



# Return to work and recovery

June 3, 2020

Webinar starts at 10 a.m. CT

**Presented by:**

# Administration



Reminder: We are not offering CPE or HR credit for today's discussion.



For best quality, call in by phone instead of using your computer speakers.



To ask questions during the presentation, use the questions box on the right side of your screen.

# Presenter

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## **CARRIE COX**

Senior Consultant, Human Resource Services

- Experience in a variety of HR functions, including a compensation structures, performance management, leadership development, employee classification, recruitment, benefits administration, and training
- Thorough knowledge of employment laws, HR best practices, and organizational development
- Serves clients across industries, including manufacturing, construction, banking, local government, and not-for-profits



# Today's topics

## Providing a safe and healthy workplace

- Physical health and wellness
- Mental health and wellness

## Managing leave options for employees

- FFCRA and CARES Act requirements
- FMLA
- ADA
- Leave of absence

## Staffing challenges: Unemployment benefits

## Considerations for furloughs or layoffs

# Goal #1: Safe and healthy workplaces

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Physical and mental wellness



# Create a plan for return to work

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- Physical health considerations
  - CDC
  - OSHA
  - SHRM
  - State government
  - Local government
- Mental health considerations
- Document plan and update policies



# Physical wellness

- Social distance, when possible
- Limit group size
- Daily health checks
- Increased cleaning
- Hand washing and sanitizing
- Masks, face shield, gloves, partitions
- Consider alternate shifts or different start/end times
- Break rooms and common space
- One-way traffic
- Improve building ventilation
- Visitor management
- Travel and business events



# Planning considerations

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When an employee...

- is symptomatic
- tests positive for COVID-19
- household has a positive case or symptoms
- travels to areas with community spread or outbreaks
- cannot work due to COVID-19 reasons





# Policy updates

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- Paid time off
- Remote / flexible work
- Leave of absence
- Health checks
- Notification requirements
  - Symptoms
  - Travel
- Return to work

# Training

- New policies
- Recognizing symptoms
- Stay home if sick
- Hand washing
- Use of PPE
- Cleaning
- Social distancing
- Managers' responsibilities





# Return to work communication

Communicate ...

- expectations in advance
- changes to the workplace
- business forecast
- changes to the employee's position
- who they go to with concerns
- if there is flexibility

Communicate...



# Mental wellness

- Communication
- Show empathy
- Allow flexibility
- Give grace
- Ask for employees' opinions





# Prepare for regression

## Emergency

- Purposeful action
- High productivity

## Regression

- Lose purpose
- Fight about small things
- Forgetful

## Recovery

- Purposeful action
- Provide value



# Polling question

**In what phase is your organization?**

- 1) Emergency
- 2) Regression
- 3) Recovery
- 4) Mix



What if employees can't or  
won't return to work?

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# Leave options

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- FFCRA and CARES Act requirements
- FMLA
- ADA
- Other leave





# Emergency Paid Sick Leave

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## Qualifying reasons:

1. Employee is subject to a federal, state or local quarantine/isolation order related to COVID-19.
2. Employee has been advised by a health care provider to self-quarantine due to COVID-19 concerns.
3. Employee is experiencing COVID-19 symptoms and seeking a medical diagnosis.
4. Employee is caring for an individual who is under a governmental quarantine or healthcare provider isolation order.
5. Employee is caring for a son or daughter whose school or place of childcare is closed due to COVID-19 precautions.
6. Employee is experiencing any other substantially similar conditions as specified by the Secretary of Health and Human Services and other government officials.

