

Benefit considerations —furloughs, layoffs and voluntary separation offers

The coronavirus pandemic continues to affect society and the economy, changing the way companies think about their own workforce. Company leadership and human resources teams are looking for creative and thoughtful ways to right-size their employee populations, while keeping an eye toward the reopening of the economy. Furloughs, for example, have become one way to temporarily reduce staff and labor costs while providing benefits to workers in the interim. Let's examine several strategies that companies are currently implementing, including furloughs, reductions in hours, layoffs and voluntary separation offers.

Furloughs, unpaid leave and reduction in hours



Key benefit considerations in a furlough:

- How to handle premium payments for medical and other insurance benefits
- Contributions and access to 401(k) plan



Best practices in a furlough:

- Provide clear communications on treatment of all benefit plans
- Communicate regularly throughout furlough
- Provide employees instructions for filing unemployment during the weeks they are furloughed

A furlough is mandatory, unpaid leave of absence from work. The length can vary but many are less than six months. Furloughed employees may have their hours reduced or they may not be working at all. Furloughs are an alternative to layoffs that enable a company to reduce labor costs without adding new expenses such as severance packages and outplacement services, as well as future costs to recruit and train new employees once their business turns around.

In many cases, a temporary furlough or reduction in hours/pay will not trigger a termination and employees may remain eligible for benefits. The treatment of a furlough can vary for each plan, so it's essential to review the plan rules. Many plans do not specifically address a furlough situation. Employers may want to look at the leave of absence rules for guidance.

Unemployment benefits are one of the top concerns for employees during a furlough.

Eligibility for unemployment benefits can vary by state, as well as whether the employee is on full, unpaid leave or reduced hours. The unemployment process can be challenging, so you'll want to understand the rules of the state that you are operating in and consider providing instructions and resources to assist employees.

In most cases, these employees remain eligible for benefits and are treated as active employees. But what happens to benefit payroll deductions (such as medical, life and disability insurance premiums) if an employee isn't receiving a paycheck? Here's how some companies are handling this:

- Company can choose to pay employee portion of premiums
- Company can pay employee premium and then get reimbursed once employee returns to work
- Employee can be directly billed
- Employee can pay with accrued and unused PTO time

401(k)/employee stock purchase plan (ESPP) contributions may cease during a furlough, creating these questions and issues:

- Will furlough time count toward vesting and eligibility? That's contingent on plan rules
 - If the vesting schedule references duration of time as an employee, then time on furlough counts toward that duration. However, if the vesting schedule is defined as hours of service, time on furlough may not count toward vesting
- How will the furlough impact receipt of the full match for the year?
 - If on full, unpaid leave, employee contributions will stop, meaning the employee will miss out on any match they would otherwise be eligible for during that period. If the plan has a year-end true-up feature on the match, they may be able to recover this lost portion
- If not treated as terminated, active employee rules apply in terms of access to the balance
 - Still eligible to take loan
 - May be eligible to take an in-service withdrawal, if the plan rules allow
 - If provisions to extend withdrawals and loans under the CARES Act have been implemented, furloughed employees would be eligible
- Companies can suspend loan payments up to one year if employees are put on unpaid leave or extend the payback period on outstanding loans, per the CARES Act

Pension

- Will furlough time count toward vesting and eligibility? That's contingent on plan rules

Nonqualified Deferred Compensation Plan

- Compliance with IRC Section 409A rules are critical in terms of determining whether a separation from service has occurred. Most furloughs are temporary, so they would not trigger a separation but employers should be sure to review this issue
- If an employee isn't treated as terminated, payout is not triggered
- Generally, deferral elections cannot be changed or revoked unless a plan participant experiences an unforeseeable emergency or actually qualifies for—and takes—a hardship distribution from the company's 401(k) plan
 - Per recent IRS guidance, employers may also allow for deferral elections to be revoked if the employee takes a CRD withdrawal from the 401(k)
- Limited ability to withdraw money—the employee must qualify under unforeseen emergency provisions, which are very strict

Equity awards

- How will the unpaid furlough period impact vesting—is this addressed in award agreement?
- If not treated as terminated, the employee remains eligible to exercise outstanding stock options

Layoff/Reduction-In-Force



Key benefit considerations in a layoff:

- Severance payments
- Medical coverage
- Acceleration of vesting and eligibility for retirement benefits
- Treatment of executive benefits



Best practices in a layoff:

- Provide clear communications and customized packages with benefit estimates and premium rates
- Provide financial counseling assistance
- Offer transitional career counseling

In a layoff or workforce reduction, the issue of severance payments is one of the primary concerns. Does your company use a standard severance plan, or do you choose an enhanced plan for these times? Whichever approach you utilize, the technical considerations include:

- Is severance paid in a lump sum or as salary continuation?
- What compensation will the severance calculation be based on?
- How will annual incentive bonuses be treated—pro-rate?

