



New Wage and Benefit Requirements For Employees at SFO and LAX

As of May 31, 2009 airlines operating out of San Francisco International Airport (SFO) must adhere to rigorous health care requirements, with respect to their employees, as set forth by the amended San Francisco Health Care Accountability Ordinance (HCAO).

Additionally, SFO is contemplating changes to its Quality Standards Program (QSP) effective January 1, 2010. These changes would make it mandatory for airlines and their service providers to comply with stricter health care and minimum wage requirements for airport employees.

The Los Angeles International Airport (LAX) is also contemplating similar changes. The minimum wage for airport workers may be dramatically increased by US\$2 to US\$3 due to a recent vote by the Los Angeles City Council. Compliance with this wage increase will be mandatory for airport workers who do not receive health benefits.

The Changes at SFO

Amendments to the HCAO as of May 31, 2009

The amended HCAO includes mandatory health care requirements with which airlines operating out of SFO must comply as of May 31, 2009. These regulations apply to employees who work at least 20 hours per week, and who may or may not reside in San Francisco.

Specifically, HCAO requires airlines to adopt one of the following options:

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- Offer employees a health benefits plan that meets the Health Commission's minimum standards. These minimum standards include a comprehensive Health Maintenance Organization (HMO) plan with an annual out-of-pocket maximum of no higher than US\$3,500. The plan may require employees to pay a deductible for prescription drugs (subject to a deductible cap), but may not require a deductible of any amount for non-pharmacy services; or
- For each week in which an employee works, pay the city US\$2.80 per hour for each hour the employee is employed, but not to exceed US\$112 in any week; or
- Participate in a health benefits program to be developed by the Health Director. Until this plan is implemented, airlines must comply with the first or second option above.

Airlines should immediately implement one of these three options. Failure to comply with HCAO may result in penalties of up to US\$100 per week, per employee not covered.

Proposed Amendments to the QSP

Additionally, a recently proposed revision of SFO's QSP imposes stringent requirements for employers at SFO with respect to wages and health benefits. The revised QSP will be presented to the San Francisco Airport Commission for approval on July 7, 2009 to take effect January 1, 2010. If approved, airlines and their service providers must abide by the new rules or risk being fined heavily or having any and all agreements with SFO terminated.

Specifically, the new regulations will require airlines and their service providers to:

- Compensate airport employees at the current minimum QSP wage rate of US\$12.33 per hour until San Francisco's Minimum Compensation Ordinance (MCO) rate is equal to or greater than the QSP rate. (If by January 1, 2012, San Francisco's MCO minimum rate is not equal to or greater than the QSP minimum wage rate, the Airport Commission may revisit this issue.)
- Provide 12 paid days off and 10 unpaid days off per year for full-time and part-time workers, per the MCO.
- Comply with the City's HCAO minimum health care coverage standards.
- Change the health coverage effective date from 90 days to 30 days after the first day of work for all covered employees per the HCAO.
- Abide by any collective bargaining agreements between airport employees and labor organizations, which take precedence over the QSP compensation and benefit requirements.

The proposed changes to the QSP apply to all employees at SFO who: (1) have an airport badge with Airfield Operations Area (AOA) access **and** work in and around the AOA in the performance of their duties; or (2) are directly involved in passenger and facility security and/or safety. This includes personnel performing checkpoint security screening, passenger check-in activities, skycap and baggage check-in, handling services, AOA perimeter control, aircraft cleaning and fueling, and catering vehicle operation. Additionally, lease agreements with SFO generally require the lessee to comply with the QSP for all employees working in the leased space. Thus, if a carrier's office space is at the airport, all of the office workers may be covered by the changes to the QSP.

The Changes at LAX

On May 13, 2009 the Los Angeles City Council passed a unanimous vote instructing the city attorney to draft an amendment to the Living Wage Ordinance (LWO). In effect, the amendment will considerably boost the hourly wage of airport workers with the purpose of allowing them to obtain health insurance. The wage increase will affect numerous airport employees including janitors, skycaps, baggage handlers, aircraft cabin cleaners, security personnel and attendants for travelers with disabilities. Lease agreements with LAX also generally require the lessee to comply with the LWO for all employees working in the leased space. Thus, just like at SFO, if a carrier's office space is at LAX, all of the office workers may be covered by the amendment to the LWO.

Currently, the living wage for airport workers without health care benefits is US\$11.55. The amendment to the LWO will raise the hourly wage for airport workers who do not receive health insurance to between US\$13 and US\$14, which the Los Angeles City Council believes will be the equivalent of airlines adding a charge of US\$0.25 per airline ticket. However, instead of paying airport employees the new increased living wage rate, the LWO also permits employers to pay employees a lower rate of US\$10.30 per hour if the employer provides at least US\$1.25 per hour towards health benefits for employees and their dependents.

Tips for Airlines

- If you operate at SFO, make certain that you are presently in compliance with the San Francisco HCAO by adopting one of the alternatives stated in the ordinance.
- If you operate at SFO and/or LAX, be prepared for the changes proposed in the new SFO QSP, and/or the amendment to the Los Angeles LWO by reviewing the language in your lease agreement with SFO and/or LAX to determine if you are obligated to comply with the wage and health care requirements for your airport workers. Be aware that, on their face, the revised QSP and LWO seem

to only cover airport personnel who work at the airport, such as skycaps and security personnel, however your office workers may also be covered if you have a lease with SFO and/or LAX and your employees work at the leased space.

- With respect to the revised Los Angeles LWO, consider performing a cost benefit analysis to determine if paying your airport employees US\$10.30 per hour, in addition to providing at least US\$1.25 per hour towards health benefits, is a worthwhile alternative to paying them the new increased living wage rate.

For more information regarding the amended San Francisco HCAO, revised SFO QSP or the amendment to the Los Angeles LWO, please contact your principal Squire Sanders lawyer or one of the individuals listed in this Alert.

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

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