

Top 10 Questions Covid19 and Impacts to your Workforce (Week 2)

1. Are there tax credits also available for maintaining insurance premiums for my employees?

In the tax credit heading of the Employer paid Leave Fact Sheet the DOL states “Applicable tax credits also extend to amounts paid or incurred to maintain health insurance coverage”. More guidance on this is expected soon.

2. If I currently have an employee out on a regular FMLA protected leave. Do they also qualify for another 12 weeks under EFMLA?

Yes. Another 12 weeks specific to the six circumstances as outlined in the law.

1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19
2. Has been advised by a health care provider to self-quarantine related to COVID-19
3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis
4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in(2)
5. Is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
6. Is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

3. If the federal, local or state government mandates my business to close does that qualify my employees for Emergency Paid Leave and/or EFMLA?

The Employer and Employee Fact Sheet states: The Act provides that covered employers must provide all employees “expanded family medical leave (and sick leave) where the employee is unable to work because the employee is quarantined (pursuant to Federal, State or local government order”.

4. What are my notice requirements regarding Emergency Paid Leave/EFMLA?

Link to the required posting:

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

Link to Frequently Asked Questions regarding Notice:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions>

5. Are employers under 50 exempt from Emergency Paid Leave and Extended FMLA?

There is a statement that small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business. More guidance on this is expected soon.

6. Are Insurance companies allowing delays in premiums payments?

This past week we have been polling insurers on relaxing their contractual provision on premium grace periods. No universal change in the contractual grace period has been communicated.

7. Can I remove or suspend my retirement plan employer contribution?

- Yes. If your employer contribution is discretionary within your plan document, no amendment should be required. First, confirm with your retirement plan vendor that you can make this change without an amendment, and once confirmed, provide a notice to your employees informing them of the change.
- If your employer contribution is a safe harbor match, a safe harbor non-elective contribution, or your employer contribution is specifically written into your plan document, removing or changing that contribution requires a plan amendment with appropriate notice to employees. Work with your retirement plan vendor to understand the ramifications of this amendment, especially with discrimination testing considerations when removing safe harbor provisions.
- Note: The CARES (Coronavirus, Aid, Relief, and Economic Security) Act and the Take Responsibility for Workers and Families Act include key retirement plan and loan provisions that are in proposal phase and have not yet been signed into law. If passed, these Acts may provide guidance for employers regarding their employer contribution requirements. We are closely monitoring all legal and regulatory action that could impact retirement plan provisions. We will provide updates as additional information becomes available.

8. Do employee layoffs impact my retirement plan?

- If severance of employment impacts 20% or more of your eligible participants, a partial plan termination may be triggered, which provides 100% immediate vesting for those impacted participants for all employer contributions? Speak with your retirement plan vendor if you are close to this 20% threshold.
- Note: The CARES (Coronavirus, Aid, Relief, and Economic Security) Act and the Take Responsibility for Workers and Families Act which include key retirement plan and loan provisions are in proposal phase and have not yet been signed into law. If passed, we will keep you informed if partial plan termination rules are impacted.

9. If I have an employee on short term disability can they still qualify for state or federal benefits such as unemployment or paid sick leave?

In general, Short Term Disability plans have an offsetting provision when government plans also pay. Often the Short Term Disability plan is the primary payer while the government plans pay secondary. The Short Term Disability carrier will likely offset their weekly benefit payments received from government sources. Your SHC broker or account manager can help you find out how your Short Term Disability carrier will pay the benefit.

10. Is there a difference between layoff and furlough?

These 2 terms are often used interchangeably and essentially have the same meanings. Regarding Unemployment qualifications or maintaining benefits there is no difference.

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