



Kansas State Council of SHRM, Inc.
825 S. Kansas, Suite 502 • Topeka, KS 66612
(888) 332-6248 • office@ksshrm.com



KS SHRM COVID-19 WEBINAR DISCUSSION

April 22, 2020

Topic: Considerations for Reductions in Force & the Kansas Shared Work Program

Guests:

- Carrie Cox, SHRM-CP, PHR – AGH Employer Solutions
- Shawn Yancy – Kansas Department of Labor
- Phillip M. Hayes, SPHR – The Arnold Group, Chairman of Kansas Employment Security Board of Review

Questions answered on the call:

1. What benefits should be offered during furlough?

The employer will need to refer to the plan options and eligibility.

2. Can an employee pay the furloughed employee's health insurance premiums during a furlough or must employees go on COBRA?

COBRA only comes into play if actually separating employment.

3. Can an employee furlough and use FMLA?

Generally is there's no work available, then they are not eligible for FMLA.

4. What are the non-discriminatory criteria for a reduction in force?

It is important to be really clear on, and document, your selection criteria up front.

5. Are unemployment benefits always an option when furloughed?

Typically, as long as employees have met the requirements for benefits. Generally, if employees are getting paid, that will reduce the benefit amount.

6. What are your thoughts on a voluntary retirement program?

It is a good benefit to think about if you have an aging workforce and can encourage early retirement (but do so carefully to avoid age discrimination). Some companies have also offered a voluntary furlough rather than a voluntary retirement.



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7. How do furloughs work in conjunction with the Work Share Program?

No matter what you call it (furlough, layoff, the status for eligibility is not working a full workload).

8. How does loan forgiveness under the Payment Protection Program (PPP) work with furloughs?

With PPP, you're looking at the total amount of payroll costs and the employee count number. You must review the comparison in terms of total cost. You might still be eligible depending on hours and reduction in payroll costs. You may still qualify but want to run the numbers.

9. What are the FLSA compliance priorities for exempt employees?

You must define the priorities in advance and be sure you don't adjust the hours week-to-week (can't be piece-mealed).

10. For the Shared Work Program (WSP), if an employee makes more than the maximum weekly benefit amount, are they still eligible to participate?

Yes.

11. Are the benefit amounts always based on 4.25% of the highest of the last five quarters?

The highest of the first four quarters of the last five will determine the weekly benefit amount.

12. When does implementing the WSP or furloughing employees become better for the individual employee than working full-time?

There are a lot of variables to consider.

13. What is the impact to the unemployment fund if more employers furlough or implement WSP instead of retaining workers full-time?

The direct impact is the money paid out has potential for tax consequence. There is no cost to the trust fund if working full-time but will be impacted if benefits are collected. Funding from the UI and WSP is the same pool of money being drawn from.

14. Does the KDOL have plans for a campaign to push out more information for employers on the WSP?

KDOL is promoting as much as possible but the guest was unaware of a coordinated plan to push the information.

15. Can the WSP be retroactive?

No.



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16. Is the WSP available for local government workers?

Yes.

17. Missed question

Answer.

18. Are employees eligible for unemployment benefits if they choose to self-quarantine when work is available and they don't report to work?

Potentially so as there is some flexibility. They should apply.

19. Provide clarification on how unemployment claims are determined.

Each case is different, so KDOL reviews information from both employers and employees. Either can appeal to the Office of Appeals for a hearing on the record to resolve the question.

20. Address concerns with unemployment for staff that continues through summer if work is otherwise delayed.

It depends on the actual employment but you would have to address if you are working and if you are earning money.

21. Provide a quick overview of how unemployment works.

For regular unemployment, there are no limits on the reduction in hours, only that you are working less than full time. The \$600 federal payment is not scalable or adjusted – if you're eligible for unemployment benefits in a week, you are also eligible for the additional \$600 payment.

22. For employees let go in March, how do they obtain COVID-19 benefits?

There is no distinction for special COVID-19 benefits.

23. Does drawing social security disqualify you from unemployment benefits?

No.

24. How do we report fraud?

Report fraud to KDOL: kdol.uitax@ks.gov.

25. Do you have to use all available unemployment benefits before you qualify for PUA?

In order to be eligible, you must have no right to claim unemployment benefits.



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26. Are there differences for small businesses?

There is no distinction on employer size.

27. If self-employed, do you qualify for unemployment benefits based on your 2019 tax filing?

If you have been paying taxes on income, then you are potentially eligible if you had enough wages in that calendar year. If you have not been paying taxes, then you are not eligible for unemployment benefits but may be eligible for the PUA Program.

28. For those making multiple unemployment claims, is there any way to streamline the process?

To streamline the process for reporting more than one employee, use the spreadsheet. For regular unemployment, employers file an initial spreadsheet and the employee files each week. For WSP, the employer sends weekly documentation.

29. Can you switch to WSP after claiming unemployment benefits?

Yes.

30. Are these webinars eligible for recertification credits?

We are checking on clarification.

31. Is a separate WSP application required for each affected unit?

Yes.

32. Do you have to participate in the WSP to get the additional \$600 in federal money?

You are able to get the \$600 payment through both unemployment or WSP.

33. Is there any conflict with PPP and WSP?

There is no direct conflict. WSP hours and pay has to be calculated.

34. Can you change the WSP after starting?

Yes, the program is flexible.

35. If you are already furloughed, can you transition to WSP?

Yes.