

7 July 2015

To our clients and friends

INFORMATION LETTER Concerning Preventive Medical Examinations

In spring this year, the healthcare legislation¹ has been added, among other things, with a new requirement for employers to ensure conditions for their employees to pass preventive (screening) medical examinations ("Examinations") in order to promote employer's and employee's joint and several liability for the latter's health.

In this connection, starting 3 July 2015, Kazakhstan puts into effect the Rules for employers to create conditions for the persons subject to Examinations² to pass them within the guaranteed scope of free medical aid ("Rules")³.

Please find below a brief overview of key changes in this area.

New Employer Obligations

Pursuant to the Rules, the Employer must:

- Compile and have approved by medical organizations providing outpatient and polyclinic aid the list of employees subject to Examinations and the schedule for such employees Examinations, and appoint an appropriate person-in-charge whose duties will include, but not be limited to, the monitoring of employee Examinations;
- Release the relevant employees from work for the time of Examinations;
- Inform the employees about "health schools" at the outpatient and polyclinic organizations and about health risk factors and healthy lifestyle habits;
- Organize at work places events to promote healthy lifestyle (make "physical training pauses" for compulsory industrial gymnastics, set up gyms, provide gym membership subscription to employees, organize a psychological relaxation room and clean drinking water delivery, and allocate premises for meals);
- Conduct ongoing work to enhance awareness of the need for regular Examinations and health improvement;

¹ Code No. 193-IV of the Republic of Kazakhstan "On Public Health and Healthcare System" dated 18 September 2009 ("Health Code"). The Health Code has been accordingly amended by the Law No. 299-V of the Republic of Kazakhstan "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on Healthcare Issues."

² The target group encompasses men and women of 40, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62 and 64 years of age who are not on outpatient record due to having arterial hypertension, coronary heart disease and diabetes. Persons on outpatient record are not subject to screening examinations.

³ Approved by the Order No. 280 of the Minister of Healthcare and Social Development of the Republic of Kazakhstan dated 28 April 2015.



- Provide incentives to employees participating in mass sports events to maintain their own health potential.

Points of Attention for Employees and Employers

- The Examinations are held within the guaranteed scope of free medical aid (GSFMA), which, in turn, is provided only at state medical organizations, i. e., in order to pass the Examinations employees are to be "assigned" to particular medical organizations and the employers are to interact regarding Examinations arrangement specifically with those medical organizations.
- Pursuant to the Health Code (and now also to the Rules), the employers cannot admit to work the persons failing to pass the GSFMA-based Examinations.

Outstanding Issues

After the Rules adoption, some issues still remain outstanding.

For instance, if an employee does not trust the state GSFMA system (for example, the general practitioner a visit to whom often requires standing in a long queue, or the quality of medications prescribed under the GSFMA), he/she has a statutory right to freely choose the medical organization (Article 88 of the Health Code). However, if not assigned to a state organization providing primary medical-and-sanitary aid, the employee is breaching his/her obligation to pass the Examinations (which, by the way, is also secured by the Health Code, Article 90) and is running the risk to be not admitted to work by the employer.

The employer, in turn, possesses no legal leverage to force the employee make his/her choice in favor of state medical organizations (in order to be registered in the Assigned Population Register and be included in the GSFMA system), which questions the employers' ability to properly fulfill their obligations to arrange the Examinations for employees.

It should be mentioned that the issue of employer's and employee's liability for failing to obey by the Examination requirements remains unregulated, i. e., as of today, there is actually no liability for breaches in this field.

Should you have any further questions regarding the new statutory requirements, we would be happy to provide pertinent advice.

Best regards,

AEQUITAS Law Firm