



Additional Employer FAQs

WHAT OPTIONS MAY BE AVAILABLE FOR RETAINING STAFF BUT REDUCING PAYROLL COSTS?

Non-Exempt Employees

- Reduce non-exempt employee daily or weekly work hours:
 - Permissible, when these employees do not have employment contracts, binding letter agreement, collective bargaining agreements, or are subject to local predictable scheduling laws that would prohibit such actions.
 - Generally, non-exempt employees only have to be paid for time they actually work. However, they may be entitled to use paid time off under employer policies (policy terms apply).
 - However, reduction in work hours can trigger loss of benefits eligibility (benefit plan terms apply) or trigger eligibility for unemployment benefits (state UI law applies).
- Reduce non-exempt employee pay rate:
 - Permissible, as long as two conditions are met:
 - Employee is paid at least minimum wage for all hours worked (and overtime for hours worked over 40 in a work week) and notice of the pay reduction is given in advance (state law applies as to notice requirements)
 - Employee does not have employment contract, binding letter agreement, or collective bargaining agreement prohibiting such action.
 - However, reduction in pay rate can trigger eligibility for unemployment benefits (state UI law applies).



The purpose of this webpage is to provide general information about significant legal developments and does not provide legal advice. It does not convey an offer to represent you or establish an attorney-client relationship. Readers should be aware that the facts vary from one situation to another, so any conclusions may not be applicable to the reader's particular circumstances.

Medical Management Associates, Inc. provides business advice to physicians and related healthcare organizations. Medical Management Associates, Inc. is not engaged in the practice of law or accounting. If legal, accounting or tax advice is desired, we highly recommend that you consult a qualified and licensed professional in one of these fields.



Exempt Employees

- Furlough exempt employees (non-physicians, including PA, NP, CRNA, CNM) for full FLSA work weeks:
 - Permissible, when these employees do not have employment contracts, binding letter agreement, collective bargaining agreements, or are subject to local predictable scheduling laws that would prohibit such actions.
 - However, reduction in work hours can trigger loss of benefits eligibility (benefit plan terms apply) or trigger eligibility for unemployment benefits (state UI law applies). They also may be entitled to use paid time off under employer policies (policy terms apply).
 - Note: Non-physician exempt employees must be paid their full salary for every week in which they work *any* time (some exceptions apply but are not applicable to reductions initiated by employer for lack of work).
- Reduce exempt employee (non-physicians, including PA, NP, CRNA, CNM) base salary:
 - Permissible, when two conditions are met:
 - Done on a one-time long-term basis, and is no less than \$684 per week (must pay full salary for every week in which they work any time)
 - These employees do not have employment contracts, binding letter agreement, collective bargaining agreements, or are subject to local predictable scheduling laws that would prohibit such actions.
 - Alternatively, these employees could be converted to non-exempt employees paid hourly, which would allow paying them only for hours worked. (Note: hours worked over 40 in a work week would require overtime pay.)
 - However, reduction in pay rate can trigger eligibility for unemployment benefits (state UI law applies).

Physicians

- Reduce physician work hours or pay rate:
 - Permissible, when these employees do not have employment contracts, binding letter agreement, collective bargaining agreements, or are subject to local predictable scheduling laws that would prohibit such actions.



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- Unlike non-physician exempt employees, physicians can be paid on an hourly fee basis and paid only for time actually worked.
- However, reduction in work hours can trigger loss of benefits eligibility (benefit plan terms apply) or trigger eligibility for unemployment benefits (state UI law applies).

“Physicians” includes medical doctors, including general practitioners and specialists, osteopathic physicians (Doctors of Osteopathy), podiatrists, dentists (Doctors of Dental Medicine), and optometrists (Doctors of Optometry or Bachelors of Science in Optometry).

COMMONLY ASKED QUESTIONS

- Must a [temporary layoff or furlough](#) time period be fixed in advance or can it be extended by the employer in its discretion?
 - There is no requirement that a layoff or furlough be fixed in advance unless an employment contract, binding letter agreement, collective bargaining agreement, local predictable scheduling law, or employer policy provides otherwise.
 - Employers should be careful in all communications, written or otherwise, to avoid any representations that could be construed as establishing a definite term for these actions. Such representations could give rise to an implied or express contractual obligation.
 - Temporary layoffs that exceed six months can give rise to obligations under federal WARN Act to have given 60 days advance notice of the layoff. This obligation only applies for employers with 100 or more employees whose actions affect 50 or more employees at a single site of employment. Some exceptions apply.
- Can different types of employees be furloughed in different ways depending on the needs of the practice?
 - Yes; however, employees in the same or similar positions should be treated similarly to minimize potential for discrimination claims.
- How are employee benefits handled during a [temporary layoff or furlough](#)?
 - Generally, benefits will be governed by the terms of the benefit. For additional information, [click here](#).



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