JOAQUINA VELEZ *v.* COMMISSIONER
OF LABOR ET AL.
(SC 18683)
(SC 18684)

Rogers, C. J., and Norcott, Palmer, Zarella, McLachlan,
Eveleigh and Harper, Js.*

Argued January 31—officially released September 25, 2012

Glenn W. Dowd, with whom was *Jeffrey A. Fritz*, for the appellant in Docket No. SC 18683 (defendant Related Management Company).

Richard T. Sponzo, assistant attorney general, with whom were *Thomas P. Clifford III*, assistant attorney

general, and, on the brief, *George Jepsen*, attorney general, *Richard Blumenthal*, former attorney general, and *Philip M. Schulz*, assistant attorney general, for the appellant in Docket No. SC 18684 (named defendant).

Peter Goselin, for the appellee (plaintiff).

Opinion

PALMER, J. The defendants, the commissioner of labor (commissioner) and Related Management Company (RMC), appeal[1] from the judgment of the trial court sustaining the administrative appeal of the plaintiff, Joaquina Velez. The plaintiff had filed a complaint with the department of labor (department) against RMC, her former employer, alleging a violation of the Connecticut family and medical leave statute (leave statute), General Statutes § 31-51kk et seq., which, by its terms, applies only to employers that "[employ] seventy-five or more employees . . . ." General Statutes § 31-51kk (4).[2] Although RMC employs more than 1000 employees nationwide, the commissioner dismissed the complaint on the ground that, under § 31-51kk (4) and § 31-51qq-42 of the Regulations of Connecticut State Agencies (regulations),[3] the leave statute does not apply to RMC because it does not employ seventy-five or more employees within the state of Connecticut. The plaintiff appealed from the commissioner's decision to the trial court, which sustained the appeal and rendered judgment in her favor upon concluding that the commissioner's interpretation of § 31-51kk (4) was unreasonable and that all employees of a business, not just those working in Connecticut, are to be counted in determining whether the business is an employer under the leave statute. On appeal to this court, the defendants claim, inter alia, that the trial court improperly reversed the commissioner's decision because § 31-51qq-42 of the regulations, which, as a duly enacted regulation, has the force and effect of a statute, makes clear that only Connecticut employees are to be counted under § 31-51kk (4). Because we agree with the defendants, we reverse the judgment of the trial court.

The record reveals the following undisputed facts and procedural history. RMC employed the plaintiff as a full-time office manager for an apartment complex in the city of Hartford from approximately April 25, 1983, until July 18, 2005. On April 7, 2005, the plaintiff fell at work and fractured her hand. Five days later, the plaintiff took medical leave, and, shortly thereafter, RMC sent her a letter approving twelve weeks of medical leave under the federal Family and Medical Leave Act, 29 U.S.C. § 2601 et seq. In May, 2005, when the plaintiff requested to return to work with "light duty," as her physician advised, she was informed that light duty was not available and that she would have to wait until she fully recovered to resume her position. In the middle of July, 2005, when the plaintiff's medical leave expired, the plaintiff notified RMC that she still did not have full use of her right hand and, therefore, was unable to return to work. Approximately one week later, RMC terminated her employment.

In October, 2005, the plaintiff filed a complaint with the department's division of wage and workplace stan-

dards, alleging that RMC had violated the leave statute by refusing to allow her to return to work. Following a contested case hearing, the administrative hearing officer issued a proposed decision in which he concluded that RMC was not subject to the leave statute because it does not employ seventy-five or more employees in Connecticut. In reaching that determination, the hearing officer relied primarily on § 31-51qq-42 of the regulations, which establishes the mechanism for the commissioner to determine whether a business employs a sufficient number of employees to qualify as an employer under § 31-51kk (4) with express reference to data contained in the employee quarterly earnings report required under General Statutes § 31-225a (j).[4] The hearing officer further explained that, pursuant to General Statutes §§ 31-222[5] and 31-225a (j), the quarterly earnings report referred to in § 31-51qq-42 of the regulations contains data on Connecticut employees only, and, therefore, when § 31-51kk (4) is considered in light of § 31-51qq-42 of the regulations, it is clear that the seventy-five employee minimum specified in § 31-51kk (4) includes Connecticut employees and not employees located in other states.

