



CAA Benefits: We Are Here To Help

In response to the COVID-19/Coronavirus situation, we are continuing to provide documents and resources for your use. Below are unfortunate but common scenarios that many employers are facing. Please review and communicate with our team on your goal and plan as an employer, and we will help determine the ability to do so with your current insurance package as DFS and Insurance Carrier rules are changing rapidly.

In all scenarios it is extremely important that you treat all employees the same, without discrimination.

Scenario 1: I Need to Terminate Employees and have no budget to continue paying benefits for these employees.

- Terminating an employee will result in an employee losing eligibility for group benefits, generally at the end of the month following date of termination.
- Employees who are terminated can elect COBRA or similar state continuation of coverage (and any dependents who were enrolled in the group plan).
 - The Coverage Period is up to 18-36 months.
- COBRA cost of coverage is 102% of the monthly premium, and cost for state continuation may be higher.
- Termination will also serve as a qualifying event for the employee to obtain individual health insurance through state run marketplaces.
- If an Employee is re-hired after termination, they will be deemed eligible for the group health plan again, timing of eligibility will be based on the employer's eligibility rules, and if any rehire provision is in place.



Scenario 2: I Need to Terminate Employees but want to subsidize all or a portion of their insurance cost after termination.

- Refer to Scenario 1 regarding the initial process.
- As an Employer, you can subsidize all or a portion of COBRA / State Continuation.
- Alternatively, employers can set up a repayment plan whereby the employer covers the cost of the COBRA premiums and employees pay the premiums amount back when they return to work.
- When implementing a COBRA subsidy plan, it must be consistent and non-discriminatory.

Scenario 3: I Need to Furlough employees but cannot afford to keep them on the group plan. Can I do this?

- Furloughed employees will lose eligibility under the terms of the plan due to a reduction of hours unless the plan contemplates continued eligibility during a furlough. So in most all cases a furlough triggers loss of eligibility and termination resulting in COBRA.
- If your company has a policy in place for furloughed employees that does allow for continued coverage, you will need to consult with your legal counsel about proper amendments in order to see about a change.



Scenario 4: I need to furlough (temp layoff/ leave of absence) employees and have the budget to keep them on the group plan at current contribution arrangement.

- An Employer will furlough employees that are expected to return to work on a full-time basis in the future.
- If the company policy and plan are set up as such, an employee on furlough does not affect an employee's opportunity to enroll for coverage under the group's health plan. And an employee on an employer-approved leave of absence is treated like any other active employee.
- If the employee is on an employer-approved leave of absence and the employer continues to pay required medical premiums, the coverage will remain in force for:
 - Typically no longer than 13 consecutive weeks for non-medical leave
 - Typically no longer than 26 consecutive weeks for a medical leave
- All Employees must be treated the same when dealing with leave of absence situation. Consistent and without Discrimination. Please take this time to review your employee handbook and make any necessary updates.
- It is important to review your plan documents and carrier guidelines to ensure employees in this category remain eligible to the group plan. Or that necessary changes are documented and approved with your carrier partners.
- COBRA eligibility with Furlough—
 - An employee can be terminated at some time in the future by the employer and will receive COBRA rights.
 - If terminated due to non-payment of premiums, COBRA rights will not be given.



Scenario 4 Continued : I need to furlough (temp layoff/ leave of absence) employees and have the budget to keep them on the group plan at current contribution arrangement.

How to handle Payment of Premiums for Employees on Furlough: 3 Options

- **Pre-payment:** Employers can allow employees to pre-pay premiums prior to any furlough. Employees must voluntarily consent to the pre-payment and can elect to make the payment on a pre-tax basis through a salary reduction (if the employer's Section 125/Cafeteria Plan allows for it) or on a post-tax basis.
- **Pay as you go:** Employers can implement a policy whereby they collect premiums from employees during the furlough period. Since employees will not be receiving a paycheck during the furlough, they cannot make pre-tax deductions for premiums and they must be made on a post-tax basis.
- **Payment upon return:** Employers can cover the cost of employees' share of premiums with the understanding that the employees will pay the employer back upon their return. When employees return from work, they can pay the amount back on a pre-tax basis through a special catch-up salary reduction (if the employer's Section 125/Cafeteria Plan allows for it) or on a post-tax basis.

Scenario 5 : I need to Terminate all employees and close the business.

A complete close of business will result in the termination of the entire group plan, which will also end any COBRA rights under the plan. This should be communicated to all employees and will be deemed a qualifying event to enroll in the individual insurance marketplace.



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Employee Benefits Bulletin
Leave of Absence, Furlough, Termination

Helpful Links for More information

National Law Review:

<https://www.natlawreview.com/article/benefits-guidance-time-covid-19-continuing-employer-group-health-coverage-during>