

# COURT HALTS ENFORCEMENT OF EQUAL BENEFITS (BUT NOT EQUAL PAY) RULES FOR ILLINOIS STAFFING AGENCIES AND THEIR CLIENTS: 3 MAJOR TAKEAWAYS

Insights  
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A group of staffing associations and agencies successfully stopped the Illinois Department of Labor from enforcing parts of the new requirements meant to heighten equal pay rights under the state's Day and Temporary Labor Services Act. The recently amended equal pay and benefit rules were to take effect on April 1, but a federal court temporarily halted the equal benefit requirements while it considers the merits of the lawsuit. What do staffing agencies and their clients need to know? Here are the top three takeaways from the March 11 order.

## Which New Provisions Were Halted?

Under Section 42 of the Day and Temporary Labor Services Act – known as the “equal pay for equal work” provisions – day and temporary laborers who are assigned to a client by a labor service agency for more than 90 calendar days within a year would need to receive – at a minimum – equal pay and benefits to the client's lowest paid comparator employee.

As an alternative to providing equal benefits, the labor agency would have the option to pay the day or temporary laborer the cash equivalent of the client's actual cost of the comparator employee's benefits.

The equal pay provisions would also require clients to provide agencies with “all necessary information related to job duties, pay, and benefits of directly hired employees” to allow agencies to comply.

## Related People



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While many other amendments to the act already took effect, the equal pay and benefits provisions were postponed until April 1. However, the U.S. District Court for the Northern District of Illinois agreed on March 11 to press pause as to the equal benefits provisions (but not the equal pay provisions) while it hears the challenge brought by a group of staffing associations and agencies. That being said, the equal pay provisions are still set to go into effect come April 1, 2024.

### Why Did the Court Pause the Effective Date?

- The court noted that the equal benefit provision of the act is likely pre-empted by ERISA.
- The court further noted that staffing agencies have already suffered business losses ahead of the provisions taking effect and they would continue to do so.
- Staffing agencies “will be forced to incur the expense and burden of determining the relevant values of benefits and creating, selecting, modifying or supplementing existing ERISA plans or paying the difference,” the court said.
- The agencies “anticipate having to develop new administrative systems and processes and augment their human resources staff to accomplish these tasks, the costs of which at least one agency cannot absorb,” the court added.
- Thus, the court temporarily blocked the equal benefit provisions of Section 42 of the act from taking effect while litigation ensues and it considers the merits of the case.
- The equal benefits provisions could take effect at a later date. However, the court may end up permanently blocking them since it found that the staffing associations and agencies are likely to succeed on the merits of their claim.

### What Does All This Mean?

For now, the equal pay provisions of the Illinois Day and Temporary Labor Services Act will still take effect on April 1. However, the equal benefit provision of the act will not take effect April 1. This means that staffing agencies will not be required to pay covered temporary employees the “equivalent benefits” as the client’s lowest paid, comparable, directly hired employee.

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We expect further guidance from the court and the Illinois Department of Labor on how the equal pay provisions will be amended and enforced going forward. Until then, the remaining provisions of the act are still effective. [You can click here to read more about your ongoing obligations.](#)

## **Conclusion**

We will continue to monitor any further developments and provide updates on these and other labor and employment issues, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Chicago office](#).