In reaching this conclusion, the hearing officer rejected the plaintiff's contention that, although § 31-51qq-42 of the regulations provides that the commissioner "may" rely on the quarterly earnings report, it does not mandate such reliance, and, therefore, the commissioner is not precluded from counting out-of-state employees. The hearing officer explained that when § 31-51qq-42 of the regulations originally was enacted in 1991,[6] it did, in fact, mandate that the commissioner rely solely on the quarterly earnings report when determining whether an employer is subject to the leave statute. The 1991 regulation provided in relevant part: "During the first quarter of each year, the Commissioner shall identify those employers that employed a sufficient number of employees as of October 1 of the previous year to be covered under the [leave statute]. The Commissioner *shall* determine the number of employees employed by a given employer, based [on] data contained in the Employee Quarterly Earnings Report required pursuant to . . . [§] 31-225a (j) . . . for the third quarter of the prior calendar year. . . ." (Emphasis added.) Regs., Conn. State Agencies (1991) § 31-51ee-2 (a). The hearing officer further explained that, in 1999, § 31-51qq-42 of the regulations "was revised [and the word 'shall' changed] to 'may' in recognition of the fact that a business may employ more than seventy-five employees in Connecticut throughout the quarter, but may have employed [fewer] than seventy-five employees on October 1. The change in the regulatory language was intended to benefit such employers by allowing them to submit additional evidence of the number of employees they employed as of October 1. [The hearing officer emphasized, however,

that there was] nothing in the [regulation's history] to suggest that the revision was intended to give [the commissioner] authority to count out-of-state employees toward the seventy-five employee threshold." The hearing officer also relied on the decisions of the commissioner in *Custin* v. *Boise Cascade Corp.*, Conn. Dept. of Labor, Case No. FM 97-3 (July 9, 2001), and *Jenco* v. *United Airlines*, Conn. Dept. of Labor, Case No. FM 2004-47 (August 9, 2006), which affirmed the determination of the hearing officers in those cases that, under § 31-51kk (4) and § 31-51qq-42 of the regulations, only Connecticut employees may be counted in determining whether an employer is subject to the leave statute.

Thereafter, the commissioner issued a final decision in which she adopted the hearing officer's proposed findings of fact and conclusions of law. The plaintiff subsequently filed an administrative appeal with the trial court in accordance with General Statutes § 4-183.

The trial court framed the issue presented as whether the leave statute applies to employers that employ fewer than seventy-five employees in Connecticut. In deciding that issue, the trial court first considered whether the commissioner's interpretation of § 31-51kk (4) was entitled to deference. The trial court concluded that it was not because, even though the commissioner's interpretation has been time-tested and the statute is ambiguous with respect to whether the legislature intended for only Connecticut employees to be counted under § 31-51kk (4), the commissioner's interpretation was unreasonable.[7] The trial court also rejected the defendants' contention that the hearing officer properly determined that § 31-51qq-42 of the regulations resolves the plaintiff's claim against her because that regulation expressly provides that the commissioner may rely on an employer's quarterly earnings report in determining whether an employer is subject to the leave statute. The trial court reasoned that § 31-51qq-42 of the regulations is inconsistent with two related regulations, namely, § 31-51qq-1 (h) of the regulations, which defines "employee" to mean "any person engaged in service to an employer in the business of the employer," and § 31-51qq-1 (i) of the regulations, which defines "employer" to mean "a person engaged in any activity, enterprise or business [that] employs 75 or more employees." Specifically, the trial court explained that, because these regulations do not impose a geographic restriction on the terms "employee" and "employer," "the most rational meaning [of] § 31-51qq-42 [of the regulations] is that it provides a mechanism for [the commissioner], if [she] chooses, to rely [on] the employee quarterly earnings report," but does not require that she do so.

