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The Massachusetts WorkShare Program Provides an Alternative to Employee Layoffs or Furloughs

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As companies are being forced to close or have employees work remotely, and as demand for goods and services declines, employers are being faced with the unpleasant prospect of having to layoff or furlough workers. In Massachusetts there is an alternative called WorkShare that allows an employer to reduce its payroll while at the same time keeping its employees.

Under WorkShare an employer with at least two employees can designate all or a group of employees who will work reduced hours and receive reduced pay from the employer. These employees also receive partial unemployment benefits from the Commonwealth to make up for a substantial portion of their lost wages.

If for example an employer chose to implement a 50% WorkShare program (instead of laying off half of the affected employees) then the employer would pay those employees impacted by WorkShare 50% of their pay, the employees would work 50% of their normal hours and the employees would receive the balance of their compensation in the form of unemployment benefits. Those whose normal weekly earnings are under the statutory cap on unemployment benefits would receive an additional 25% of their normal pay from the Department of Unemployment Assistance, so that in total they would receive 75% of their normal pay.

Without the WorkShare program, employees would be able to collect unemployment benefits while working part-time hours, however any earnings above 1/3 of the weekly benefit amount would be deducted dollar-for-dollar from the unemployment benefit. Therefore, generally an employee working as part of a WorkShare program will receive more total compensation than an employee who takes on part-time employment while collecting unemployment benefits. Additionally, under the WorkShare program, to the extent that employees are entitled to health insurance, that benefit remains in place.

Employers can include both salaried and hourly employees within a WorkShare program as long as there is a reduction in both hours worked and compensation.

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The employer cost of taking part in WorkShare depends on whether or not the it is self-insured. If the employer is self-insured then it will be billed the amounts paid by the Commonwealth in unemployment benefits on a dollar-for-dollar basis. For employers who have not self-insured there will be change in the employer's rating and a resulting increase in their unemployment insurance bill. Either way this is a cost that would be incurred at some point in the future when, with luck, the economy will have improved.

Employers need to be aware that this is not something that can be implemented immediately or unilaterally. The employer must submit a WorkShare plan and have it approved by the Department of Unemployment Assistance. In its printed materials the Department says that an employer should allow 21 days between application and the proposed start date. The Department also claims that it responds to applications within 15 days. However, in this time of increased filings for unemployment it's possible that there will be delays. Unfortunately the employer cannot implement the WorkShare program until is receives written approval from the Department.

In the application, the employment must indicate a proposed duration for the program. The program can be unilaterally shortened or terminated; however a new application would have to be submitted in order to extend it.

This is not intended to be a detailed discussion of the WorkShare program but rather an overview of an alternative that is available to layoffs and furloughs. You can contact Rich May attorneys [Jeffrey B. Loeb](#), [David Glod](#), [J. Allen Holland](#) or [Frank N. Gaeta](#) if you have questions regarding this or other employment matters.