



COVID-19

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**Coronavirus / COVID-19
Response Team**

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**Layoffs - A Deeper Dive on
Unemployment & Benefits**

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Today's Briefing Panelists:
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Agenda

- Unemployment Benefits
 - General Information
 - EO 2020-10
 - Work Share vs. Complete Layoff of Part of Your Workforce
- SUB Plans and Other Benefit Programs
- Health and Welfare Issues During Leaves
- Retirement Plan Considerations

Unemployment – General Information

- Apply immediately after layoff
 - Online or via telephone
- Must certify every two weeks – No \$ until certify - Certify via telephone or computer
- 2 ½ -3 weeks after layoff = first benefit payment
- Debit card or direct deposit
- UIA determines eligibility – not employer

Unemployment – General Information

- Amount = \$81/week minimum; \$362/week maximum
 - Most FT employees - higher end \$250-\$362/week
- How long? 26 weeks
- Waiver of seeking work - Employer can file through MiWAM account - Expect layoff less than 45 days
- COVID-19 Guide - Unemployment Benefits
 - [Fact Sheet 160](#)

Unemployment – General Information

- Will the company have to pay \$9,412 for every employee?
 - Contributing employer - No
 - Reimbursing employer - Yes, unless reason for non-charge (See EO 2020-10, para. 6)

Unemployment – EO 2020-10

- Voluntary leaving (or medical LOA) due to COVID-19 is involuntary
- Left work because:
 - Self-isolation; immunocompromised; symptoms; contact; confirmed case; family care due to COVID-19 or a governmental directive = involuntary lay-off
 - Basically – Leaving work for COVID-19 is an involuntary leaving and no voluntary leaving disqualification

Unemployment – EO 2020-10

- Benefits increased from 20 weeks to 26 weeks
- Paragraph 6 – Employer must not be charged for unemployment benefits if employees become unemployed because of an EO requiring employers to close or “limit operations”
 - Stay Home Order (EO 2020-21) caused closure or “limited” your operations – no charges
 - Probably will have to force the UIA to non-charge your account – keep an eye on claims, UIA 1136, invoices

Work Share Program

- Completely lay off part of your workforce vs. keep your employees working but reduce everyone's hours (Work Share)
- WS advantages – helps retain trained/skilled employees; keeps employees involved in the workplace; recall is easier
 - Employee can keep working and receive a partial unemployment benefit

Work Share Program

- Example – Employee benefit is \$360. Hours reduced by 20%. Employee receives his/her pay plus a WS benefit of \$72 ($\$360 \times 0.20 = \72)
 - Employee still gets a paycheck – but also receives a supplement from the UIA

Work Share Program

- Employee work hours cannot be reduced by more than 45% - need to cut hours by 50% - No WS
- All full-time employees in unit must participate in WS - You can create multiple WS units
- Part-time employees cannot participate in WS
 - WS works well for sustained economic downturns - Do not work well for emergency situations (require flexibility) - Info: 1-844-WORKSHR

Earnings Impact Benefits

- Earnings during weeks of unemployment reduce and can eliminate benefits that week
- If earn 1.5 x weekly benefit amount or more - then unemployment is zero that week
 - \$362 benefit - if earn \$543 one week - no unemployment
 - If earn less then benefits are reduced (See calculation on next slide - Fact Sheet 140)

Earnings Impact Benefits

Earnings equal or exceed 1.5 times your Weekly Benefit Amount (WBA)	<p>A. WBA = \$362.00 B. Total Earnings = \$600.00 C. $\\$362 \times 1.5 = \\543.00 D. If B is more than C, then you will not receive a benefit payment for this week.</p>
Earnings are less than 1.5 times your WBA, but greater than your WBA, total earnings are subtracted from 1.5 times your WBA.	<p>A. WBA = \$362.00 B. Total Earnings of \$420.00 C. $\\$362 \times 1.5 = \\543.00 D. If B is more than A, then subtract earnings from C. $\\$543.00 - \\$420.00 = \\$123.00$</p>
Earnings are equal to or less than your WBA, 0.5 times your earnings are subtracted from your WBA.	<p>A. WBA = \$362.00 B. Total earnings of \$101.00 C. If B is less than A, see the calculation below $\\$101 \times .5 = \\50.50 $\text{WBA } \\$362 - \\$50.50 = \\$311.50$ You receive \$312.00</p>

Earnings Impact Benefits

- A supplemental unemployment benefit plan (“SUB Plan”) is the only surefire way to make payments to laid off workers without reducing their weekly unemployment benefits

SUB Plans

- SUB Plans are designed to supplement an individual's state unemployment benefits:
 - Since they generally won't offset the individual's state unemployment benefit
 - The combination of SUB benefits and state unemployment compensation reduces the burden on individuals
 - If properly designed, SUB benefits are *not* subject to employer or employer portions of FICA, or FUTA

SUB Plans

- Eligibility must be limited to individuals who have been *involuntarily* terminated
- SUB plans are subject to ERISA:
 - They must be maintained using a written plan document
 - An SPD must be prepared and distributed
 - If there are at least 100 participants, a Form 5500 must be filed

SUB Plans

- SUB Plan Example
 - Continuing 100% of an employee's take-home pay without a SUB plan

	Employer	Employee
Gross Weekly Pay	\$1,000	\$1,000
FICA (7.65%)	+\$76.50	(\$76.50)
Employer Wage Expense	\$1,076.50	N/A
Employee Take-Home Pay	N/A	\$923.50

SUB Plans

- Continuing 100% of an employee's take-home pay with a SUB plan

	Employer	Employee
State UE Benefit	N/A	\$362.00
SUB Benefit	\$561.50	\$561.50
FICA	\$0.00	\$0.00
Employer Wage Expense	\$561.50	N/A
Employee Take-Home Pay	N/A	\$923.50

Other Employee Benefit Programs to Provide Relief

- PTO Donation Programs
- Section 139 Disaster Relief Payments

Health and Welfare Issues During Leaves

- Continuation of health and welfare benefits during a leave
 - Is the leave a termination of employment or a leave of absence?
 - If a termination, coverage will end (subject to COBRA)
 - Leaves require further evaluation
 - Most health and welfare plans impose an active at work requirement
 - If this requirement isn't waived (must confirm with insurance or stop-loss carrier) coverage will terminate

Health and Welfare Issues During Leaves

- Coverage of COVID-19 testing and diagnosis
 - Likely covered by most plans
 - Diagnosis (testing and evaluation) must be covered without participant cost-sharing (deductibles, copayments or coinsurance)
 - Treatment of COVID-19 is not required to be covered without participant cost-sharing
- Taking employees' temperatures
 - HIPAA? Likely no.
 - ADA? Yes, but appears permissible under EEOC guidance

Retirement Plan Considerations

- Employer cost reductions
 - Changing employer contribution formulas in defined contribution plans
 - Freezing defined benefit plans
 - Amending NQDC plans
- Employee access to retirement funds
 - Options following separation from employment
 - Options while still employed (i.e., during leave of absence)

Retirement Plan Considerations

- Unique aspects of NQDC plans
 - Understand distribution triggers (often “separation from service”) and impact of layoffs and leaves of absence.
 - Distributions for “unforeseeable emergency”
- Retirement plan provisions in proposed legislation
 - Likely expanded distribution options and related tax relief
 - Modeled after Further Consolidated Appropriations Act, 2020



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