The trial court further observed that its interpretation was consistent with the legislative history of § 31-51kk (4), which, according to the trial court, indicated that the "small employer exception" to the leave statute was

intended to "relieve the burden on Connecticut's small employers and to protect personal relationships in small business." The trial court concluded that exempting employers that employ seventy-five or more persons, albeit some of whom work outside of Connecticut, would not further this purpose. The trial court also found support for its interpretation in the fact that out-of-state employees are counted for jurisdictional purposes under the Workers' Compensation Act, General Statutes § 31-275 et seq., and in the principle of construction that cautions courts against imputing to the legislature an intent to limit a statutory term unless that intent is apparent from the language of the statute.[8]

On appeal to this court, the defendants contend that, consistent with the determination of the hearing officer, § 31-51qq-42 of the regulations is dispositive of the meaning of § 31-51kk (4) because agency regulations are presumed to be valid and have the force and effect of a statute. The defendants claim, moreover, that, contrary to the determination of the trial court, § 31-51qq-42 of the regulations is not inconsistent with any of the leave statute's other implementing regulations, which, in contrast to § 31-51qq-42 of the regulations, do not address the issue of how to determine whether an employer has employed a sufficient number of employees as of October 1 of the previous year to be covered under the leave statute. The defendants alternatively claim that the trial court incorrectly determined that the commissioner's construction of § 31-51kk (4), although time-tested, is unreasonable and, therefore, not entitled to deference. The defendants maintain that the commissioner's interpretation of § 31-51kk (4) is not only time-tested but also consistent with the language of the statute, related statutes, the applicable legislative history, similar federal legislation and the statute's implementing regulations.

The plaintiff claims that the definition of "employer" in § 31-51kk (4), that is, a person or business that "employs seventy-five or more employees" is not susceptible of more than one reasonable interpretation, and, therefore, under General Statutes § 1-2z,[9] this court must ascribe to it its plain meaning, which, the plaintiff contends, compels the conclusion that RMC is subject to the leave statute because it employs seventy-five or more employees. The plaintiff further contends that, even if we were to decide that § 31-51kk (4) is ambiguous with respect to whether out-of-state employees may be counted, the trial court correctly concluded, first, that the commissioner's interpretation of the provision is not entitled to deference and, second, that the seventy-five employee minimum, properly construed, includes all employees and not just those located in Connecticut. We agree with the defendants.

We begin our view of the issue presented by setting forth certain legal principles that guide our analysis.

"As we frequently have stated, [a]n agency's factual and discretionary determinations are to be accorded considerable weight by the courts. . . . Cases that present pure questions of law, however, invoke a broader standard of review than is ordinarily involved in deciding whether, in light of the evidence, the agency has acted unreasonably, arbitrarily, illegally or in abuse of its discretion. . . . We have determined, therefore, that the traditional deference accorded to an agency's interpretation of a statutory term is unwarranted when the construction of a statute . . . has not previously been subjected to judicial scrutiny [or to] . . . a governmental agency's time-tested interpretation . . . . Consequently, an agency's interpretation of a statute is accorded deference when the agency's interpretation has been formally articulated and applied for an extended period of time, and that interpretation is reasonable." (Citations omitted; internal quotation marks omitted.) *Longley* v. *State Employees Retirement Commission*, 284 Conn. 149, 163–64, 931 A.2d 890 (2007).

