An Alternative to Laying Off Employees: Kentucky's New Work Share Program

Insights
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Kentucky officials just rolled out a new program aiming to help employers and employees avoid some of the burdens of a layoff during an economic downturn. Starting on January 1 this year, employers in the state can now apply for Kentucky's Work Share Program as a temporary alternative to layoffs if your production or services have been reduced. Notably, the program allows employees to receive unemployment benefits when their wages and hours have been reduced by 10% to 40%. Here's what Kentucky employers should know before signing on to the program.

Overview of Kentucky's Work Share Program

The program gives employers the flexibility to create a Work Share Plan for multiple areas of their business affected by a slowdown. Employers can create separate plans for various departments, shifts, or units provided there are two or more employees in the affected department, shift, or unit.

Employers also have the flexibility to stop or continue any Work Share Plan. Namely, the Work Share Program allows employers to return employees to work full-time for a week or two and then continue the plan with proper notice.

Eligibility Criteria

The Work Share Program is designed for employers who are unable to maintain their usual payroll due to an economic downturn or other shortfalls and must be an alternative to layoffs. To qualify, businesses must:

- Be legally registered in Kentucky;
- Have an active Employer Identification Number; and
- Meet certain requirements regarding the size of the payroll reduction.

Additionally, at least 10% of your workforce (a minimum of two employees) must be impacted, and the hour/wage reduction must be between 10% and 40% of the typical payroll. Employers that offer healthcare or retirement benefits must maintain their usual benefits or change the benefits offered to all employees, not just those facing a pay cut.

The Work Share Program also has certain restrictions regarding which employees can participate. Seasonal or part-time workers are not covered, which gives employers that rely on those workers few alternatives to layoffs in an economic crisis.

Employees affected by a Work Share Plan must:

1. Submit their unemployment claims through the Office of Unemployment Insurance;
2. Be eligible for regular unemployment benefits;
3. Accept all work offered by the participating employer; and
4. Be able and available for work with the employer.

Additionally, employees who are eligible for the Work Share benefits must serve a mandatory "waiting week."

Calculating Weekly Benefits on Shared Work

Kentucky's Work Share Program supplements an employee's wages with unemployment benefits equal to the percentage reduction in the employee's work hours up to 40 hours per week. An employee who normally works overtime, however, may not receive shared work benefits for a reduction in overtime hours.

The Kentucky Education and Labor Cabinet's Unemployment Insurance Commission (UIC) provided the following example to calculate Work Share benefits:

An employee normally works a 40-hour workweek. The employee's workweek is reduced by eight hours or 20%. If the employee had been laid off and totally unemployed and determined eligible for unemployment insurance, the individual would have received a weekly benefit of $270. The employer submits a Work Share Plan, and the plan is approved. Under the Work Share Program, the employee would receive $54 of benefits (or 20 percent of $270) in addition to the 32 hours of wages earned from the employer.

Qualifying employees will receive both paychecks and Work Share unemployment benefits.

Applying for a Work Share Plan

Employers can apply for a Work Share Plan here. To complete this application, you will need:

- Your company's name, address, telephone number, and the contact information for an authorized representative with signature authority;
- A Kentucky or Federal Employment Identification Number; and
- The completed Work Share Employee Template, included with the application, containing names

and addresses of all participating employees you want to enroll in the plan.

Questions Remain

There are still some unanswered questions concerning Kentucky's Work Share Program. For instance: Will a participating employer see an increase in its unemployment insurance tax? Must an employer seek union approval before applying for a Work Share Plan when some workers in the affected unit are union-covered employees?

Notwithstanding, like any other important business decision, it's necessary to weigh your options, look at the pros and cons of the program, and think about how it will impact both your business and your employees.

Conclusion

We will continue to monitor these developments and provide updates as warranted, so make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information direct to your inbox. If you have any questions about Kentucky's new Work Share Program or need assistance making the right decision for your business, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our Louisville office.

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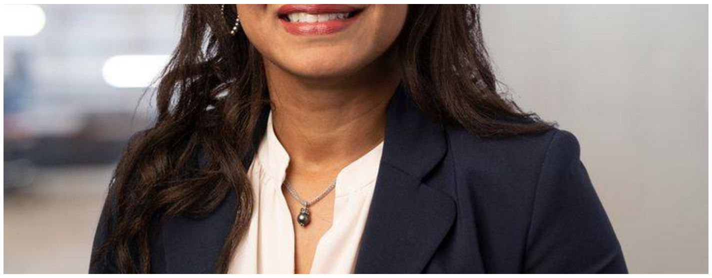

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