Severance also affects eligibility for unemployment benefits, so you'll want to understand the rules of the state that you are

operating in. In most states, workers are not eligible while still receiving severance payments. However, if severance is paid in a lump sum, they may be eligible.

When designing a benefits package for layoff/reduction-in-force, there are many components to designing an equitable separation package. The key considerations are:

Medical coverage

- COBRA
 - Employer-subsidized for a period of time
 - Extension of COBRA period from 18 to 24 months
- Eligibility for retiree medical coverage

401(k) plan

- Will vesting be accelerated?
- Process for payback of outstanding loans
 - Ability to continue payments directly to administrator can be very beneficial for employees to avoid default
 - Employee can make an IRA rollover up until the due date, including extensions, of federal tax returns for the year in which the default occurs

Pension

- Will vesting be accelerated?
- What is the impact on retirement eligibility and payment of benefit?
- Will funding status impact access to lump sum payment (if plan offers)?

Additional considerations in a layoff scenario include:

- Will termination accelerate payout from nonqualified deferred compensation or Excess Plans or will specified date distribution elections remain?
- What is the treatment of equity awards at separation?
- How long will employees have to exercise outstanding stock options—is the company extending the period given the current environment?
- Treatment of accrued and unused PTO
 - Will it be paid in cash or as a contribution to 401(k), HSA or HRA?

Voluntary Separation/Retirement



Key benefit incentives in a voluntary separation/retirement:

- Medical coverage enhancements
- Severance
- Acceleration of vesting and eligibility for retirement and executive benefits



Best practices in a voluntary separation/retirement:

- Provide clear communications and customized packages with benefit estimates and premium rates
- Allow sufficient time to make decision—at least 45 days but preferably 60–90 days
- Must provide seven-day revocation period
- Provide financial counseling assistance through decision
- Offer transitional career counseling

Age and service criteria are commonly used to determine an eligible group for a voluntary separation/retirement offer. This can include certain company divisions or job functions. However, it's important to avoid discrimination issues by not singling out by compensation level, age or specific individuals.

Common benefit package “incentives” can include severance payments, either enhanced or based on a standard severance plan. It can be paid in a lump sum or as a salary continuation, once you've determined what compensation the severance calculation will be based upon.

Medical coverage is a major component of a retiree's budget and there are several ways you might want to provide enhancements to their coverage:

- Employer-subsidized COBRA for a period of time
 - Partial subsidy covering employer portion of premium (most common) or full subsidy of whole premium
 - Either a fixed number of months for everyone or based on years of service
- Extension of COBRA period from 18 to 24 months
 - Cash payment to a retiree Health Reimbursement Arrangement (HRA) to assist with premium costs
 - Bridging to eligibility for retiree medical through extended COBRA or enhancements to eligibility criteria (far less commonly seen)

Pension considerations figure heavily in retirement and voluntary separation scenarios. Some of the issues and enhancements to consider include:

- Addition to age and service to bridge to retirement eligibility
- Additional service credits for calculation
- Social Security bridge payments
- Will funding status impact access to lump sum payment (if plan offers)?

The 401(k) plan is one of the premier retirement funding mechanisms, and as such has considerable influence on retirement decisions. For the retiring or voluntary separation population, considerations around 401(k)s include:

- Will vesting be accelerated?
- Process for payback of outstanding loans
 - Ability to continue payments directly to administrator can be very beneficial for employees to avoid default
 - Employee can make an IRA rollover up until the due date, including extensions, of federal tax returns for the year in which the default occurs

Additional considerations in a retirement/voluntary separation scenario include:

- Will termination accelerate payout from nonqualified deferred compensation or Excess Plans or will specified date distribution elections remain?
- What is the treatment of equity awards at separation -- will vesting be accelerated or pro-rated?
- How long will employees have to exercise
- outstanding stock options—is the company
- extending the period given the current
- environment?
- Treatment of accrued and unused PTO

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FOR CORPORATIONS Ayco serves as an extension of the human resource and benefits team. By partnering with these groups, we help drive utilization of organizational programs and use metrics and feedback to provide a deeper understanding of employee populations.

FOR EMPLOYEES Ayco offers holistic financial counseling services tailored to each stage of a career cycle—from entry-level to c-suite. Our unique approach to comprehensive financial counseling combines benefits and compensation planning with streamlined digital solutions to provide a path to financial well-being for everyone at an organization.

Value we bring

A comprehensive financial counseling program can positively impact corporate ROI through:

- Increased employee focus and engagement
- Better understanding and usage of benefit programs
- Reduction of reputational and regulatory risk

We help create a more productive, financially well and engaged workforce at all levels.

KEY HIGHLIGHTS

- Over 425 corporate programs*
- Work with over 50 of the Fortune 100[†]
- Advise over 13k executives*
- 90k+ phone coaching sessions[‡]

[Read about the benefits of workplace financial counseling for your employees.](#)

*As of February 2019.

[†]As of February 2019. Includes corporate accounts who have Coaching/Counseling programs.

[‡]Data from 2018.

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