolve the question – until now ...

On May 21, 2019, Nevada Governor Steve Sisolak signed [SB 192](#) into law. This new law codifies a new definition of “health benefits” for purposes of an employer qualifies for the minimum wage credit.

Under the new law, which goes into effect on January 1, 2020, an employer can only qualify for the minimum wage credit if the employer makes available to the employee and the employee’s dependents:

1. At least one health benefit plan that provides:
 - a. Coverage for services in each of the following categories and the items and services covered within the following categories:
 - i. Ambulatory patient services;
 - ii. Emergency services;
 - iii. Hospitalization;
 - iv. Maternity and newborn care;
 - v. Mental health and substance use disorder services, including, without limitation, behavioral health treatment;
 - vi. Prescription drugs;
 - vii. Rehabilitative and habilitative services and devices;
 - viii. Laboratory services;
 - ix. Preventative and wellness services and chronic disease management;
 - x. Pediatric services, which are not required to include oral and vision care; and
 - xi. Any other health care service or coverage level required to be included in an individual or group health benefit plan pursuant to any applicable provision of title 57 of NRS; and
 - b. A level of coverage that is designed to provide benefits that are actuarially equivalent to at least 60 percent of the full actuarial value of the benefits provided under the plan; or
2. Health benefits pursuant to a Taft-Hartley trust and qualifies as an employee welfare benefit plan pursuant to:
 - a. The Employee Retirement Income Security Act of 1974; or
 - b. The provisions of the Internal Revenue Code.

The new law also provides that a hospital-indemnity insurance plan or fixed-indemnity insurance plan alone does not constitute “health benefits” for purposes of qualifying for the minimum wage credit.

It is recommended that Nevada employers who are currently taking advantage of the minimum wage credit review their health benefit plans and verify that they are in compliance with the new law. If the plans are not compliant, employers should take steps to make the plan compliant before January 1, 2020.