

Benefits Consideration for Onboarding Furloughed and Laid Off Employees

Steps to take when re-enrolling returning employees in benefit plans

By © Troutman Pepper

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C COVID-19 continues to throw us curveballs. While some states that were continuing on their path to recovery are having to backtrack, others have managed to temporarily halt the progression of COVID-19 and are proceeding as planned.

Amidst all this uncertainty, one thing is certain: human resource professionals continue to face overwhelming obstacles. Below, we outline issues that human resource professionals are likely to face as they onboard furloughed and laid-off employees.

Onboarding Furloughed Employees

HEALTH AND WELFARE PLANS

For employees enrolled in one or more employer sponsored health and welfare plans and receiving coverage during the furlough period:

- Payroll deductions for required employee contributions for the plan generally resume upon return from furlough, subject to any changes in employment status that may affect eligibility.
- To the extent repayment of employee contributions advanced during the furlough period is required, consider how to collect the employee contributions (e.g., through payroll deduction or otherwise), keeping in mind state law requirements related to payroll deductions.
- Consider the extent to which election changes may be made upon return from furlough.

For employees not enrolled in an employer-sponsored health and welfare plan during the furlough period (or enrolled in COBRA continuation coverage):

- Determine when eligibility for the plan resumes in accordance with plan terms (e.g., immediately or after a waiting period), subject to any impact on eligibility due to changes in employment status.
- Consider the process for enrolling employees and the extent to which election changes may be made upon return from furlough, including any HIPAA special enrollment rights.

In addition:

- Evaluate the impact of the furlough on employees' full-time status under the Affordable Care Act's (ACA's) lookback measurement period and stability period requirements.
- Evaluate the impact of return from furlough on participation in wellness program activities and eligibility for wellness program incentives.

- To the extent employees will have staggered work schedules, consider entitlement to benefits based on reduced hours (full time/part time) or new job requirements and whether any plan amendments are needed.

401(K) PLANS

Generally, employee and company contributions resume upon return from furlough; however, changes in job titles or positions may affect eligibility:

- Determine whether employee and company contributions will resume immediately upon return from furlough based on elections in place immediately before the furlough period or whether new elections will be required.
- Determine the extent to which legally required notices relating to plan participation must be provided.
- Address the treatment of loan repayments upon return from furlough.
- Determine the extent to which the period of furlough must be counted for purposes of plan eligibility, vesting and the right to allocation of contributions.

PENSION PLANS

- Consider whether changes in job titles or positions may affect eligibility for continued participation upon return from furlough.
- Review plan terms to determine the extent to which the period of furlough must be counted for purposes of plan eligibility, vesting and benefit accrual.

OTHER BENEFITS

- Consider the impact of return from furlough on any commuter benefits (parking and transit).
- Consider the impact of return from furlough on vacation and holiday accrual.

Onboarding Laid-Off Employees

HEALTH AND WELFARE PLANS

- Treat rehired employees who have been laid off as new hires who must complete new hire paperwork for health and welfare plan eligibility.
- Consider the impact of the termination of employment and rehire on the employee's status as a full-time employee under the ACA's lookback measurement period and stability period requirements.

QUALIFIED RETIREMENT PLAN

- Defer to plan terms and break in service rules for purposes of determining the impact of the layoff on plan eligibility, vesting and benefit accrual.
- Review plan terms and procedures for enrolling rehired employees in 401(k) plan, including application of plan's auto-enrollment feature, if any.

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