Additional principles come into play, however, when an agency's interpretation of a statute is the subject of a legislatively approved regulation. "[I]t is well established that an administrative agency's regulations are presumed valid and, unless they are shown to be inconsistent with the authorizing statute, they have the force and effect of a statute. . . . This presumption is further underscored by the Uniform Administrative Procedure Act, General Statutes § 4-166 et seq., which provides for legislative oversight through the legislative regulation review committee prior to approval of the regulations. General Statutes § 4-170."[10] (Internal quotation marks omitted.) *Giglio* v. *American Economy Ins. Co.*, 278 Conn. 794, 806–807, 900 A.2d 27 (2006); see also *Gianetti* v. *Norwalk Hospital*, 211 Conn. 51, 60, 557 A.2d 1249 (1989) ("[a]gency regulations, appropriately issued, have the force and effect of a statute"); *Commission on Hospitals & Health Care* v. *Stamford Hospital*, 208 Conn. 663, 668, 546 A.2d 257 (1988) ("validly enacted regulations of an administrative agency carry the force of statutory law"). "We have held consistently that when a regulation is approved by the legislative regulation review committee, such ratification of a proposed regulation by the review committee is an important consideration in determining whether a regulation is consistent with a statutory scheme." (Internal quotation marks omitted.) *State* v. *March*, 265 Conn. 697, 707–708, 830 A.2d 212 (2003); see also *Old Farms Associates* v. *Commissioner of Revenue Services*, 279 Conn. 465, 484, 903 A.2d 152 (2006) (having been subject to legislative review, regulation is "highly persuasive in elucidating the meaning of the statutory language"); *Texaco Refining & Marketing Co.* v. *Commissioner of Revenue Services*, 202 Conn. 583, 600, 522 A.2d 771 (1987) ("legislative ratification of a proposed regulation supports the position that the regulation is consistent with the

general statutory scheme that the regulation was designed to implement"). Furthermore, "[when] a regulation has been in existence for a substantial period of time and the legislature has not sought to override the regulation, this fact, although not determinative, provides persuasive evidence of the continued validity of the regulation." (Internal quotation marks omitted.) *State* v. *March*, supra, 708. Consequently, "[a] person claiming the invalidity of a regulation has the burden of proving that it is inconsistent with or beyond the legislative grant." (Internal quotation marks omitted.) *Giglio* v. *American Economy Ins. Co.*, supra, 807.

This court previously has stated that "[t]he Connecticut leave statute is our state analogue to [the federal Family and Medical Leave Act (federal act), 29 U.S.C. § 2601 et seq.]. Although this state originally had passed family leave legislation prior to the passage of the [federal act], the legislature made a concerted effort to harmonize the state [leave] . . . provisions [and the federal act] following the passage of the [federal act] in 1993. 39 H.R. Proc., Pt. 11, 1996 Sess., p. 3752. The legislature's initiative is reflected in an explicit statutory directive in the leave statute that ensures that its provisions will be interpreted to be consistent with [the federal act]. General Statutes § 31-51qq directs the commissioner to adopt regulations implementing the leave statute, and, in doing so, '[to] make reasonable efforts to ensure compatibility of state regulatory provisions with similar provisions of the federal [act] and the regulations promulgated pursuant to [that] act.' The [leave] statute's legislative history underscores the importance of harmonizing the state . . . leave provisions [with those of the federal act]. . . . Accordingly, [the federal act] jurisprudence guides our interpretation of the provisions of the leave statute." (Citation omitted.) *Cendant Corp.* v. *Commissioner of Labor*, 276 Conn. 16, 23, 883 A.2d 789 (2005).

With these principles in mind, we first address the defendants' contention that § 31-51qq-42 of the regulations is determinative of the meaning of § 31-51kk (4) in light of the strong presumption of validity that attaches to a duly promulgated regulation[11] and the fact that the regulation expressly provides that the commissioner may rely on data contained in the quarterly earnings report, which includes information on Connecticut employees only; see General Statutes §§ 31-222 (a) and 31-225a (j); for purposes of determining whether a business employs a sufficient number of employees under § 31-51kk (4). We note that the plaintiff, in her brief to this court, does not respond to the defendants' contention that § 31-51qq-42 of the regulations is decisive with respect to the meaning of § 31-51kk (4), nor does she maintain that the regulation is inconsistent with or beyond the scope of the commissioner's authority. In fact, the plaintiff's brief contains no mention of § 31-51qq-42 of the regulations. When asked at oral argument

before this court why § 31-51qq-42 of the regulations, as a duly promulgated regulation, should not inform, or even control, this court's interpretation of § 31-51kk (4), the plaintiff merely renewed the argument that she had made before the hearing officer, namely, that, because the regulation uses the word "may," it permits but does not compel reliance on the quarterly earnings report by the commissioner, who therefore is free to consider other data. We are not persuaded.

