

Survive and Advance

Furloughs vs. Layoffs & Your Employee Benefits

Tips for our Clients on How to Handle the Effects of Coronavirus 2020

March 27, 2020

As the impact of Coronavirus continues to impact employers, including government imposed shutdowns, many businesses and organizations are having to make tough decisions based on the economic and financial effects of the Coronavirus pandemic. Many are asking about employee furloughs, layoffs, and their impact to coverage under employee benefit plans. Carriers are providing some relief by allowing furloughed employees to continue coverage under the plans with payment of premium, however there is no “one size fits all answer”, with each carrier providing their own stance on furlough coverage and time limits.

The following information provides guidance on furloughs versus layoffs, options for employee benefits continuation, and current carrier time limits for furlough coverage. As the situation remains fluid, please reach out to us should you have questions should you be considering such action(s).

Here are some potential “decision-paths” employers maybe facing, and some guidance related to the continuation of employee benefits.

Furlough:

- Assumes the employer expects the affected employees to return to their positions at a future point in time.

This is when you need to trim payroll temporarily or are required to shut down operations and intend to bring employees back at a later date. These employees may also apply for unemployment. In this situation, you have an option regarding the continuation of their health benefits:

- 1) Offer COBRA to the employee and if they elect COBRA coverage they typically are responsible to pay 100% of the premium costs. While uncommon, employers may supplement the employee’s cost of COBRA if done in a uniform/non-discriminatory manner.

Or;

- 2) Offer to keep the furloughed employee on your health insurance plan as an “eligible employee”. In this case you would continue to pay the premiums for your employees. The employee may still be responsible for their current share of the medical benefit costs.

Employers can choose to advance the cost of employee premium share but should make it clear and put in writing that employees will be required to pay their portion of the premiums when they return on a payroll deduction basis. The employer should also amend their plan eligibility in writing to include furloughed employees currently on the health plan during this public health crisis and notify the health plan carrier if fully insured or administrator/reinsurer if self-funded

- It is important to note that each carrier is providing different guidance in terms of how long they will allow currently covered employees to continue coverage while furloughed. Some carriers are also stating the employee must have been on the plan as of 3/1/2020 or have been on the plan at the time of furlough. We are seeing up to 60 or 90 day carrier time limits for “furlough coverage”, as well as stated end-dates such as 4/30/2020, 5/31/2020 or 6/30/2020. We are also seeing some carriers with no time limits currently stated. This is a fluid situation and we anticipate those carrier with no current limits may put one in place at a future date, and those carriers who are currently limiting furlough coverage may reassess and potentially extend time limits as this pandemic shut-down plays out.

There is no “one size fits all” answer to this. We suggest you contact us at Smith Brothers and one of our Employee Benefits team members will assist you.

- Should employee furlough statuses or valid leave protections become exhausted, the result would be a layoff or terminated employment status. This would trigger a COBRA qualifying event and employer obligation to offer COBRA continuation coverage.

Layoff:

- Assumes the employer does not expect or cannot currently anticipate the affected employees to return to their positions at a future point in time.
 - If you do layoffs you will terminate affected employees
 - You must give your terminated employees the necessary state unemployment forms to help them file their claim
 - Terminated employees are typically eligible for COBRA and you must provide COBRA regulations

We are here to help you. When considering either layoffs or furloughs - please contact your Smith Brothers Risk Advisor or GreenTree Risk Management, LLC – Smith Brothers Risk Management division:

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