

Illinois Employers Now Legally Required to Reimburse Employee Expenses

The Illinois Wage Payment and Collection Act was recently amended to require Illinois employers to reimburse employees for expenses incurred while performing their job. Before the amendment, employers were not required to reimburse employee expenses. However, effective January 2, 2019, [“\[a\]n employer shall reimburse an employee for all necessary expenditures or losses incurred by the employee within the employee's scope of employment and directly related to services performed for the employer.”](#)

What are the Requirements for an Expense to Qualify?

To qualify for reimbursement under the amendment:

- The employer must have “authorized or required” the employee to incur the expense;
- The expense request must be submitted within 30 calendar days, unless a longer period is provided for under the employer’s expense reimbursement policy; and
- The employee must provide a signed, written statement in lieu of a receipt when the supporting documentation has been lost or does not exist.

When is an employer not responsible for reimbursing an employee expense?

An employer is not responsible for losses due to:

- An employee’s negligence
- Normal wear
- Theft, unless the theft was a result of the employer’s negligence

When is an employee not entitled to expense reimbursement?

An employee is not entitled to reimbursement if his or her employer has an established, policy under which the employee fails to comply. In addition, if an employer's written policy contains specific limits for expenses, the employer is not liable for expenses that do not follow the guidelines for expenses that exceed the written limits. Although an employer may institute an expense reimbursement policy that sets limitations, employers may not establish a policy that provides no employee expense reimbursement or provides minimal reimbursement.

Unanswered questions.

Unanswered questions include: "What expenses are considered necessary and how much reimbursement is considered unlawfully minimal?" Because [California has an employee expense reimbursement law](#) with language that is very similar to Illinois' amendment, employers may wish to consider interpretations made by the California courts. For example, California courts have consistently found that employers must reimburse employees for expenses such as data plans and internet bills when these employees work at home. In addition, California courts have found that employers must reimburse employees who use their cell phones for work-related calls, even if employees have unlimited phone/data plans.

Employer considerations.

Employers should consider establishing or reviewing their current expense reimbursement policies prior to the amendment's January 1, 2019 effective date. Policies should include:

- Specific expenses that are reimbursable.
- How much of an expense is reimbursable?
- When an employee needs to submit his or her documentation (e.g., 30 days, 60 days, etc.)
- What type of documentation is acceptable and clarification that if documentation is unavailable, the employee may provide a signed written statement.

- Where to direct questions regarding whether an expense an employee may incur is required by the employer.

If you have any questions about the matters addressed in this *CCM Alert*, please contact the following CCM author or your regular CCM contact.

Ross I. Molho
Clingen Callow & McLean, LLC
2300 Cabot Drive, Suite 500
Lisle, Illinois 60532
www.ccmlawyer.com
(630) 871-2614

The author, publisher, and distributor of this CCM Alert is not rendering legal or other professional advice or opinions on specific facts or matters. Under applicable rules of professional conduct, this communication may constitute Attorney Advertising.

© 2017 Clingen Callow & McLean, LLC. All rights reserved.

ccmlawyer.com