We previously have stated that "an agency's interpretation of its own regulations is entitled to deference." *MacDermid, Inc.* v. *Dept. of Environmental Protection*, 257 Conn. 128, 138, 778 A.2d 7 (2001). We can perceive of no reason, and the plaintiff has offered none, why we should deviate from this principle in the present case. Accordingly, we defer to the commissioner's interpretation of § 31-51qq-42 of the regulations, particularly as it relates to the 1999 amendment and the commissioner's reasons for substituting the word "may" for "shall" before the phrase "rely on the quarterly earnings report."[12] As the hearing officer explained in *Jenco* v. *United Airlines*, supra, Case No. FM 2004-47, the regulation was modified "to allow the [commissioner] to supplement the sources of information [on] which [she] could rely in determining the number of Connecticut employees who were covered by the [leave statute]. . . . [This was necessary because] an employer [that] employed more than seventy-five employees in the third quarter . . . may be able to establish, through its payroll records, that it employed [fewer] than seventy-five employees during the week containing October 1, the critical date for determining if the employer was subject to the [leave statute]. The amended regulation would allow the [c]ommissioner to consider more detailed weekly payroll records in making this determination." As the hearing officer in *Jenco* also explained, however, the amendment was not intended to effect a substantive change in the definition of "employer" such as to extend coverage to employers with fewer than seventy-five employees in Connecticut. Id.

The commissioner's interpretation of § 31-51kk (4) is supported not only by § 31-51qq-42 of the regulations, but also by the federal act. See, e.g., *Cendant* v. *Commissioner of Labor*, supra, 276 Conn. 23 ("jurisprudence [concerning the federal act] guides our interpretation of the provisions of the leave statute"). As this court previously has explained, "§ 31-51qq directs the commissioner to adopt regulations implementing the leave statute, and, in doing so, '[to] make reasonable efforts to ensure compatibility of state regulatory provisions with similar provisions of the federal [act] and the regulations promulgated pursuant to [that] act.' The [leave] statute's legislative history underscores the importance of harmonizing the state . . . leave provisions [with those of the federal act]. During floor debate in the House of Representatives on the [proposed legis-

lation], Representative Michael Lawlor noted that [it] would 'merge the standards of both the federal [act] and [the] state family leave laws *so as to reduce confusion to employers and employees in Connecticut who are affected by either of these two laws*.' " (Emphasis in original.) Id., 23; see also, e.g., 39 H.R. Proc., supra, p. 3758, remarks of Representative Lawlor (explaining that § 31-51qq directs commissioner to adopt procedures and guidelines that will make state law "identical [whenever] possible to the federal [act]").

