



## Considerations around Furlough

The COVID-19 pandemic has presented employers with many challenges to consider, including employee furloughs which places employees on unpaid leave. You choose whether to continue the employee's coverage and write your plan and policy accordingly. As you read this document, please note that in the absence of COBRA applicability, state continuation may apply.

### Things to Know:

- **If you maintain coverage for your employees, it is viewed like a leave of absence**

As a leave, there are three approaches for employee contributions:

1. Employees prepay premiums, if time allows and there is a set time when the furlough will end.
2. Employees make regular recurring payments. Nonpayment means coverage can be terminated and not be a triggering event for COBRA. You can choose to subsidize the employees' coverage.
3. Employees make up contributions upon return to work. You can pay the full premium amount while the employee is out with no expectation of repayment.

- **If you do not maintain coverage for your employees, it is viewed as a COBRA trigger event**

The furlough with resulting loss in coverage is a triggering event if your company is subject to COBRA. The employee would be entitled to elect continuation coverage for health-related benefits, such as health, dental, vision, Healthcare FSA, HRA, etc.

- **If you treat the furlough as paid leave**

You can continue to collect premiums through salary reduction under your cafeteria plan. This differs from an unpaid furlough where the "pay-as-you-go" method for collection is utilized and employees pay on a post-tax basis. NOTE: You are required to continue offering coverage to employees on FMLA.

- **When an employee returns to work**

Resuming benefits is typically governed by the applicable benefit plan documentation and your HR benefit policies. If within 30 days, employees typically continue previous elections. If 30 days, employees typically make new elections after re-satisfying any waiting period required by your plan.

- **Other considerations**

For Applicable Large Employers (ALE), defined under the Affordable Care Act (ACA), furloughs can have an impact on your ACA Employer Mandate obligations.

*This information provides general information and should not be viewed as legal advice. If you are contemplating any actions listed here, we advise consulting legal counsel to ensure compliance with federal, state and local laws.*

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