

Publications

Alternatives to Laying Off Employees: Benefits Available for Ohio Employees with Reduced Hours

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As employers grapple with the economic effects of COVID-19, reductions in hours and furloughs present difficult-but-effective cost reduction strategies. Within those strategies, the amount of unemployment compensation (UC) benefits available to employees whose hours have been reduced is often an important decision point. In Ohio, individuals do not need to be totally unemployed to receive unemployment benefits. The following is an overview of partial unemployment benefits under Ohio law. Employers wanting to ensure their employees receive the maximum UC benefits during periods of hours reductions need to be mindful that partial-unemployment benefits depend largely on the number of hours lost.

Partial Unemployment Benefits in Ohio

In Ohio, “partially unemployed” employees may receive UC benefits in certain circumstances. To be considered partially unemployed, employees must first meet the general eligibility requirements for benefits (e.g., length of service and weekly pay). Those eligible employees’ weekly pay must then drop below the weekly benefit amount they would be entitled to receive if they were totally unemployed. This weekly benefit amount is the lesser of (1) half of employees’ previous average weekly wage or (2) the maximum weekly benefit amount in Ohio. The maximum weekly benefit amount varies based upon how many dependents an employee has, as illustrated by this chart: **Dependents Maximum Weekly Benefit** None \$480 1-2 \$582 3+ \$647

Partially-unemployed employees are eligible to receive unemployment benefits equal to the difference between the weekly benefit amount they would receive if they were totally unemployed and the pay they

are receiving while partially unemployed. For example, an employee with no dependents whose average weekly wage is \$900 per week would have to earn less than \$450 in a week to be partially unemployed, while an employee with no dependents whose average weekly wage is \$1,200 per week would have to earn less than \$480 (the maximum benefits) in a week to be partially unemployed.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act also gives eligible employees an *additional* \$600 for each week they are partially unemployed through July 25, 2020. This \$600 per week is not prorated, meaning employees receive the full \$600 regardless of whether they are partially or totally unemployed.

SharedWork Ohio Plans

As explained above, for employees to be eligible for partial unemployment benefits, employers generally must cut an employee's hours by at least 50%. The SharedWork Ohio (SWO) program, however, allows employers to make a less drastic hours reduction while ensuring their employees still receive some assistance. Under SWO plans, employers may reduce affected employees' hours between 10 and 50 percent, and those employees will still receive unemployment benefits proportionate to their reduced hours.

The SWO program's goal is to allow workers to remain employed while enabling employers to reduce costs but retain trained staff during periods of reduced business activity. The CARES Act reimburses states for 100% of the costs needed to fund shared work programs for up to 26 weeks per employee during the remainder of 2020, providing significant incentive for state unemployment agencies to adopt these programs

Ohio employers can apply for the SWO program if they meet certain criteria. First, the employer must have at least two employees who do not work on a temporary, seasonal, or intermittent basis who will be affected by the reduction. The employer must pay the employees hourly, or, if they are salaried, convert them to hourly pay. The employer must also be current on all Ohio unemployment insurance reporting, contributions, reimbursements, interest, and penalties due. Finally, the employer must agree to all of the program's requirements.

SWO plans must meet several requirements. They must designate a minimum of two employees to participate in the program, as well as provide the name, SSN, and number of normal weekly work hours for those employees. On a practical note, employers can designate multiple units of two or more employees doing the same or interrelated work within their workforce if identifying a larger group for an across-the-board hours reduction would be impractical. SWO plans must contain a description of how the program will be implemented, including the proposed reduction percentage of hours for the affected employees (remember, only 10-50 percent), and an estimate of the number of employees that would be laid off without participation in the SWO program. Plans must also provide a system for notifying employees in advance of the work reduction, or contain an explanation of why prior notice is not feasible. Finally, plans must provide a series of assurances relating to the employer's treatment of participating employees.

Employers must submit their SWO plans online via their Ohio Job Insurance accounts. For the duration of the COVID-19 pandemic, the Ohio Department of Job and Family Services (ODJFS) has committed to reviewing and responding to all applications within one week. After the ODJFS confirms its approval of the

plan with the employer, the participating employees can apply for SWO benefits. Plans may be modified later with ODJFS approval. Employees receiving benefits under a SWO plan are eligible for the CARES Act enhanced \$600 unemployment benefit.

SWO plans can be an effective way for employers to reduce employees' hours while avoiding the need to reduce their hours so much that they become partially unemployed. However, the additional paperwork, the administrative burden of having to ask and wait for permission to make changes, and rigidity in scheduling associated with the plans may make them unattractive to certain employers. Furthermore, even though the program provides assistance to employees whose hours are reduced, highly-paid participating employees could still notice a substantial decline in compensation.

Which Plan Works for You?

There is no one-size-fits-all answer as to what plan works best for employers and their employees. If you are thinking about reducing employees' hours, you should first consider the needs of your business when deciding whether to make employees eligible for partial unemployment or to agree to a SWO plan. Furthermore, reductions in hours implicate a number of labor and employment laws, which need to be considered in your plans. Contact your Vorys attorney if you need assistance.

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VORYS COVID-19 TASK FORCE

Vorys is continuing to monitor the COVID-19 outbreak and related guidance to Insurers. In addition, Vorys attorneys and professionals are counseling our clients on a myriad of others issues related to the outbreak. We have established a comprehensive COVID-19 Task Force, which includes attorneys with deep experience in the niche disciplines that we have been and expect to continue receiving questions regarding coronavirus. Learn more and see the latest updates from the task force at [vorys.com/coronavirus](https://www.vorys.com/coronavirus).