It is well established that the federal act "was enacted, in part, to balance the demands of the work-place with the needs of families . . . [and] to entitle employees to take reasonable leave for medical reasons . . . in a manner that accommodates the legitimate interests of employers." (Internal quotation marks omitted.) *Hackworth* v. *Progressive Casualty Ins. Co*., 468 F.3d 722, 727–28 (10th Cir. 2006). "[I]n furtherance of the balance between the needs of employees and the interests of employers, Congress included two exceptions to the [federal act's] coverage. First, Congress excluded those employers with fewer than [fifty] total employees. . . . Second, Congress excluded from the [federal act's] coverage those employees whose employer employs fewer than [fifty] people within [seventy-five] miles of the employee's worksite (the 50/75 provision)." (Citation omitted; internal quotation marks omitted.) Id., 726. "The 50/75 provision was specifically designed to accommodate employer concerns about the difficulties [that] an employer may have in reassigning workers to geographically separate facilities. . . . *Moreau* v. *Air France*, 356 F.3d 942, 945–46 (9th Cir. 2004) ([I]t might be reasonable to expect an employer to relocate workers from nearby facilities for the period of . . . leave . . . but it would be understandably more difficult to reassign an employee whose family lives in Los Angeles to work in San Francisco for three months.)." (Citation omitted; internal quotation marks omitted.) *Hackworth* v. *Progressive Casualty Ins. Co*., supra, 728. The legislative history of the leave statute evidences a similar legislative concern for minimizing the financial and logistical burden that reassigning employees to geographically separate facilities could impose on Connecticut employers. See, e.g., 32 S. Proc., Pt. 4, 1989 Sess., pp. 1369–70; 32 H.R. Proc., Pt. 38, 1989 Sess., pp. 13,723, 13,726–29.

In light of the foregoing, we agree with the defendants that construing the term "employer" in § 31-51kk (4) to apply to businesses that employ seventy-five or more persons in Connecticut is wholly consistent with the small business and small operations exceptions to the federal act and, therefore, with the express directive of § 31-51qq that the commissioner harmonize the provisions of the state leave provisions and the federal act to the greatest extent possible. The plaintiff's construction of § 31-51kk (4), by contrast, would directly contra-

vene the dictates of § 31-51qq.[13] Indeed, under the interpretation of § 31-51kk (4) that the plaintiff advocates, an employer with just one employee in Connecticut and seventy-four employees dispersed around the world would be subject to the leave statute. We are unwilling to presume that the legislature would have intended such a result, not only because of the logistical nightmare it would create for employers, but also because of the burdens that it would impose on the commissioner, who presumably would be required to conduct investigations into the employment records of employers far outside her jurisdiction.

Our conclusion is buttressed by the fact that when the legislature amended the leave statute in 1996 to make it conform to the federal act, § 31-51qq-42 of the regulations required that the commissioner consider only the quarterly earnings report in determining whether an employer was subject to the statute. It was not until 1999 that § 31-51qq-42 of the regulations was amended to grant the commissioner more flexibility with respect to the data that she could consider in making this determination. We may assume that if, in 1996, the legislature had disagreed with the commissioner's interpretation of § 31-51kk (4) as applying to employers with seventy-five or more employees in Connecticut, it would have taken appropriate corrective action at that time. See, e.g., *Connecticut Light & Power Co.* v. *Public Utilities Control Authority*, 176 Conn. 191, 198, 405 A.2d 638 (1978) ("the inference of legislative concurrence with the agency's interpretation [is] to be drawn from legislative silence concerning that interpretation, especially where the legislature makes unrelated amendments in the same statute").

This assumption is bolstered by the legislative history surrounding the 1996 amendment. During floor debate in the House of Representatives concerning that amendment, Representative Lawlor was asked whether the proposed legislation, § 31-51qq, would expand coverage under the leave statute in light of the fact that § 31-51kk (4) requires an employer to have at least seventy-five employees before coverage is triggered, whereas the federal act covers employers with as few as fifty employees. Representative Lawlor responded that the proposed legislation would have no effect on the definition of employer then employed under the leave statute. See 39 H.R. Proc., supra, p. 3758, remarks of Representative Lawlor ("[F]or employers [that] have fewer than [seventy-five] employees and [are] currently subject only to the federal [act], nothing will change . . . . [W]e have not made those [employers] subject to the state [leave] law by passing this. The federal standard will still govern . . . ."). It is reasonable to assume that when Representative Lawlor made his remarks, he was aware that the definition of "employer" had been interpreted by the commissioner, in a legislatively approved regulation, to mean a business that employs at least

seventy-five employees in Connecticut.

For all the foregoing reasons, the trial court incorrectly concluded that RMC is subject to the requirements of the leave statute when RMC employs fewer than seventy-five employees in this state. Because the leave statute does not apply to RMC, the plaintiff's claim under that statute must fail.