# Expanded Family Medical Leave Act

## Requirements:

- EFMLA expansion – up to 12 weeks of protected job leave to care for son/daughter due to school/child care closure related to COVID-19
- May use EPSL or other paid leave options for first two weeks
- Intermittent leave allowed
- EFMLA + other FMLA = 12 weeks total



## FMLA and ADA



# Scenario #1

Employee doesn't have child care for summer due to school closure

- 1) Allow them to work at home
- 2) Require them to find a different option for care
- 3) Allow time off with pay following FFCRA requirements
- 4) Accept their resignation





# Scenario #2

Employee has an underlying medical condition

- 1) Allow them to work at home
- 2) Require them to provide a doctor's note
- 3) Allow time off with pay following FFCRA requirements
- 4) Accept their resignation





# Scenario #3

Employee has anxiety over returning to work

- 1) Allow them to work at home
- 2) Require them to provide a doctor's note
- 3) Allow time off with pay following FFCRA requirements
- 4) Accept their resignation



Refusal to work =  
Voluntary separation



# Polling question

**Have you had employees refuse to return to work due to desire to continue receiving unemployment benefits?**

- 1) Yes
- 2) No
- 3) Unsure





# **Goal #2: Maintain business operations**

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# CARES Act

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- Paycheck Protection Program (PPP)
- Economic Injury Disaster Loans/Grants (EIDL)
- Small business debt relief program
- Payroll tax credits
  - FFCRA
- Expanded unemployment benefits



# Payroll tax credits

## Employee Retention Credit

- For employers subject to closure or economic hardship
  - Operations fully or partially suspended, or
  - Greater than 50% reduction in quarterly receipts
- Wages of employees furloughed or reduced hours
- All wages qualify for employers with 100 or fewer employees
- Includes health insurance
- Tax credit for 50% of first \$10,000 in eligible wages per employee
- Excludes wages qualifying for required sick leave or family leave payroll credits
- Not available if participating in Paycheck Protection Program



# Payroll tax payment deferral

## Delay of payment of employer payroll taxes

- Defer paying employer portion through end of 2020
  - Employer portion of FICA taxes
  - Employer and employee portion of Railroad Retirement taxes
  - Half of the SECA tax
- Deferred amounts due in two installments
  - First half due December 31, 2021
  - Second half due December 31, 2022
- Not available if participating in Paycheck Protection Program



# Managing expenses

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- Hiring freeze
- Freeze wages, reduce wages
- Delay purchases, travel, training
- Business layoffs, furloughs

# Considering furloughs or layoffs

**Furloughs** are generally:

- Shorter duration
- Defined period of time
- Employees remain on payroll (may be unpaid)
- Paid or unpaid
- Retain employee benefits
- Eligible for unemployment benefits

**Layoffs** are generally:

- Longer-term or indefinite
- Unknown length of time; may be permanent
- Employees are not on payroll
- Unpaid
- Termination of benefits
- Severance pay may be offered
- Eligible for unemployment benefits



# Kansas Shared Work Plan

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- Layoff alternative
  - Employees receive reduced UI while working reduced schedule
- Must apply to at least 10 percent of workforce
- Reduced normal weekly hours between 20 and 40 percent
- Application: <https://www.dol.ks.gov/employers/shared-work-program>
- **Caution:** May impact amount of Paycheck Protection Program loan forgiven



# Employment law considerations

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- WARN
- Anti-discrimination
- Workers' compensation, FMLA
- FFCRA
- ADA
- ERISA



# How to compete for talent...

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**Against unemployment insurance?**

# Know your employee value proposition



Compensation



Alignment



Atmosphere



Growth



Acknowledgement



Autonomy



Communication



# Report unemployment fraud

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**Email:** KDOL.fraud@ks.gov

**Phone:** (785) 581-7300

**Web:** [www.dol.ks.gov/fraud/unemployment-fraud-reporting-form](http://www.dol.ks.gov/fraud/unemployment-fraud-reporting-form)

**Stay vigilant!**

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# COVID19

[Home](#) / [Insights](#) / [COVID-19 resources](#)

## COVID-19 resources for employers

Organizations are facing a myriad of decisions and challenges with the rapidly changing landscape on COVID-19.

[AGHLC.com/COVID19](https://AGHLC.com/COVID19)



# Thank you for attending

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A recording of today's webinar will be emailed for your reference or to share with others.



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# Questions?

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Q & A session