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Coronavirus Private Employee Rights Detailed

The Government recently detailed a state of emergency due to the threat of the coronavirus in Puerto Rico.

By Miladys Soto

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In the event of an emergency due to the threat posed by the coronavirus, employers must ensure that they do not have working employees who have symptoms or who may have been exposed.

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"Employers have certain rights and employees also have them," said lawyer Juan Felipe Santos.

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"The employer has a duty to provide a safe and risk-free place," said Santos. He added that this duty is codified through different laws, both federal and state. Santos mentioned that in moments like those currently experienced, with a pandemic declared by the World Health Organization (WHO), the employer's obligation is more demanding.

Lawyer Jackson Lewis, the firm said, employers can ask employees who have been in contact with people with symptoms of coronavirus or have been in places, to stay at home in quarantine. "The employer could prohibit those employees from traveling to places where the virus is, for example, Europe. It could also ask them what they plan to travel to where they are going or those who have returned where they were," he added.

Options for an employee with symptoms vary depending on the type of contract they have. The licensee explained that there are exempt employees, who are salaried employees, and non-exempt employees, who are those who earn hourly. "The difference is that the labor legislation of Puerto Rico is the one who is paid the most by the hourly worker. For them there is the license, from Law 180 of 1998, which has provisions for vacation and sick leave," said Santos.

EMPLOYER POLICIES

The lawyer ruled that the Government has urged private employers to give unpaid leave to employees who do not have sick days or vacations. Regarding salaried employees, the measures taken, whether preventive, such as quarantine or isolation, will depend on the employer's policy.

In the event that an employer decides to preemptively shut down for a week, employees who charge by the hour would not earn that money, as the law states that they charge by the hour worked. "So the employer has no obligation to pay that employee for that week that he was out of work, unless they have reached an agreement with the employer and the employee's position also allows it, and can do remote work from home" Santos said.

This suggested that a written document be made detailing the remote work, so that the employee understands factors such as hours, responsibilities and the period in which this measure will last. As for employees, they would also have to work remotely or use their sick or vacation leave.

Finally, Santos said that mental patients are covered by other federal laws, such as the People with Disabilities Act (ADA), which protects people with disabilities. The local law for this matter is Law 44. "If so, they should provide that accommodation to the employee, not due to the coronavirus but due to post-traumatic stress, or the mental illness that has developed," he said.

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