The judgment is reversed and the case is remanded with direction to render judgment denying the plaintiff's appeal.

In this opinion the other justices concurred.

* The listing of justices reflects their seniority status on this court as of the date of oral argument.

This case was scheduled to be argued before a panel of this court consisting of Chief Justice Rogers and Justices Norcott, Palmer, Zarella, McLachlan, Eveleigh and Harper. Although Chief Justice Rogers was not present when the case was argued before the court, she read the record and briefs and listened to oral argument prior to participating in this decision.

[1] The defendants filed separate appeals with the Appellate Court, and we transferred the appeals to this court pursuant to General Statutes § 51-199 (c) and Practice Book § 65-1.

[2] General Statutes § 31-51kk provides in relevant part: "As used in sections 31-51kk to 31-51qq, inclusive:

* * *

"(4) 'Employer' means a person engaged in any activity, enterprise or business who employs seventy-five or more employees . . . but shall not include the state, a municipality, a local or regional board of education, or a private or parochial elementary or secondary school. The number of employees of an employer shall be determined on October first annually . . . ."

[3] Section 31-51qq-42 of the Regulations of Connecticut State Agencies, which establishes the mechanism for determining whether a business employs a sufficient number of employees to qualify as an employer under § 31-51kk (4), provides in relevant part: "In order to determine which employers may have employed a sufficient number of employees as of October first of the previous year to be covered under the [leave statute], the Commissioner may rely upon data contained in the Employee Quarterly Earnings Report required pursuant to Section 31-225a (j) of the General Statutes . . . for the third quarter of the prior calendar year."

[4] General Statutes § 31-225a (j) (1) provides: "Each employer subject to this chapter shall submit quarterly, on forms supplied by the administrator, a listing of wage information, including the name of each employee receiving wages in employment subject to this chapter, such employee's Social Security account number and the amount of wages paid to such employee during such calendar quarter."

[5] General Statutes § 31-222 (a) provides in relevant part: "(2) The term 'employment' shall include an individual's entire service performed within, or both within and without, this state, (A) if the service is localized in this state, or (B) if the service is not localized in any state but some of the service is performed in this state, and if (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state, or (ii) neither the base of operations nor the place from which such service is directed or controlled is in any state in which some part of the service is performed but the individual's residence is in this state.

"(3) Services not covered under subdivision (2) of this subsection and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state, or of the federal government, shall be deemed to be employment subject to this chapter, if the administrator approves the election of the employer for whom such services are performed, that the entire service of the individual performing such services shall be deemed to be employment subject to this chapter.

"(4) Services shall be deemed to be localized within a state if (A) the service is performed entirely within such state, or (B) the service is performed both within and without such state but the service performed without

such state is incidental to the individual's service within the state; for example, is temporary, or transitory in nature, or consists of isolated transactions.

"(5) No provision of this chapter, except section 31-254, shall apply to any of the following types of service or employment, except when voluntarily assumed, as provided in section 31-223:

* * *

"(D) Service performed in this state or elsewhere with respect to which contributions are required and paid under an unemployment compensation law of any other state . . . ."

[6] Section 31-51qq-42 of the regulations originally was § 31-51ee-2. It was redesignated and transferred to its present location in 1999.

[7] As this court repeatedly has recognized, an administrative agency's interpretation of a statutory provision over which it has cognizance will receive judicial deference if that interpretation is both time-tested and reasonable. See, e.g., *Vincent* v. *New Haven*, 285 Conn. 778, 784 n.8, 941 A.2d 932 (2008).

[8] See, e.g., *Secretary of the Office of Policy & Management* v. *Employees' Review Board*, 267 Conn. 255, 274, 837 A.2d 770 (2004) (court generally should "not impute to the legislature an intent to limit [a] statutory term [when] such intent does not otherwise appear in the language of the statute" [internal quotation marks omitted]).

