

COVID-19 War Stories: Using SUB Benefits to Support Employees on Temporary Layoff



In these stressful times, few things are more nightmarish than the need to cut jobs and staff. Yesterday, I heard from one of the real-life HR directors going through this experience—we'll call her Mary. She's wracked with anxiety and worry for her employees and desperately wants to support them. The good news is that we were able to offer Mary a potential solution. And that solution might work for a lot of you struggling with the same problem. So, let's break it down.

THE SITUATION

Mary heads up HR for a manufacturing plant in Ontario. Like so many companies, Mary's firm decided on temporary layoffs. In addition to enabling the firm to defer the need to make termination payments, this option gives employees hopes of recall and enables them to collect EI employment benefits in the meantime. The problem, of course, is that EI only partially replaces lost employment earnings.

THE QUESTION

Mary wants to know what her firm can do to support employees on temporary layoff—both financially and psychologically.

AN ANSWER

One option for Mary's firm to consider is to top off employees' EI benefits via the federal Supplemental Unemployment Benefit (SUB) program. Because SUB plan payments don't count as employment earnings, they don't get deducted from employees' EI benefits.

THE WAY SUB WORKS

To use this option, Mary's firm would first have to register its SUB plan with Service Canada for review to ensure it complies with program requirements. Specifically, the plan must:

- Identify the group of employees covered by position (rather than name);

- List the start and end date of the plan;
- Cover a period of unemployment caused by one or a combination of the following: i. temporary stoppage of work (which is the case for Mary's firm); ii. training; or iii. illness, injury or quarantine;
- Condition payments on employees' applying for and receiving EI benefits;
- Require that combined weekly payments from the plan and portion of the EI weekly benefit rate not exceed 95% of the employee's normal weekly earnings;
- Require that it be entirely financed by the employer;
- Require that upon termination, all remaining assets of the plan revert to the employer or be used for payments under the plan or for its administrative costs;
- Require written notice of any plan changes to Service Canada within 30 days;
- Specify that the employees have no vested right to payments under the plan except during a period of unemployment specified in the plan; and
- Provide that payments under the plan will neither increase or decrease guaranteed annual remuneration, deferred remuneration or severance pay.

Officers will work with Mary's firm on revising the plan if there are any problems meeting these criteria. If you want more details, check out the ESDC website. Also check out the Sample SUB Plan, which comes from the ESDC, on the HR Insider website.

Takeaway

The bottom line is that termination is not only psychologically but also financially painful. Once you subtract employment notice and other termination payments, you may actually lose money on the proposition. That's why you should consider alternatives like temporary layoffs, EI Work Sharing, pay cuts and contract restructuring.