[9] General Statutes § 1-2z provides: "The meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered."

[10] General Statutes § 4-170, requiring approval of state agency regulations by the legislative review committee, provides in relevant part: "(a) There shall be a standing legislative committee to review all regulations of the several state departments and agencies following the proposal thereof . . . .

"(b) (1) No adoption, amendment or repeal or any regulation . . . shall be effective until (A) the original of the proposed regulation . . . [is] submitted . . . [and] (B) the regulation is approved by the committee . . . ."

[11] No party claims that the regulations at issue in the present appeal, including § 31-51qq-42 of the regulations, were not validly promulgated.

[12] We agree with the defendants, moreover, that, contrary to the view expressed by the trial court, there is nothing in the regulatory scheme promulgated by the department for purposes of implementing the leave statute that casts doubt on the commissioner's interpretation of § 31-51qq-42 of the regulations.

[13] We note that, in her brief to this court, the plaintiff does not address the defendants' contention that the commissioner's interpretation of § 31-51kk (4) accords with the legislative directive of § 31-51qq requiring the commissioner to adopt regulations that harmonize the state leave provisions with those of the federal act. The primary thrust of her argument on appeal, rather, is that, because the definition of "employer" contained in § 31-51kk (4) imposes no geographic restriction, the plain meaning rule, as set forth in § 1-2z, requires that we refrain from reading such a restriction into it. Section 31-51kk (4) is silent, however, as to whether out-of-state employees may be counted. Although it is true that "[statutory] silence does not . . . necessarily equate to ambiguity"; *Manifold* v. *Ragaglia*, 272 Conn. 410, 419, 862 A.2d 292 (2004); it does in the present case because § 31-51kk (4) does not speak directly to the issue, which simply cannot be resolved without interpreting the provision. Our determination is reinforced by the explicit directive of § 31-51qq that the commissioner make all efforts to harmonize the state leave provisions with those of the federal act. See *Dept. of Transportation* v. *White Oak Corp.*, 287 Conn. 1, 8, 946 A.2d 1219 (2008) (when determining whether statute is plain and unambiguous, § 1-2z "directs us first to consider the text of the statute itself *and its relationship to other statutes*" [emphasis added; internal quotation marks omitted]).

Nor are we persuaded by the plaintiff's contention that *Essex Crane Rental Corp.* v. *Director, Division on Civil Rights*, 294 N.J. Super. 101, 682 A.2d 750 (1996), supports her interpretation of § 31-51kk (4). In *Essex Crane Rental Corp.*, the Appellate Division of the New Jersey Superior Court, in interpreting New Jersey's family leave statute, held that it "[could not] conclude that counting all employees and not merely New Jersey employees violates standards of reasonableness or common sense, or leads to an absurd or anomalous result." Id., 107. What the plaintiff overlooks, however, is that the regulatory agency responsible for implementing New Jersey's family and medical leave statute, the New Jersey division on civil rights, had

adopted a regulation defining "employer" as a business that " 'employs [fifty] or more employees, *whether employed in New Jersey or not . . . .*' " (Emphasis in original.) Id., 104. The sole issue in *Essex Crane Rental Corp.* was whether that regulation was reasonable, and the Appellate Division concluded that it was. Id., 107. Moreover, as the defendants note, the New Jersey approach represents a distinct minority position. Most states with family and medical leave statutes, consistent with the commissioner's approach, count only employees who work in state. See, e.g., California Govt. Code § 12945.2 (b) (Deering Sup. 2012) ("it shall not be an unlawful employment practice for an employer to refuse to grant a request for family care and medical leave by an employee if the employer employs less that 50 employees within 75 miles of the worksite where that employee is employed"); Me. Rev. Stat. Ann. tit. 26, § 843 (3) (A) (Sup. 2011) (defining "employer" as "[a]ny person, sole proprietorship, partnership, corporation, association or other business entity that employs 15 or more employees at one location in this State").